



# Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, City Manager

Date prepared: December 14, 2022 Meeting date: January 9, 2023

Subject: Consideration of Hybrid Meetings or the Resumption of In-Person Meetings

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**RECOMMENDED ACTION:** 1) Receive an update on the current State and County public health regulations; and 2) Consider options for the resumption of in-person public meetings and give direction to staff as needed.

**FISCAL IMPACT:** There is no fiscal impact for this recommended action. Depending on what direction Council provides on the resumption of in-person meetings, additional funding may be necessary to fund additional staffing resources, overtime costs, or contractors needed to facilitate public meetings that was not included in the Adopted Budget for Fiscal Year 2022-2023.

**WORK PLAN:** This item was included as item 1a in the Adopted Work Plan for Fiscal Year 2021-2022.

**DISCUSSION:** The Los Angeles County Department of Public Health (LADPH) continues to track COVID-19 cases, including those resulting from variants of the virus. On December 14, 2022, the County reported:

The Los Angeles County Department of Public Health (Public Health) today released the latest data on COVID-19.

- 4,211 new COVID-19 cases (3,592,066 cases to date)
- 16 new deaths due to COVID-19 (34,368 deaths to date)
- 1,304 people currently hospitalized with COVID-19
- More than 12,777,000 individuals tested; 25% of people tested positive to date
- Seven-day daily average positivity rate of 11.73%

With a rise in COVID-19 cases, Los Angeles County moved into the CDC's High Community Level as of the week ending December 9, 2022. The CDC designation reflects both high transmission and increased stress on hospitals, which is further compounded by high rates of influenza and other respiratory illnesses prevalent throughout the County. As a result, LADPH officials encouraged all residents to wear high-quality, well-fitting masks to prevent the spread of all respiratory illnesses. The CDC continues to recommend masking for anyone traveling by plane, train, bus, or other form of public transportation. Health officials also continue to urge all residents to get vaccinated and boosted if they have not already done so.

In determining whether to revise the City's policy regarding in-person meetings and events, the Council should also consider that in both 2020 and 2021, COVID cases spiked significantly in the fall and winter, particularly after holidays when larger groups of people gathered together.

### Governor's State of Emergency/AB 361

Governor Gavin Newsome has announced that the COVID-19 State of Emergency will end on February 28, 2023. AB361 does not end concurrently with the Governor's termination of the State of Emergency, but rather on January 1, 2024. While there is some ambiguity in the statute, its provisions provide that so long as the Council can make the findings required by AB 361, and specifically that State or local officials continue to impose or recommend measures to promote social distancing, remote meetings may continue pursuant to AB361's provisions. This is significant because AB 361's remote meeting provisions are much less onerous than those required by the Brown Act's general teleconferencing provisions, or AB 2449's alternate teleconferencing provisions.

### In-Person Meetings

- Public Notice Requirements
  - One month's public noticing of the change back to in-person meetings is required for the majority of public hearings.
  - If direction is given at the January 9 meeting to move forward with in-person meetings, the earliest possible in-person meeting would be February 13, 2023.
- COVID-19 Protocols
  - The City would continue to follow current County, State and federal health guidance and, if the Council would like staff to implement any additional safety

precautions, it can provide that direction at this time. Plexiglass dividers have been installed between seats at the dais.

### Hybrid Meetings

The Council has expressed interest in considering hybrid meetings. In order to examine this possibility in more detail, staff has explored the logistics of hybrid meetings and outlined recommendations for a style of hybrid meeting that would allow the public to participate in-person or remotely while the Councilmembers and staff participated in-person. Staff is seeking feedback from the Council as to whether it would like to transition to hybrid meetings and, if so, how the Council would like staff to implement hybrid meetings.

If the Council would like to transition to hybrid meetings, staff recommends beginning a pilot program with the March 13, 2023 City Council meeting to allow staff time to test the new systems and push out information about the options for public participation.

- COVID-19 Protocols
  - The City would continue to follow current County, State and federal health guidance and, if the Council would like staff to implement any additional safety precautions, it is requested that direction be provided at this time.
- Audio/Visual Technical Issues
  - Hybrid meetings will require an additional computer and monitor to be set up in the Council Chambers to run the Zoom component of the meeting.
  - The Council Chambers was not designed to display video of teleconference participants. Zoom participants would continue to participate via audio only.
  - The live video of the meeting would be streamed through Zoom for the remote participants, but running the meeting's broadcast feed through this additional equipment will cause a short delay that may be noticeable when remote participants are called to speak.
  - Virtual meetings have been conducted through the Zoom Meetings system which integrates with City's virtual meeting platform. The remote participant component of hybrid meetings would be conducted using Zoom Webinar which provides better controls for this type of meeting.
- Staffing
  - At least one additional staff member would be required to run the Zoom component of the meeting. In the short-term, the City would likely be able to provide this service with existing Media Team and part-time staff. However, it is important to note that this would require additional overtime, compensatory time or part-time salary expenses.

