


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: December 19, 2023
To: Honorable City Councilmembers
Agenda Review Committee
Responsible Department: City Administration
Subject: City Meeting Formats for Conducting of City Meetings
Recommendation: Consideration of Continuation of In Person and Teleconference Meeting Accommodations for Brown Act Meetings of the City Council and City Boards, Commissions and Committees or to Return to In Person Meetings Only
Funding: Currently Budgeted: Yes No Not Applicable

Account Code: N/A

Costs authorized in City Approved Budget: Yes (Finance Initialed _____) No (Finance Exempt)

INTRODUCTION/PURPOSE:

The item is to request Council consider:

1. Continuation of In Person and Teleconference Meeting Accommodations (Traditional Brown Act and AB 2449 Requirements) for Brown Act Meetings of the City Council and City Boards, Commissions and Committees with Continued use of Zoom Virtual Meeting Format for Public Participation; or
2. Return to In Person Meetings Only of the City Council and City boards, commissions, and committees; with the continued use of Traditional Brown Act Requirements Only; and Use of Live Stream for Viewing Purposes

BACKGROUND

As of March 2020, the City of Sebastopol conducted virtual meetings only in response to the COVID 19 pandemic and once it was safe to do so, moved the meetings to an in person/virtual format to allow members of the public to attend meetings in person or have the option of attending remotely through the use of Zoom.

Currently the City utilizes AB 2449 which permits a non-majority number of legislative body members to utilize teleconferencing participation for meetings without complying to the traditional Brown Act requirements. To use the teleconferencing rules established under AB 2449, a public agency must comply with the following meeting requirements:

- 1) A quorum of the members of the agency’s legislative body must participate in person from a singular physical location identified on the agenda;
- 2) The legislative body must provide either (i) a two-way audiovisual platform, such as Zoom, which allows the meeting to be viewed and heard from a remote location, or (ii) a two-way telephonic service and a live webcasting of the meeting, this requirement may be satisfied with any combination of platforms that allows the meeting to be viewed and heard from a remote location;

- 3) The agenda must give notice of the means by which members of the public may access the meeting and offer public comment; and
- 4) The meeting must be paused (and no action may be taken), if the broadcasting platform, either audio or visual, is interrupted.

If a member of a legislative body wishes to participate remotely under the new procedures, all of the following requirements, (1) through (4), below, must apply:

- 1) The request to remotely participate must be on the basis of a circumstance that qualifies as a “just cause” or “emergency” circumstance within the meaning of AB 2449:
 - (i) Just Cause Circumstance: At the earliest opportunity possible (including at the start of a regular meeting), the requesting member must notify the legislative body that he/she has a “just cause” reason for participating remotely. The request must generally describe the specific circumstances that prevent in person participation. Under AB 2449, “just cause” is specifically defined to mean any of the following circumstances:
 - a. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;
 - b. A contagious illness that prevents a member from attending in person;
 - c. A need related to certain statutorily defined forms of physical or mental disability; or
 - d. Travel while on official business of the public agency or for another state or local agency.

Under AB 2449, members are limited to a maximum of two (2) times per calendar year to invoke the “just cause” exception to in-person participation.

- (ii) Emergency Circumstance: An “emergency circumstance” is defined to mean a “physical or family medical emergency that prevents a member from attending a meeting in person.” To invoke the “emergency circumstance” exception, the requesting member, as soon as possible, must request that the legislative body allow him/her to participate remotely due to some specified “emergency circumstance.” In turn, the member’s legislative body must take action to approve the request at the earliest opportunity. The legislative body shall also request a general description (not exceeding 20 words) that describes the circumstances relating to the requesting members “emergency.” The requesting member is not, however, required to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law. The member must also make a separate request for each meeting in which he/she seeks to participate remotely under the “emergency” exception.

Participation via teleconference under the “emergency circumstance” exception does not count toward the two-meeting limitation applicable to the “just cause” exception.

- 2) The member must publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.
- 3) The member must participate through both audio and visual technology.

4) A member's remote participation may not exceed (i) three consecutive months, or (ii) 20% of a legislative body's regular meetings within a single calendar year. Also, if the legislative body regularly meets fewer than 10 times per calendar year, a member's participation from a remote location cannot be for more than two meetings total.

