

RESOLUTION 2021-071

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING THE INTERIM CITY MANAGER TO IMPLEMENT TELECONFERENCED PUBLIC MEETINGS FOR CITY COUNCIL AND ALL CITY COMMITTEES, COMMISSIONS AND BOARDS PURSUANT TO ASSEMBLY BILL 361

WHEREAS, COVID-19 is a respiratory disease which has now spread across the globe, with thousands of confirmed cases in California, including the City of Calistoga; 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 in response to COVID-19 on March 4, 2020; and

WHEREAS, on March 16, 2020, the City Manager of the City of Calistoga proclaimed the existence of a local emergency related to the COVID-19 threat; and

WHEREAS, the Calistoga 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; and

WHEREAS, on March 20, 2021, City Council ratified the local emergency declaration proclamation by the City Manager related to COVID-19 with Resolution No. 2020-020; 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

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, Governor Newsom 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, since issuing Executive Order N-08-21, the Delta variant has emerged causing spikes in COVID-19 cases throughout the state; 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.

WHEREAS, the City is already implementing 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 but requires agendas be posted at all teleconference locations, each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public; and

WHEREAS, Government Code Section 54953(e)(3)(A-B) provides an alternative to having public meetings in accordance with Government Code Section 54953(b)(3) when City Council has reconsidered the circumstances of the COVID-19 state of emergency and that the following circumstances exist:

1. 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 Committees, Commissions, and Boards to meet safely in person; and
2. The State of California and the City of Calistoga continue to impose or recommend measures to promote social distancing.

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

- Requiring staff and the public to wear masks inside City buildings;
- Posting COVID-19 safety measures on doors and the City's website;
- Placing hand sanitizer stations in City Hall and other public 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 BY THE CITY COUNCIL OF THE CITY OF CALISTOGA DOES HEREBY find the flowing:

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 authorizing the City Manager to conduct teleconferenced public meetings for all the City's Committees, Commissions, and Boards 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 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 Committees, Commissions, and Boards to meet safely in person; and
 - The State of California and the City of Calistoga continue to impose or recommend measures to promote social distancing.
4. Declares that as a result of the findings in provision 3 above, that the Interim City Manager is authorized to implement teleconferenced public meetings for all the City's Committees, Commissions, and Boards pursuant to 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 but directs staff to agendize this Resolution within 30 days for City Council to reconsider the circumstances of the state of emergency and findings of provision 3.

PASSED, APPROVED AND ADOPTED this 5th day of **October 2021**. I, **MARNI RITTBURG, CITY CLERK OF THE CITY OF CALISTOGA, HEREBY CERTIFY** the foregoing resolution was introduced and passed at a regular meeting of the Calistoga City Council by the following roll call vote:

AYES: Councilmembers Gift, Kraus, and Williams, Vice Mayor Lopez-Ortega, and Mayor Canning
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


Marni Rittburg, CMC, City Clerk

APPROVED:


Chris Canning, Mayor