

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM REPORT

Meeting: February 6, 2024 *(This item was continued from the December 19, 2023 City Council Meeting and Contains Updated Information)*
To: Honorable City Councilmembers
From: Agenda Review Committee
City Clerk
Subject: Conducting of City Meeting Format (In person/zoom or in person)
Recommendation: That the City Council Consider Retention of In Person/Virtual Meeting Format (Zoom) for City Meetings, or Consider Returning to In Person City Meetings Only
Funding: Currently Budgeted: Yes No Not Applicable
Account Code: N/A

INTRODUCTION/PURPOSE:

The item is to request Council consider:

1. Retaining in person and zoom virtual format meetings with live public comment (status quo);
2. Conduct in person/virtual meetings for viewing only (No virtual public comment);
3. Return to in person only meetings.

SUMMARY: Currently, the City of Sebastopol City Council, Planning Commission, Design Review Board, and Public Arts and Climate Action Committees, as well as the Budget Committee conduct in person and virtual meeting format (zoom). This agenda item was originally scheduled for December 19, 2023 but was continued due to the length of the City Council meeting. In person/Virtual meetings allows an additional format for public participation; however, in response to recent zoom bombings, as well as comments that were considered vulgar or derogatory at the December 5, 2023 City Council meeting, the Agenda Review Committee requested review of the current meeting format for Council consideration. The Committee is bringing this item forward for Council consideration of 1) retaining in person and zoom virtual format meetings with live public comment (status quo); 2) conduct in person/virtual meetings for viewing only; or 3) return to in person only meetings.

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 with 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:

The public comment period is an essential part of local government meetings. The public comment section of the agenda provides the public with an opportunity to address the Council (or any City Commission, Board or Committee), on any item that is within the jurisdiction of the City and which does not appear on the agenda. The Brown Act also provides that the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it. At the December 5, 2023 City Council meeting, as well as at various other city meetings throughout the County and the State, the Council and public endured "Zoom bombings" which disrupted the public comments portion of the Council agenda or agenda item. These zoom bombings contained what could be termed as 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 emanating from participation by virtual remote attendance at City meetings. For the past few months, cities up and down the Bay Area, as well as State-wide, 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 or vulgar speech.

The City values public participation and the primary goal of any of our public meetings is to encourage participation in our local governance, provide a time and process for public to submit written and oral comments, and also ensure preservation of free speech. The First Amendment of the U.S. Constitution provides protection to and opportunity for free speech in public forums. The City public meetings are considered a "limited public forum" where the city has protocols in place for public comment. The Council protocols encourage 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 whether by oral public comment or written comments. Sebastopol is an inclusive City, values the input of the community, but also has a responsibility to provide a format to those members of the Council, staff, and members of the general public who may be greatly affected by the recent comments in public comment.

With the recent comments and disruption at the December City Council Meeting, the City is considering the future format of City meetings. This ranges from remaining status quo with in person/virtual format and allowing the continuation of live remote public comment; maintain in person/virtual format but limit online access to viewing only; or return to in person meetings only.

The City provides 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 either in person or over the phone. If a member of the public wants to provide public comment over the phone to a city staff member, the city staff member will inform the caller that they have two minutes, similar as if there were in person or on zoom for public comment. For lengthier comments, City staff encourages members of the public to send emails to citycouncil@cityofsebastopol.gov for submission of detailed public comments that are distributed to the City Council, made a part of the public record, and posted to the city website.

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. City staff is also looking into streaming the meetings with use of Facebook Live and/or You Tube.

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 through Live Stream and/or You Tube
- Posting of Videos of Meetings at the Conclusion of the Meeting
- Editing Videos of 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 technical difficulties with the zoom component of the meetings, to include restarting of computers/lack of sound issues/garbled or distorted voices and loss of connection with Live Stream, etc. Staff has met with the current vendors to address these technical issues; has met with the current vendors to discuss issues, and is reviewing use of existing staff to be trained in the technical components of the meeting to potentially reduce the need for outside use of vendors. IT would still be required to edit meeting videos. If a meeting was zoom bombed or hate speech or vulgar language was on the video for that meeting, the video would need to be edited to remove that portion of the meeting prior to posting to the city website. Returning to in person only meetings and eliminating Zoom from the process would solve the current technical issues, but would also remove the ability for members of the public to participate via virtual format.

AB 2449: Use of in person/virtual format would still allow the use of AB 2449. If 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. The City is currently utilizes AB 2449 with in person/virtual format.