DISCUSSION:

At the December 5, 2023 City Council meeting, as well as at various other cities throughout the County and the State, the Council and public endured "Zoom bombings" which disrupted the public comments portion of the Council agenda. These zoom bombings contained what could be termed as hate speech, vulgar comments, and foul language. At this meeting, the Mayor and City staff muted those individuals but not until such time that some of the offensive comments were made in public.

As noted not only with Sebastopol but with many other cities, zoom bombing is unfortunately progressively getting worse and is becoming more common for many California cities to grapple with this surge in hate speech emanating from participation by virtual remote attendance at City meetings. For the past few weeks, cities up and down the Bay Area have been targeted during public meetings by online speakers, some who initially appear to be average citizens commenting on city business, who instead pivot to slur-filled rants and these comments made during public meetings are disturbing.

The City values public participation and the primary goal of any of our public meetings is to encourage participation in our local governance but we are now faced with deciding how to move forward such as allowing the live remote public comment and brace for comments as Councils have recently seen, or limit online access to viewing only.

The point of a public meeting is to allow members of the public who have an interest in local government to be able to speak their minds about what's happening and to present ideas of ways to do things better in a safe, non confrontational or abusive environment. Sebastopol is an inclusive City, values the input of the community, but also has a duty to protect the Council, staff, and members of the general public who may be greatly affected by the recent comments in public comment.

The City has provided various ways for the public to participate in public meetings and staff is seeking direction on what methods the City Council would like to continue to offer. Currently the City utilizes the following process for public comments:

- Written public comment
- Public Comment in Person at City Meetings
- Public Comment through use of Zoom virtual format
- Public Comments submitted verbally to City staff

Regardless of whether the meetings are in person or a combination of in person/and virtual format, the City meetings will continue to be streamed utilizing Live Stream for viewing purposes only as well as City staff is looking into streaming the meetings with use of Facebook Live and/or You Tube. Also, members of the community can continue to submit comments in writing to the City Clerk who distributes the comments to all members of the City Council. The member of the public can ask that the email be made a part of the public record for general comments or as part of a specific agenda item. Citizens can also leave a voice mail or provide comments to the City staff that will be made a part of the public record, but will not be read into the minutes at the City Council meeting.

Another consideration for tonight's item is the fiscal emergency declaration that was recently adopted by the City Council. As the Council is aware, the City utilizes the Sebastopol Cultural Community Center staff, as well as an outside vendor, PCA, to:

- Set up the City Meetings to include Audio/Visual
- Zoom Set Up and Controls and Submission of Codes to Closed Captioning
- Live streaming Meetings
- Posting of Meetings at the Conclusion of the Meeting
- Editing Meetings if needed (at an additional cost); This is needed when the meetings are zoom bombed and the meeting has to be edited to remove the vulgar and offensive material.
- Take down and storage of audio/visual equipment

Recently, the City has encountered issues with the use of Zoom. The most recent Zoom issue has been with closed captioners, updates resetting saved preferences, connection issues with Livestream, and the need to restart the computers to address these glitches. Eliminating Zoom from the process would solve a lot of the problems and the Livestream, with the camera switching and sound, would be more straightforward without it. This would also reduce the stress on the Council, City staff and members of the public as it is difficult to know what the public comment would be and if the member speaking would need to be muted depending on the comments. City staff is looking into a new vendor (other than Livestream) that may have the capability of closed captioning, raw draft transcripts of closed captioning and lower thirds which would result in a more professional end product as well.

Of note is AB 2449: If zoom is eliminated, and a Councilmember has requested to utilize AB 2449, the City would need to provide the mechanism for members of the public to be allowed to provide public comment through Zoom Online virtual format if a Councilmember is participating remotely pursuant to the provisions of Assembly Bill 2449. If the Council chose in person only, it would be difficult to utilize this format as returning to in person would reduce outside vendor employees from two persons to one person. Also depending upon the timing of the notification of the AB 2449 request, it could be that the vendor would not have two staff members available for that meeting, or there would not be enough time for noticing requirements under the Brown Act for AB 2449, especially in an emergency circumstance request to be able to provide both in person and virtual format. It could also be confusing to the public not to be consistent with the types of meetings conducted. It is not recommended that the Council utilize AB 2449 if zoom is eliminated but to require the traditional Brown Act requirements.

