

RESOLUTION NUMBER R- 314335DATE OF FINAL PASSAGE SEP 13 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO REINSTATING TELECONFERENCING AT PUBLIC MEETINGS PURSUANT TO THE RALPH M. BROWN ACT AND FINDING THAT AS A RESULT OF THE PROCLAIMED STATE OF EMERGENCY RELATED TO COVID-19, MEETING IN PERSON WOULD PRESENT IMMINENT RISKS TO THE HEALTH AND SAFETY OF ATTENDEES.

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in other countries in December 2019; and

WHEREAS, COVID-19 symptoms include fever, cough, and shortness of breath, and those who have been afflicted have experienced anything from mild illness to death; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) considers COVID-19 to be a very serious public health threat, and the World Health Organization (WHO) declared the COVID-19 outbreak to be a global pandemic; and

WHEREAS, on February 19, 2020, the County Board of Supervisors ratified a declaration of local health emergency related to COVID-19 that remains in effect today; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in California as a result of the threat of COVID-19 that remains in effect today; and

WHEREAS, on March 12, 2020, the Mayor of the City of San Diego proclaimed the existence of a local emergency related to the COVID-19 threat, which was ratified by the City Council on March 17, 2020, and remains in effect today; and

WHEREAS, since March 2020, the California Governor, the County of San Diego Public Health Official, and the Mayor of San Diego have all issued directives and guidance that impact residents of San Diego; and

WHEREAS, the Governor's Executive Orders N-25-20 and N-29-20, issued on March 12, 2020 and March 17, 2020, respectively, suspended provisions of the Ralph M. Brown Act (Brown Act) related to teleconferencing of meetings, permitting local jurisdictions to hold public meetings via teleconferencing and allowing members of the public to observe and address the meeting telephonically or otherwise electronically; and

WHEREAS, the Governor's Executive Orders N-08-21 and N-15-21, issued on June 11, 2021 and September 20, 2021, respectively, extended the suspension of the Brown Act provisions through September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor signed Assembly Bill 361, which provides that a local agency may use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body holds a meeting during a proclaimed state of emergency and determines, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, according to the County COVID-19 Watch – Weekly Coronavirus Surveillance Report, during the week of August 14 through August 20, 2022, there were 5,007 cases, 11 deaths, and 23 outbreaks and during the week of August 21 through August 27, 2022, there were 4,199 cases, 8 deaths, and 13 outbreaks in San Diego County; and

WHEREAS, even though the number of active cases has decreased, the virus is still active in San Diego communities and CNBC reports that “COVID-19 infections, hospitalizations and deaths have plateaued at stubbornly high levels over the summer”; and

WHEREAS, as of August 25, 2022, only 58.9 percent of the eligible population in San Diego County has received the booster and the percentage of San Diego County residents who are eligible for and have received a second booster is even lower, totaling 39.8 percent; and

WHEREAS, the FDA recently reported that three shots of the original vaccines “were just 19 percent effective in preventing Covid infection after five months;” and

WHEREAS, people delaying their booster vaccines could increase the risk to the health and safety of Councilmembers, City staff, board members, and members of the public participating in public meetings; and

WHEREAS, San Diego Epidemiology and Research for COVID Health (SEARCH), a coalition of local institutions that has been testing local effluent for more than a year, posted an update on September 2, 2022, that approximately 6.3 million virus particles per liter were detected at the Point Loma treatment facility on August 31, 2022, reflecting an increase in detected virus from two days earlier; and

WHEREAS, City Council members, Council members’ staff, City staff and members of the public with existing health conditions, autoimmune disorders, pregnancies, and other pre-existing conditions are still at risk of contracting COVID-19 and being severely impacted by the disease regardless of vaccination status; and

WHEREAS, the state of emergency continues to directly impact the ability of the City Council members and public to meet safely in person; and

WHEREAS, the public health and safety of attendees at public hearings in the City is of the utmost importance; and

WHEREAS, the significant number of cases in the County, the lower rate of vaccination, and the number of people who attend public meetings all increase the risk of contracting COVID-19 during public meetings; and

WHEREAS, without the ability to teleconference, City business may be halted, participation may be limited, and the risk to the health and safety of attendees is increased because exposed individuals could be unable to teleconference and quarantine; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, under San Diego Charter section 280(a)(1), this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not affecting the administrative service of the City under the control of the Mayor;

NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, and also sitting as the legislative body of the Housing Authority of the City of San Diego and of the Public Facilities Financing Authority, as follows:

1. That as a result the continuing state of emergency related to COVID-19, requiring all participants at public meetings of City Council, Council Committees, and boards, commissions, and committees of the City, to meet in person would present imminent risks to the health or safety of attendees.

2. That the recitals set forth above are true and correct and form the basis for the findings of this Resolution.

3. That to the extent legally permissible, this finding applies to all boards, commissions, and committees of the City of San Diego, including those established by the City Council or where the City Council sits as the legislative body of the applicable entity and are subject to the Brown Act, and further to all City boards, commissions, and committees created under the City Charter and those that comply with the Brown Act under direction from the City Council.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Heather M. Ferbert
Heather M. Ferbert
Chief Deputy City Attorney

HMF:sc
09/06/2022
Or.Dept: Council President
Doc. No. 3080507

Passed by the Council of The City of San Diego on SEP 13 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 13 2022.

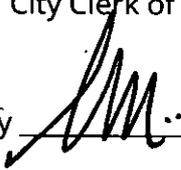
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

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By , Deputy

Office of the City Clerk, San Diego, California

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