

December 22, 2020

TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS

FROM: CITY ATTORNEY

**SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMPTON
ADOPTING A VIDEO CONFERENCE POLICY FOR CITY COUNCIL
MEETINGS**

SUMMARY

Councilwoman Michelle Chambers of District 1 requested that this item, a Resolution establishing a Video Conference Policy, be brought forward for City Council consideration. Adoption of this Resolution will establish rules and procedures for participating in public meetings by video conference.

BACKGROUND

On March 4, 2020, California Governor Newsom declared a State of Emergency to help the state prepare for the spread of coronavirus (hereinafter referred to as “Covid-19”). In March, 2020, Governor Newsom issued various Executive Orders¹ that suspended portions of the Ralph M. Brown Act (hereinafter referred to as the “Brown Act”) in order to promote social distancing and reduce the risk of community transmission during the Covid-19 pandemic.

Executive Order N-29-20 specifically modifies the requirements² under the Brown Act to allow legislative bodies to hold public meetings by “teleconferencing.”³ Although there are specific requirements in the Brown Act for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the legislative body.⁴

¹ March 12, 2020 Executive Order No. N-25-20; March 17, 2020 Executive Order No. N-29-20; March 21, 2020 Executive Order No. N-35-20.

² The Brown Act sets forth the following specific requirements for teleconference meetings:

- Agendas must be posted at all teleconference locations;
- The Council must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the body;
- The notice and agenda of the meeting must identify each teleconference location;
- Each teleconference location must be accessible to the public;
- During the teleconference, at least a quorum of the members of the body must participate from locations within the boundaries of the City;
- The agenda must provide an opportunity for members of the public to address the legislative body directly from each teleconference location;
- All votes taken during the teleconference meeting must be conducted by roll-call.

³ A “teleconference” is defined as a meeting of a legislative body, where members are in different locations, connected by electronic means, through either audio or video, or both (Government Code Section 54953(b)).

⁴ Open & Public V: A Guide to the Brown Act. League of California Cities (Revised April, 2016).

STATEMENT OF THE ISSUE

Concerns for the ability to secure communication with remote participants have weighed heavily against the adoption of rules to facilitate such participation and as such, the City does not currently have a policy for participating in public meetings by any electronic means. The onset of the Covid-19 global pandemic this year, however, has prompted the statewide halting of requirements under the Brown Act⁵ so that legislative bodies can shift from in-person meetings to meetings held remotely through web based video conferencing programs such as Zoom or GoToMeeting. These are unprecedented times and the procedures for conducting business in accordance with the Brown Act and the Governor's Executive Orders are novel and complex. It appears that the Covid-19 public health emergency will extend longer than initially expected and thus the purpose of the proposed policy is to establish guidelines for participating in future regular meetings by video conference⁶ during a state or local emergency (including but not limited to the current local emergency, Covid-19).

In drafting the proposed Video Conference Policy, Staff evaluated all teleconferencing options to determine whether one platform provided any significant advantages over the other. Staff determined that video conferencing presented several advantages in that all members of the meeting are able to see, hear and fully communicate with each other. Video conferencing allows Councilmembers to see slides or documents that are presented during the live broadcast of the meeting. Finally, and of utmost significance, video conferencing is the preferred method for conducting Closed Sessions, as these meetings are reserved exclusively for the members of Council and the City's advisors to discuss confidential and sensitive matters. Staff included best practices and protocols in the proposed policy that are to be used when Councilmembers participate in Closed Session by video conference.

If adopted, the proposed policy will be effective immediately as the City Council has already declared a local emergency and authorized temporary procedures to limit the

⁵ Executive Order N-29-20 allows public meetings to be held by video, teleconference or other electronic means and suspends the following teleconferencing requirements under the Brown Act (March 12, 2020):

- Agendas do not have to be posted at all teleconference locations.
- Physical presence of members of the legislative body or of the public are not required as a condition of participation in or quorum for a public meeting.
- Notice is not required of each teleconference location from which a member will be participating in a public meeting.
- Teleconference location does not have to be accessible to the public.
- Members of the public addressing the body at each teleconference conference location is not required.
- During teleconference meetings, at least a quorum of the members of the legislative body are not required to participate from locations within the boundaries of the territory over which the legislative body exercises jurisdiction.

⁶ "Video Conference" or "Videoconferencing" means communication where at least one member of City Council participates in a public meeting by an electronic connection made up of the following components:

- a live video transmission of the City Council member not in physical attendance;
- a live audio transmission allowing the City Council member not in physical attendance to be seen and heard by those in physical attendance; and
- a live audio transmission allowing the City Councilmember not in physical attendance to see and hear those in physical attendance at a meeting.

spread of Covid-19. Specifically, the City Manager is authorized to setup a teleconference process for legislative body members to attend public meetings remotely.⁷

The attached proposed resolution will establish a Video Conference Policy with the following (not exclusive) provisions:

- City Councilmembers may attend a regular (including study sessions), special meeting, Closed Session by video conference under limited circumstances considered to be an emergency (i.e. local or state emergency).
- Participation by video conference can be discontinued if repeated or prolonged technical issues delay the progress of the meeting.
- If at any time during a meeting one (1) or more of the elements of a video conference becomes compromised (i.e., if any Councilmembers are unable to see, hear, or fully communicate with each other) then the Councilmember may be deemed immediately absent and this absence should be reflected in the minutes. A Councilmember's absence from a video conference may impact the constitution of a quorum.
- The City Council may authorize exceptions to this policy. An individual Councilmember may request authorization from City Council to connect to a particular meeting by teleconferencing if the reason for the absence is outside the acceptable video conferencing parameters (for example: personal emergency, to provide reasonable accommodations for a physical illness, injury or disability as required by law).
- If a Councilmember attends a Closed Session meeting by video conference, the following protocols must be utilized by the Councilmember (s) making the request:
 - The conference must take place in a private room with no one else present or within proximity to overhear the closed session communications.
 - A handset or headset must be utilized (speakerphone not allowed).
 - To ensure that security protocols are being utilized, the Councilmember(s) participating in a video conference must first state on the record, under penalty of perjury, that he or she is listening by handset or headset (not speakerphone) and that no other persons are present or within proximity to overhear communications.

FISCAL IMPACT

None.

RECOMMENDATION

No recommendation is offered by staff. The attached Resolution is presented for consideration and adoption pursuant to request of a Councilmember.

⁷ Resolution No. 25,226 adopted March 17, 2020

ALTERNATIVES

1. Approve as drafted.
2. Approve with modifications.
3. Direct staff to return with more information.
4. Take no action.

**DAMON BROWN
CITY ATTORNEY**

APPROVED FOR FORWARDING:

**CRAIG J. CORNWELL
CITY MANAGER**