Traditional Brown Act requirements for in person meetings: Teleconferencing may be used for all purposes during any meeting.

- At least a quorum of the city council must participate from teleconferencing locations within the city's jurisdiction.
- Each teleconference location must be identified in the notice and agenda of the meeting.
- Agendas must be posted at each teleconference location.
- Each location must be accessible to the public.
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.
- All votes must be by rollcall

Removal of the zoom aspect of the meeting would result in the elimination of one staff person from the IT vendor who currently conducts the work needed in the background for Zoom Council meetings. This is a potential savings of approximately \$20,000 (this amount is dependent upon number of hours worked for each Council meeting). However, zoom could be utilized for staff members and consultants only as the additional vendor employee would not be needed for that type of format and that function would fall to a staff member.

Listed below is currently how other local cities are conducting City Council Meetings:

City	In person only	Both in person and Virtual Public Participation	In person only and Public Viewing Only	Submission of Public Comment
Cloverdale	X		Utilizes Live Stream for viewing purposes.	In person or written.
Cotati		X We offer in-person and Zoom participation via Zoom webinars		The Mayor calls for public comment in the chamber first, followed by public comment via Zoom.
Healdsburg	X		Members of the public may observe the meeting on Zoom Webinar or via the web stream on the City website or Facebook.	Members of the public may submit public comment in person
Petaluma	X	To be re-evaluated in the new year if we go back to hybrid public comments.	X Yes, the public may observe virtually but not provide public comment at this time.	How to Observe and/or Participate and Provide Public Comment at a Meeting Attend In-Person: Petaluma City Council Chamber located at 11 English Street, Petaluma, CA. Please fill out a speaker card for each item you wish to speak on, and place in the speaker card box next to the City Clerk. At this time, the City is temporarily suspending virtual participation by Zoom at Council meetings and will re-evaluate at a future date. Observe Virtually via Zoom Watch on TV: Comcast channel 28, U-Verse channel 099 Submit written public comment: e-mail comments to cityclerk@cityofpetaluma.org or submit your comment online through the agenda portal. Comments that are received at least two hours prior to the meeting, will be distributed to the Mayor and City Councilmembers and placed on the City's website as part of the agenda packet for the meeting. Comments received after the cutoff time will be posted online and made part of the record the next business day.
Rohnert Park	X		Members of the public may observe the meeting on this page, Cable Channel 26, or on our YouTube channel at https://www.youtube.com/CityofRohnertPark .	Members of the Public can provide live public comment at the meeting. Comments are limited to three minutes per appearance with a maximum allowance of 30 minutes allotted per comment period, subject to modification by the City Council in accordance with the adopted City Council Protocols. Members of the public may also provide advanced comments by email at publiccomment@rpcity.org Comments are requested by 3:00 p.m. on the day of the meeting, but can be emailed until the close of the Agenda

				Item for which the comment is submitted. Agenda Item Number: 10b Email comments must identify the Agenda Item Number in the subject line of the email. The emails will not be read for the record but will be provided to Council. Please note that all e-mails sent to the City Council are considered to be public records and subject to disclosure under the California Public Records Act.:
Santa Rosa	X		MEMBERS OF THE PUBLIC CAN PARTICIPATE IN THE MEETING BY ATTENDING IN-PERSON FROM COUNCIL CHAMBER AT 100 SANTA ROSA AVENUE THE PUBLIC CAN ALSO VIEW OR LISTEN TO THE MEETING LIVE AT: 1. HTTPS://SANTA-ROSA.LEGISTAR.COM/CALENDAR . CLICK ON THE "IN PROGRESS" LINK TO VIEW; 2. VIA ZOOM WEBINAR BY VISITING HTTPS://SRCITY-ORG.ZOOM.US/J/86876779687 , OR BY DIALING 877-853-5257 AND ENTERING WEBINAR ID: 868 7677 9687; 3. COMCAST CHANNEL 28, AT&T U-VERSE CHANNEL 99; AND 4. VIA YOUTUBE AT HTTPS://WWW.YOUTUBE.COM/CITYOFSANTAROSA	Public Comment may be made live during the meeting In-Person from Council Chamber or submitted in advance via email at cc-comment@srcity.org by 5:00 p.m. the Monday before the City Council Meeting.
Sebastopol		X		Anyone interested may attend in person, by phone or by computer and be heard at this meeting. City staff asks for public comment from in Chambers first; then Zoom; then return to Chambers; then Zoom, etc. SUBMITTING COMMENTS: For staff report inclusion, all comments must be received one week prior to the meeting date. Comments shall be submitted by email to _____@cityofsebastopol.org or mailed/left at City of Sebastopol or you may also leave a voice mail that will be made a part of the public record. If recorded, your voice mail will be transcribed and provided to the City Clerk as a public record but will not be read into the minutes at the City Council meeting. Comments received after posting of the agenda will be provided to the Council and made part of the public record.
Sonoma		X		The Mayor asks for public comment in the chambers first and then goes to zoom. Both formats get three minutes.
Windsor	X		Windsor holds all their meetings for Council and the Commission in person We offer Zoom as a viewing option in addition to web streaming video on Granicus.	Members of the public who wish to address the Council, by providing public comment, during the meeting must do so in-person in the Civic Center Council Chambers at 9291 Old Redwood Highway, Building 400 in Windsor, where the meeting is being publicly held. As an alternative, members of the public may also provide written public comment submitted via email to:

