

Resolution No. 2023-XXX N.C.S. of the City of Petaluma, California

MAKING REQUIRED FINDINGS AND AUTHORIZING THE CITY MANAGER TO IMPLEMENT TELECONFERENCED PUBLIC MEETINGS FOR THE CITY COUNCIL AND FOR ALL CITY SUBORDINATE BODIES PURSUANT TO ASSEMBLY BILL 361

WHEREAS, COVID-19 (also known as the “Coronavirus Disease”) is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in California, including the City of Petaluma; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency based on the threat caused by COVID-19, and the President of the United States issued a Proclamation Declaring a National Emergency Concerning COVID-19 beginning March 1, 2020; and

WHEREAS, in response to COVID-19, the Governor of the State of California issued a Proclamation of a State of Emergency on March 4, 2020, and the Governor’s declared State of Emergency is still in effect; and

WHEREAS, on March 9, 2020, the City Manager of the City of Petaluma proclaimed the existence of a local emergency related to the COVID-19 threat, and on March 16, 2020, the City Council ratified the emergency proclamation by adopting Resolution no. 2020-040 N.C.S.; and

WHEREAS, the Petaluma City Council has the express power pursuant to Section 8630 of the Government Code and Section 2.32.060(A) of the Petaluma Municipal Code “to proclaim the existence or threatened existence of a ‘local emergency’ if the city council is in session” or to ratify the proclamation of a ‘local emergency’ if the City Manager declares a ‘local emergency’ while the Council is not in session; and

WHEREAS, the authority to proclaim the existence of a local emergency resides with the City Council alone and none of the City subordinate bodies possess such authority; and

WHEREAS, to mitigate the spread of COVID-19, the Centers for Disease Control and Prevention recommends that people “[a]void crowded spaces,” “[c]hoose events that take place outside with enough space for attendees to stay at least six-feet apart,” and “[h]ave a virtual gathering;” and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified some of the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) to permit legislative bodies to hold public meetings via teleconference (with audio or video communications, without a physical meeting location), subject to specified requirements, including that public meeting agendas identify the teleconferencing procedures to be used to permit the public to participate by teleconference; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which extended the provisions of Executive Order N-29-20 concerning the conduct of public meetings through September 30, 2021; and

WHEREAS, California Assembly Bill 361 was signed into law on September 16, 2021, amends Education Code Section 89305.6, applicable to public meetings of School Boards, Government Code Section 11133 of the

Bagley-Keene Opening Meeting Act. applicable to public meetings for state boards and commissions, and Government Code Section 54953 applicable to public meetings held by cities and counties; and

WHEREAS, AB 361 includes requirements to Government Code Section 54953 intended to ensure that the public may watch and make public comments during teleconferenced public meetings permitted pursuant to AB 361, including:

- Requiring legislative bodies to provide notice of the means by which members of the public may access teleconferenced meetings and offer public comment, and to provide an opportunity for all persons to attend teleconferenced meetings via a call-in option or an internet-based service option;
- Prohibiting legislative bodies from taking further action on agenda items when there is a disruption which prevents broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, prohibiting legislative bodies from taking further action on agenda items until public access is restored;
- Prohibiting legislative bodies from requiring public comments to be submitted in advance of teleconferenced meeting and specifying that legislative bodies must provide an opportunity for the public to address the legislative body and offer comment in real time;
- Prohibiting legislative bodies from closing the public comment period until the public comment period has elapsed or until a reasonable amount of time has elapsed; and

WHEREAS, the City is already implementing and complying with the above public meeting requirements now codified in Government Code Section 54953(e)(2)(B-G); and

WHEREAS, Government Code Section 54953(b)(3) permits public meetings by teleconference, and requires that agendas be posted at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public; and

WHEREAS, pursuant to Government Code Section 54953(e)(3), 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:

1. Reconsidered the circumstances of the COVID-19 state of emergency and that any of the following circumstances exist:
2. The state of emergency as a result of COVID-19 continues to directly impact the ability of the members of City Council and the members of the City's subordinate bodies to meet safely in person; and
3. State or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, pursuant to Government Code Section 54953(f), Government Code Section 54953 remains in effect until January 1, 2024; and