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 could 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). If the Council chose to return to the in-person format, the Council could approve use of zoom for consultants only to help keep costs to a minimum. An additional vendor employee would not be needed for that type of format and that function would fall to the one IT vendor who would be responsible for the set up for the presentation by a consultant if needed.

City staff contacted local cities for their current format. The results are listed below:

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 it 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 .	<p>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.</p> <p>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. 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.:</p>
Santa Rosa	X		<p>MEMBERS OF THE PUBLIC CAN PARTICIPATE IN THE MEETING BY ATTENDING IN-PERSON FROM COUNCIL CHAMBER AT 100 SANTA ROSA AVENUE</p> <p>THE PUBLIC CAN ALSO VIEW OR LISTEN TO THE MEETING LIVE AT:</p> <ol style="list-style-type: none"> 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		<p>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.</p> <p>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</p>

				_____@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 (*)			*City of Sonoma suspended the use of zoom as Jan 2024..
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: townCouncil@townwindsor.com, please submit them via email to the Council by 12:00 p.m. on the day of the meeting.

INFORMATION UPDATED AS OF THE LAST REPORT:

After the City Council meeting of December 19th, 2023, the City Clerk met with various executives of Zoom, as well as employees of zoom from their security department, to review the security settings that the City has in place for the zoom meetings. The City Clerk has also met with community members who are knowledgeable in zoom to address the issues the City has been facing, and based upon those conversations, the City has put in place additional security measures to help address the concerns of zoom bombing. Although not 100 percent fail safe, City staff believes that have put the tools in place to reduce or eliminate zoom bombings.

An issue separate from zoom bombing is hate speech. Currently Zoom does not have any tools in place to delay any potential hate speech or vulgar comments from being zoomed out to the public. However, even if there was a delay built in, City staff would need to be subjective in determining what is hate speech and the City Clerk 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 rights, etc.

ANALYSIS OF CITY STAFF:

Removing the zoom virtual format could reduce public participation as members of the public who are elderly, are parents of school aged children, are persons who may be ill, may have mobility problems, or persons may have other valid reasons for not attending meetings in person. An in person/ virtual meeting format allows for those members to participate remotely. Returning to in person is a convenience that would be taken away from members of the community who may be away on travel or vacation, driving from one destination to another, at a meeting or function where they could disengage themselves from to be able to provide public comment and would not be able to participate if it were in person only. In person/virtual meeting format also reduces

greenhouse gas emissions as not all members of the public would not need to drive to city meetings, but could observe and participate remotely.

However, returning to in person could also reduce the financial costs of the outside vendor by reducing the need for one employee of the vendor, and could reduce technical difficulties as we rely on the internet as well as the Zoom meeting format to host virtual meetings. In person only format can also create a more intimate face to face environment but could also be challenging for those who are uncomfortable in an in person format.

Although there is potential costs savings for returning to in person meetings, it is City staff's opinion that providing multiple avenues for community involvement in by providing opinions, expertise, concerns or support in City decisions that impact the residents and community of Sebastopol, outweighs the financial costs or technical issues of in person/virtual format of meetings. Therefore, staff would recommend continuation of the in person/virtual format of city meetings (status quo) with the current protocols in place and relying on the City Attorney to advise when a person can be removed from a meeting. Protocols include:

1. Mutes everyone upon entry
2. Does not allow anyone to unmute unless asked by IT to unmute
3. Does not allow anyone to rename themselves
4. Does not allow videos to be used for participants
5. Use of password/passcode required
6. Does not allow chat during meetings
7. Removed passcode from online zoom link
8. Submission to zoom of zoom bombers

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 by approximately \$20,000 if the Council returned to in person meetings only. Although the amount is significant in today’s City budget, the Council should weigh the financial costs against the transparency and open governance and the Council’s goal of increasing interaction between members of the public and elected officials and appointed members of the Commission, Board and Committees.

RECOMMENDATION:

Staff recommends the City Council Approve Option Number 1 below (continuation of in person/virtual meeting format).

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 (Status Quo); or
2. Continuation of In Person and Teleconference Meeting Accommodations (Traditional Brown Act) and Viewing only of meetings (no virtual public comment); or
3. 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 there any change to the format of meetings as approved tonight, City staff will return amend the protocols to reflect the change.

Attachments:

None

Approvals:

Department Head Approval: Approval Date: 1-29-2024

CEQA Determination (Planning): Approval Date: January 17, 2024

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA)

Administrative Services/Financial Approval: Approval Date: January 17, 2024

Costs authorized in City Approved Budget: Yes No N/A

City Attorney Approval: Approval Date: N/A

City Manager Approval: Approval Date: January 29, 2024