				town council@townofwindsor.com, <i>Agenda Item Number: 10b</i> please submit them via email to the Council by 12:00 p.m. on the day of the meeting.
--	--	--	--	---

Tonight's item is to consider the continuation of in person/zoom virtual format or return to in person meetings only based on the information presented above. Removing the zoom virtual format could reduce public participation as members of the public are elderly, parents of school aged children, persons who are ill, or may have mobility problems, etc., and virtual formats allow for those members to participate remotely. It is a convenience that would be taken away from members of the community who may also be away on travel or vacation and would not be able to participate if it were in person only. It also reduces greenhouse gas emissions as members of the public would not need to drive to city meetings; but could observe and participate remotely.

However, it would also reduce the financial costs of the outside vendor by reducing the need for one employee, could reduce technical difficulties as we rely on the internet as well as the Zoom meeting format to host virtual meetings; and could reduce distractions from videos being turned off or on; distractions of what could be on screen, and in person creates a more intimate face to face environment.

The Council could also conduct a trial period of in person meetings only and re-assess in the new fiscal year.

ENVIRONMENTAL REVIEW:

The proposed action is exempt Yes No from the requirements of the California Environmental Quality Act (CEQA)

GOALS:

This action supports the following City Council Goals and General Plan Actions:

- Goal 5: Provide Open and Responsive Municipal Government Leadership
- 5.3.3. Encourage and increase public awareness of City Policies, decisions, programs and all public processes and meetings, by investigating effective methods of communication and obtaining feedback from the community.
- Goal 6: Maintain a highly qualified Staff that works to provide services to serve and protect the residents, visitors and business of this community.
- Action CHW 5c: Practice an open-door policy in City programs, and actively engage and encourage participation from all individuals regardless of ethnicity, race, religion, class, disability, sexual orientation, and gender.
- Expand and Encourage Community Involvement in the Government Process by Increasing the Public's Understanding of local Government Operations and Increasing Interaction with Elected Officials'
- Continue to maximize public participation in local government actions and maintain excellent levels of City government service.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report, such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

FISCAL IMPACT:

There is no fiscal impact associated with the action taken tonight; however, it is anticipated that IT costs (audio/visual/broadcasting of meetings) could be reduced.

RECOMMENDATION:

Staff recommends Council consider:

1. Continuation of In Person and Teleconference Meeting Accommodations (Traditional Brown Act and AB 2449 Requirements) for Brown Act Meetings of the City Council and City Boards, Commissions and Committees with Continued use of Zoom Virtual Meeting Format for Public Participation; or
2. Return to In Person Meetings Only of the City Council and City boards, commissions, and committees; with the continued use of Traditional Brown Act Requirements Only; and Use of Live Stream for Viewing Purposes

If the Council retains the in person and zoom virtual meeting format, staff would request that the City Attorney notify City staff during the meetings when a person can be muted/removed in regard to hate speech, freedom of speech, etc.

If there any change to the format of meetings as approved tonight, City staff will return amend the protocols to reflect the change.

Attachments:

None