- If the Council were to transition to hybrid meetings permanently, the City will need to train additional staff and/or hire specialized part-time staff to serve as back-up for the Media Team.
- During virtual meetings, the City has made a staff member available to help participants get connected to the Zoom meeting. Staff is seeking direction on whether to continue this service to support remote participants in hybrid meetings. Responding to these phone calls is not anticipated to require an additional staff member but would add to the tasks of the Media Team during the meeting.
- Public Comment
  - Speaker Sign-ups
    - To make it simpler to locate speakers either in Chambers or on Zoom and reduce associated time delays, staff recommends having separate speaker sign-up processes for in-person and remote participants. It is also recommended that all in-person speakers be called first to allow remote participants time to indicate that they would like to speak and work out any technical difficulties.
    - During virtual meetings, the City has asked participants to sign-up to speak in advance using the sign-up form at [malibucity.org/virtualmeeting](http://malibucity.org/virtualmeeting) and has also heard speakers who indicate their intent to speak by raising their hand in Zoom. To minimize the number of systems that staff would need to monitor within the hybrid meeting format, it is recommended that the City move away from using the speaker sign-up form on the website and instead require all remote participants to raise their hand in Zoom if they would like to speak. If Council wishes to implement hybrid meetings in this manner, staff would provide directions for this process on the website.
  - During in-person meetings, the City has historically allowed individuals to cede their opportunity to speak on an item and defer one minute of their time to another speaker at in-person meetings. This was managed by requiring speakers to submit their own Request to Speak form along with all forms deferring time, and individuals deferring their time were required to be present when the item was heard in order for the extra minute to be added to the speaker's time. This practice does not translate well to a hybrid meeting format where not all of the participants are present in the Chambers and there are separate sign-up methods for in-person and remote participants. If the Council would like to implement a time deferral system for hybrid meetings, staff is requesting guidance on what the standards would be to defer time to another speaker.
  - If the Council has follow-up questions for a remote participant staff will be able to unmute participants again in order to answer the Council's questions. Otherwise, staff will not be monitoring the Zoom meeting for raised hands after public comment is closed.

- Hybrid Meeting Policy Considerations
  - If the Council transitions to hybrid meetings, it should consider:
    - How it would like to proceed with meetings when there is a disruption that affects the ability of remote attendees to participate in the meeting even though the City is able to set up and run the zoom aspects of the meeting. Possible disruptions include power or internet outages within city-limits. If the Council would like the option to conduct its meetings during a disruption staff will include a notice on the agenda that remote participation will be based on availability and members of the public participate through this means at their own risk.
    - If the City is unable to operate the remote/zoom functions due to technical issues specific to City Hall (e.g. internet is down or there is a problem with the software), the meeting would need to be cancelled.

### Other Teleconference Options

If the Council transitions to in-person or hybrid meetings individual Councilmembers may have a need or desire to teleconference into certain meetings. The Brown Act allows Councilmembers to teleconference during a meeting provided the teleconference location is open to the public and noticed on the agenda and at least a quorum of the Council participates within the City’s jurisdiction.

Beginning January 1, 2023, AB 2449 offers an alternative teleconference option that will allow Councilmembers to teleconference during hybrid meetings without publicly noticing their teleconference location if they provide notice of their need to appear remotely for “just cause” or a they request the council allow them to participate remotely due to “emergency circumstances.”

“Just cause” is defined as:

- Childcare or caregiving need that requires them to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by the ADA
- Travel while on official business of the legislative body or another state or local agency

“Emergency circumstances” is defined as physical or family medical emergency that prevents a member from attending in person.

The legislative body must approve the teleconference request due to emergency circumstances and these teleconference provisions may not be used by a member of the legislative body to teleconference for a period of more than three consecutive months or

20% of the regular meetings within a calendar year. Remote appearances due to just cause are limited to twice per calendar year.

There are a number of onerous requirements for any meeting where AB 2449's provisions are used, including that in the event there is a disruption that interrupts the Council's broadcast to the public, or a disruption within the City's control preventing the public from offering public comment, the Council cannot take any further action until such service is restored.

#### Commission Meetings

If the Council chooses to hold in-person or hybrid meetings it should provide direction on how Commissions and Committee meetings should be conducted going forward. It is recommended that the Planning Commission conduct its meetings in the same manner as the City Council.

In conclusion, staff has reviewed the main considerations of hybrid and in-person meeting options and is requesting direction from Council on how to proceed.

ATTACHMENTS: None.