



NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

CLOSED SESSION MEETING AGENDA

Wednesday, November 2, 2022, 5:00 P.M.

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

THIS MEETING WILL BE HELD IN PERSON AND VIRTUALLY (HYBRID).

CHAMBER CAPACITY SEATING IS LIMITED AND PROVIDED ON A FIRST COME, FIRST SERVED BASIS.

THE VIRTUAL MEETING IS COMPLIANT WITH THE GOVERNOR’S EXECUTIVE ORDERS ALLOWING FOR A DEVIATION OF TELECONFERENCE RULES REQUIRED BY THE BROWN ACT.

Join the Zoom Meeting to participate live at:

<https://us02web.zoom.us/j/692219855>

To participate telephonically, call any number below:

877 853 5247 (Toll Free)

888 788 0099 (Toll Free)

669 900 9128

699-219-2599

Webinar Meeting ID: 692 219 855#

If prompted to enter a participant ID, press #.

AGENDA

CALL TO ORDER

- A. Remote Teleconference - AB 361 *Action required by 11/2/2022*

Reference: Sandra Kandell, City Clerk

Recommended Action: Ratify Resolution No. 21-029 Emergency Teleconferencing authorizing remote teleconference meetings of all City legislative bodies for the following 30 days in accord with the Ralph M. Brown Act.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

APPROVAL OF AGENDA

CLOSED SESSION

PUBLIC COMMENT ON CLOSED SESSION MATTERS

Comments from the public will not receive Council action. Comments must deal with matters on the Closed Session agenda and will be limited to three minutes

- A. Public Employment, (Government Code § 54957)
Title: City Manager Performance Evaluation

- B. Conference with Legal Counsel – Pending Litigation (Government Code § 54956.9)
William Hobbs, Susan Hobbs, Donald Shirkey, and Irma Shirkey v. The City of Pacific Grove, Bill Kampe, Robert Huitt, Ken Cuneo, Rudy Fischer, Cynthia Garfield, Bill Peake, and Nick Smith.
Monterey County Superior Court Case No. 18CV002411

ADJOURNMENT



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Sandra Kandell, City Clerk
MEETING DATE: November 2, 2022
SUBJECT: Remote Teleconference - AB 361 *Action required by 11/2/2022*
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Ratify Resolution No. 21-029 Emergency Teleconferencing authorizing remote teleconference meetings of all City legislative bodies for the following 30 days in accord with the Ralph M. Brown Act.

DISCUSSION

Governor Newsom signed AB 361 into law on September 16, 2021 to become effective on October 1, 2021. AB 361 extends the provisions of the Governor's Executive Order N-29-20 and Executive Order N-35-20 and is effective until January 1, 2024. AB 361 amends sections of the Brown Act to allow legislative bodies to continue to hold teleconference meetings during a state of emergency if the legislative body finds that as a result of the proclaimed state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

Assembly Bill 361 requires the City within 30 days of holding a virtual meeting for the first time, and every 30 days thereafter, to make findings ratifying the state of emergency.

The exact language of the Bill is as follows:

If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.
- (B) Any of the following circumstances exist:
 - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - (ii) State or local officials continue to impose or recommend measures to promote social distancing.

At its October 6, 2021 meeting, Council approved Resolution No. 21-029 Proclaiming a Local Emergency, Ratifying the State of Emergency Proclaimed on March 4, 2020, and Authorizing Remote Teleconference Meetings of All City Legislative Bodies for the Following 30 days in Accord with the Ralph M. Brown Act. Resolution No. 21-029 has effect for only 30 days. The Council has ratified that resolution each month since and must now renew the effect of the resolution by ratifying it again or adopting another.

This item will be added to the Council's first meeting of the month as the first item of business.

OPTIONS

Take no action and resume in person meetings.

FINANCIAL IMPACT:

There is no fiscal impact.

GOAL ALIGNMENT: Transparency, Accountability and Communication: Implement programs, processes, revisions, and training to improve and advance the City's efforts.

Attachments

Reso 21-029

RESOLUTION NO. 21-029

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PACIFIC GROVE PROCLAIMING A LOCAL EMERGENCY,
RATIFYING THE STATE OF EMERGENCY PROCLAIMED ON MARCH 4, 2020,
AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF ALL CITY
LEGISLATIVE BODIES FOR THE FOLLOWING 30 DAYS
IN ACCORD WITH THE RALPH M. BROWN ACT**

FACTS

1. The City of Pacific Grove (City) is a charter city and public entity established under the laws of the State of California.
2. The City is committed to preserving and nurturing public access and participation in meetings of the City Council and all its Boards and Commissions; and
3. All meetings of City legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and observe City legislative bodies conduct business; and
4. The Brown Act, Government Code section 54953(e), enables remote teleconferencing participation in meetings by members of a legislative body, without strict compliance with requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and
5. One required condition is that a state of emergency has been declared by the Governor of the State of California pursuant to Government Code section 8625, proclaiming existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and
6. A proclamation is made that there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the City's jurisdiction, caused by natural, technological, or human-caused disasters; and
7. State or local officials have imposed or recommended measures to promote social distancing, or that having the legislative body meet in person would present imminent risks to the health and safety of attendees; and
8. The City Council affirms these conditions now exist in the City. Specifically, on March 4, 2020, the Governor proclaimed a State of Emergency to exist as a result of the threat of COVID-19. That Proclamation has not been terminated by either the Governor or the Legislature pursuant to Government Code section 8629; and

9. Despite sustained efforts to remedy this circumstance, the City determines that meeting in person poses an imminent risk to health and safety of attendees due to the COVID-19 virus and its variants; and
10. The City Council finds the emergency created by the COVID-19 virus and its variants has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor and similar local health orders that require social distancing; and
11. As a consequence of the local emergency, the City Council determines that all legislative bodies of the City of Pacific Grove are required to conduct their meetings without full compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that those City legislative bodies shall comply with the requirements to provide public access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and
12. Each City legislative body shall continue to conduct meetings with public access available via call-in or internet-based service options and the public shall be allowed to address the legislative body directly in real time; and
13. This Resolution shall authorize the City Manager to establish and maintain platforms necessary for each City legislative body to hold teleconference meetings and provide an avenue for real-time public comments for such meetings; and
14. The City Council finds the introduction and adoption of this resolution is not subject to the California Environmental Quality Act (CEQA) as the activity is not a project as defined in Section 15378) of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. RECITALS. The foregoing Findings are true and correct and are adopted by the City Council as though set forth in full.

SECTION 2. PROCLAMATION OF LOCAL EMERGENCY. The Council hereby proclaims that a local emergency now exists throughout the City, and meeting in person would present imminent risk as a result of the COVID-19 virus and its variants.

SECTION 3. RATIFICATION OF PROCLAMATION OF A STATE OF EMERGENCY. The Council hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

SECTION 4. REMOTE TELECONFERENCE MEETINGS. The City Manager and legislative bodies of City of Pacific Grove are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

SECTION 5. EFFECTIVE DATE OF RESOLUTION. This Resolution shall take effect immediately upon its adoption and shall remain in effect for a period of 30 days, or until such time the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which City legislative bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 6th day of October 2021, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

APPROVED:

DocuSigned by:
Bill Peake
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BILL PEAKE, Mayor

ATTEST: 10/25/2021

DATED: _____

DocuSigned by:
Sandra Kandell
4F11A81C850B4E1...

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
David C. Laredo
F08545E32B2846E...

DAVID C. LAREDO, City Attorney