WHEREAS, the Sonoma County Health Officer continues to recommend social distancing, and the City has implemented or is preparing to implement the Health Officer's orders by:

1. Recommending that staff and visitors wear masks in City buildings;
2. Posting COVID-19 safety measures on the City's social media pages;
3. Limiting the hours that the public may enter City Hall;
4. Placing hand sanitizer stations in City Hall; and
5. Installing EnergGov to allow the public to obtain permits online rather than in person; and

WHEREAS, Section 55 of the Petaluma City Charter states that, “[t]he city council shall have the power to establish such commissions as shall be necessary for the effective accomplishment of municipal business;” and

WHEREAS, the City Council has established numerous commissions to help accomplish City business and make recommendations to City Council pursuant to Section 55 of the City Charter; and

WHEREAS, the City Council has also established numerous committees to help accomplish City business and advise the Council, and such committees are not subject to Section 55 of the City Charter and have been created pursuant to the Council’s inherent legislative powers; and

WHEREAS, this Resolution will determine whether the subordinate commissions and committees of City Council will continue to hold teleconferenced meetings for the next thirty days; and

WHEREAS, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that adopting a resolution making required findings and authorizing the City Manager to implement teleconferenced public meetings for the City Council and all City subordinate bodies pursuant to Assembly Bill 361 does not meet CEQA's definition of a “project,” because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency; and

WHEREAS, on October 4, 2021, City Council adopted Resolution No. 2021-163 N.C.S., again on November 1, 2021 City Council adopted Resolution No. 2021-176 N.C.S., again on November 15, 2021 City Council adopted Resolution No. 2021-183 N.C.S., on December 6, 2021 City Council adopted Resolution No. 2021-189 N.C.S., again on January 3, 2022, City Council adopted Resolution No. 2022-001 N.C.S., again on January 24, 2022, City Council adopted Resolution No. 2022-008 N.C.S., on March 7, 2022, City Council adopted Resolution No. 2022-029 N.C.S., again on April 4, 2022, City Council adopted Resolution No. 2022-045 N.C.S., again on May 2, 2022, City Council adopted Resolution No. 2022-068 N.C.S., on May 16, 2022, City Council adopted Resolution No. 2022-081 N.C.S., on June 13, 2022, City Council adopted Resolution No. 2022-094 N.C.S., again on June 20, 2022, City Council adopted Resolution No. 2022-107 N.C.S., again on July 18, 2022, City Council adopted Resolution No. 2022-119, again on August 8, 2022, City Council adopted Resolution No. 2022-133, again on September 12, 2022 City Council adopted Resolution No. 2022-138 N.C.S., on October 10, 2022, City Council adopted Resolution No. 2022-163 N.C.S, on November 7, 2022, City Council adopted Resolution No. 2022-168 N.C.S., and on December 5, 2022, December 19, 2022, and on January 9, 2023, City Council adopted resolutions authorizing the City Manager to implement teleconferenced public meetings for thirty days; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings, including public comments.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma as follows:

1. Declares that the above recitals are true and correct and are incorporated into this resolution as findings of the City Council.
2. Finds that proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that adopting a resolution making

required findings and authorizing the City Manager to implement teleconferenced public meetings for the City Council and all City subordinate bodies pursuant to Assembly Bill 361 does not meet CEQA's definition of a "project," because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency.

3. Finds and declares that City Council has reconsidered the circumstances of the COVID-19 state of emergency as declared by the Governor and that the following circumstances exist:
 - The state of emergency as a result of COVID-19 continues to directly impact the ability of the members of City Council and the members of the City's subordinate bodies to meet safely in person; and
 - State and local officials continue to impose or recommend measures to promote social distancing.
4. Authorizes and directs the City Manager, based on the above findings, to implement teleconferenced public meetings for the City Council and all City subordinate bodies in accordance with the requirements Assembly Bill 361.
5. If any section, subsection, sentence, clause, phrase or word of this resolution is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution; the City Council hereby declares that it would have passed and adopted this resolution and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.
6. This Resolution shall become effective immediately and will lapse after 30 days, but may be extended by the adoption of subsequent resolutions as permitted pursuant to AB 361.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 6th day of February 2023, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor