

CITY OF LOS ALAMITOS
Via videoconference
Participation via Phone: (301) 715-8592
Meeting ID: 857 7045 9224

CITY COUNCIL AGENDA
SPECIAL MEETING
Tuesday, January 17, 2023 – 8:30 a.m.

SAFETY ALERT – NOTICE REGARDING COVID-19

Due to COVID-19, the above meeting of the City of Los Alamitos City Council will be conducted by videoconference pursuant to the provisions of the Governor's Executive Orders N-25-20 and N-29-20. The public may access the meeting electronically or telephonically.

Pursuant to Executive Orders and given the current health concerns, members of the public may not attend the meeting in person. Members of the public can access the meeting by phone by dialing **+1 (301) 715-8592** and enter the **Meeting ID: 857 7045 9224**. Your microphone will be disabled upon entry for the duration of the meeting.

The public can submit comments to cityclerk@cityoflosalamitos.org with the subject line "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "PUBLIC COMMENT NON-AGENDA ITEM." Comments **received by 3:00 p.m. the day prior** will be compiled, provided to the City Council, and made available to the public before the start of the meeting. Staff will not read email comments at the meeting but the official record will include all email comments received until the close of the meeting.

Members of the public wishing to verbally deliver comments via the telephone conference can submit their requests to cityclerk@cityoflosalamitos.org **until the start of Oral Communications**. The City Clerk will compile a list of speakers who have indicated a desire to speak. Before the close of the meeting, the City Clerk will announce each speaker, enable the speaker's microphone, and begin the three minute timer. The speaker's microphone will automatically be disabled at the end of three minutes.

NOTICE TO THE PUBLIC – This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the City Clerk's Office or on the City's website at www.cityoflosalamitos.org once the agenda has been publicly posted.

Each matter on the agenda, no matter how described, shall be deemed to include any appropriate motion, whether to adopt a minute motion, resolution, payment of any bill, approval of any matter or action, or any other action. Items listed as "for information" or "for discussion" may also be the subject of an "action" taken by the City Council at the same meeting.

Any written materials relating to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection online at www.cityoflosalamitos.org.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the City Clerk's Office at (562) 431-3538, extension 220, 48 hours prior to the meeting so that reasonable arrangements may be made.

1. CALL TO ORDER

2. ROLL CALL

Mayor Doby

Mayor Pro Tem Nefulda

Council Member Hasselbrink

Council Member Hibard

Council Member Murphy

3. ORAL COMMUNICATIONS

At this time, any individual in the audience may come forward to speak about any item described on the agenda prior to the Council's consideration of that item. Pursuant to the Brown Act Section 54954.3 (b), remarks are limited to items described in the notice for the meeting. Remarks are to be limited to not more than three minutes per speaker.

4. CONSENT CALENDAR

A. Findings Required by AB 361 for the Continued Use of Teleconferencing for Meetings (Administration)

For the City Council to continue to have the option to meet via teleconference during the pandemic, AB 361 requires the City Council make specific findings at least every thirty (30) days.

Recommendation:

Make the following findings by a majority vote of the City Council:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect; and,
2. The City Council has reconsidered the circumstances of the state of emergency; and,
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

Roll Call

Mayor Doby

Mayor Pro Tem Nefulda

Council Member Hasselbrink

Council Member Hibard

Council Member Murphy

5. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the Los Alamitos City Hall, 3191 Katella Ave. and online at www.cityoflosalamitos.org not less than 24 hours prior to the meeting.



Windmera Quintanar, MMC, City Clerk
Dated: January 12, 2023

City of Los Alamitos

CITY COUNCIL AGENDA REPORT

MEETING DATE: January 17, 2023

ITEM NUMBER: 4A

To: Mayor Tanya Doby & Members of the City Council

Presented By: Michael Daudt, City Attorney

**Subject: Findings Required by AB 361 for the Continued Use of
Teleconferencing for Meetings**

SUMMARY

For the City Council to continue to have the option to meet via teleconference during the pandemic, AB 361 requires the City Council make specific findings at least every thirty (30) days.

