

RESOLUTION NO. 2023-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL FOR THE PERIOD JANUARY 17, 2023 THROUGH FEBRUARY 15, 2023 PURSUANT TO ASSEMBLY BILL 361

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 in response to COVID-19 on March 4, 2020; and

WHEREAS, the City Council of the City of Eureka adopted a resolution of a local emergency related to the COVID-19 virus on March 23, 2020; and

WHEREAS, the Eureka City Council has the explicit power “to proclaim the existence or threatened existence of a “local emergency” if the City Council is in session” or ratify the proclamation of a “local emergency” if the City Manager declares one while Council is not in session; Accordingly, this authority resides with City Council not with any of the Committees, Commissions, and Boards (“CCBs”); and

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

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) so that legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; and **WHEREAS**, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended the provision of 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 and amended Government Code Section 54953; and

WHEREAS, AB 361 has several requirements to make sure that the public is able to watch and make public comments during the teleconferenced public meetings, including:

- To provide notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option;
- The Legislative Body cannot take further action on agenda items when there is a disruption which prevents the public agency from 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, until public access is restored;
- Prohibiting the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time;
- Prohibiting the legislative body 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 Council previously adopted Resolution No. 2021-57, 2021-63, 2021-73, 2022-01, 2022-08, 2022-16, 2022-21, 2022-25, 2022-2, 2022-38, 2022-45, 2022-49 and 2022-73 Authorizing teleconferenced public meeting pursuant to AB 361; and

WHEREAS, the City of Eureka continues to impose or recommend measures to promote social distancing, which includes but is not limited to:

1. Requiring non-vaccinated staff and civilians to wear masks in City buildings;
2. Posting COVID-19 safety measures in City buildings.

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.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Eureka hereby:

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 City Council has reconsidered the circumstances of the COVID-19 state of emergency 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 Committee's, Commission's, and Boards to meet safely in person; and
 - The State of California and the City of Eureka continue to impose or recommend measures to promote social distancing.
3. Declares that as a result of the findings in provision 2 above, that the City is authorized to implement teleconferenced public meetings for all the City's Committees, Commissions, and Boards pursuant to Assembly Bill 361.
4. 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.
5. This Resolution shall become effective immediately and shall be in effect through February 15, 2023.
6. This Resolution shall be reconsidered by the City Council in 30 days to assess the state of emergency and determine whether or not to continue with the provisions set forth in AB 361.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 17th day of January, 2023 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

Kim Bergel, Mayor of the City of Eureka

Attest:

Pamela J. Powell, City Clerk

Approved as to Administration:

Approved as to form:

Miles Slattery, City Manager

Autumn Luna, City Attorney