RECOMMENDATION

Make the following findings by a majority vote of the City Council:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect; and,
2. The City Council has reconsidered the circumstances of the state of emergency; and,
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

BACKGROUND

Assembly Bill 361 (AB 361) was signed into law by the Governor on September 16, 2021. A portion of AB 361 enacted amendments to California Government Code section 54953 regarding teleconference meetings. Those amendments authorize local agencies, like the City, to continue to conduct meetings by teleconference during a Governor-proclaimed state of emergency provided that certain findings are made by the legislative body, and provided that certain procedural requirements are met regarding public access to the meetings. A "teleconference" occurs for purposes of AB 361 whenever one or more members of the City Council connect to a City Council meeting via electronic means. Thus, even if four members of the City Council meet in person, if the fifth joins the meeting via Zoom, the meeting will be a teleconference meeting that must be conducted in accordance with the requirements of AB 361. For purposes of AB 361 "...state of emergency' means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act..." Cal. Gov't Code Sec. 54953(e)(4). Section 8265 of CESA in turn refers to a state of emergency proclaimed by the Governor.

A new requirement in AB 361 requires specific findings be reaffirmed at least every thirty (30) days in order for the City Council to continue to have the option for one (1) or more of its

members to use teleconferencing.

DISCUSSION

The Required Findings

The teleconference provisions in AB 361 may only be utilized as long as a Governor-proclaimed state of emergency remains active, or while state or local officials have recommended measures to promote social distancing. When either of those is the case (both are true at this time), then in order to continue to teleconference using the new provisions of AB 361, the City Council must make the following findings by majority vote every 30 days:

(A) The City Council has reconsidered the circumstances of the state of emergency; and,

(B) Either of the following circumstances exist:

- i. The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- ii. State or local officials continue to impose or recommend measures to promote social distancing (Cal Gov't Code Sec. 54953(e)(3))

To comply with that requirement, the recommended action would have the City Council find each of the following:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect; and,
2. The City Council has reconsidered the circumstances of the state of emergency; and,
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

The "Every 30 Days Thereafter" Requirement

As noted above, AB 361 findings must be made "no later than 30 days after teleconferencing for the first time pursuant to [AB 361], and every 30 days thereafter..."

In order to preserve the option for the City Council or individual members of the City Council to participate in meetings during the pandemic via teleconference in the future, the City Council will have to adopt the required findings at least every 30 days.

Potential Consequence of Not Making the Findings Every 30 Days

AB 361 does not expressly state what happens if a legislative body fails to make the required findings "every 30 days." However, it expressly requires the timely re-approval of the findings "in order to continue to teleconference" in the manner that AB 361 authorizes.

As a result, if the City Council does not adopt the required findings every 30 days, then the City Council could be precluded from continuing to teleconference thereafter, perhaps even if the City Council was willing to adopt the findings at a later date. For this reason, the City Attorney recommends that the City Council adopt the required findings at this time and at least every 30 days thereafter, unless the City Council decides as a permanent matter that it will no longer

permit teleconferencing at all (e.g., regardless of whether the state of emergency worsens).

Procedural Requirements for The Conduct of Teleconference Meetings

AB 361 contains several new requirements for the conduct of teleconference meetings with which the City has prepared to comply. Specifically, each meeting must:

1. Allow members of the public to attend and comment at the meeting via call-in option or internet-based service option; and,
2. Protect the statutory and constitutional rights of the parties and the public appearing before the legislative body; and,
3. In the event of disruption which prevents broadcasting the meeting or which prevents members of the public from offering public comments via the call-in or internet-based option, the City Council must take no further action until the disrupted public access is restored; and,
4. The City may not require public comments to be submitted in advance, and must offer the opportunity for the public to offer comments “in real time” during the meeting; and,
5. The public must be allowed “a reasonable amount of time per agenda item to allow members of the public to provide public comment, including time for members of the public to register [to log into the teleconference], or otherwise be recognized for the purpose of providing public comment.

FISCAL IMPACT

None.

Attachment: None