

**CITY OF TEMECULA  
AGENDA REPORT**

**TO:** City Manager/City Council

**FROM:** Randi Johl, Director of Legislative Affairs/City Clerk

**DATE:** April 13, 2021

**SUBJECT:** Adopt Resolution Formalizing Previous Direction Regarding the Conduct of In Person Public Meetings and Provide Additional Direction As Needed

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**PREPARED BY:** Randi Johl, Director of Legislative Affairs/City Clerk  
Peter Thorson, City Attorney

**RECOMMENDATION:** That the City Council adopt the following resolution formalizing its direction regarding the conduct of in person public meetings and provide additional direction as needed:

RESOLUTION NO. 2021 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TEMECULA SETTING FORTH THE PROTOCOL FOR THE  
CONDUCT OF IN PERSON PUBLIC MEETINGS DURING THE  
EXISTENCE OF A STATE DECLARED EMERGENCY FOR  
THE COVID 19 PANDEMIC

Note: The recommendations and guidance contained herein, and in the referenced resolution, follow the guidance in place at the time of writing and may not align with those in effect at the time of the City Council meeting.

**BACKGROUND:** At the meeting of March 9, 2021, Council Member Jessica Alexander requested that an item be placed on the agenda regarding opening City Council meetings for in person attendance by the Council and public. The item came before the City Council on March 23, 2021 for discussion and direction. The item before the City Council tonight formalizes the direction provided into a resolution setting forth the protocol for the conduct of in person public meetings during the existence of a state declared emergency for the COVID-19 pandemic. In addition to the adoption of the resolution, it is requested that the City Council provide any additional direction as desired.

Current Conduct of Meetings

Currently, City Council meetings are conducted virtually utilizing Zoom technology. The technology operates on a nearly all or nothing platform. For virtual meetings, the platform allows for one onsite presence in the Council Chambers with the balance of participants joining virtually.

For in person meetings, the platform requires all participants onsite in the Council Chambers and allows for one virtual offsite participant. Currently, all public comments are received electronically via email and read into the record consistent with the Governor's Executive Order No. N-29-20.

#### General Considerations for Change in Conduct of Meetings

At the March 23, 2021 meeting, the City Council evaluated changes to the current process and provided direction on the following items:

1. When would the City Council like to begin conducting in person meetings again?
2. When conducting in person meetings again, would the Council prefer a partial opening with only Council and staff in the Chambers, or a full opening with the public in the Chambers as well? If a partial opening is preferred, when would the Council prefer the full opening to occur?
3. When conducting in person meetings again, which health and safety protocols would the Council like to have in place? What enforcement mechanisms would the Council like in place for these health and safety protocols.
4. When conducting in person meetings again, how would the Council like to receive and record public comments?
5. When would the Council like the boards and commissions to conduct in person meetings again?

As there were numerous legal, best practice, and staff implications associated with each of these items, the detail and direction associated with each item is discussed below.

1. When would the City Council like to begin conducting in person meetings again?

Direction Given at the March 23, 2021 Meeting on Item #1: For purposes of discussion, the first regularly scheduled City Council meeting in May 2021.

The City of Temecula, as a government entity, is an essential business under the Governor's Emergency Orders. On March 16, 2021, the City as a part of Riverside County, moved from the Purple Tier with widespread status under the State of California's Blueprint for Safer Economy, to the Red Tier with substantial spread. On April 7, 2021, the City and County moved from the Red Tier to the Orange Tier with moderate spread. Government services may continue to be provided with modifications under the Orange and Yellow Tiers. <https://covid19.ca.gov/safer-economy/>

However, under both the State and County public health orders, indoor gatherings of persons from multiple households are still discouraged and strictly limited. As counties move from Purple Tier to Red Tier, some indoor activities including weddings, funerals, services in places of worship, and movie theaters are permitted with a maximum 25% capacity and health mitigation. Indoor and outdoor live entertainment performances are still prohibited in the Red Tier. According to CDPH, because such gatherings frequently involve the mixing of people from different communities creating a high risk of transmission of COVID-19, until further CDPH guidance is issued, such gatherings are allowed only in counties in the "Moderate" (orange) or "Minimal" (yellow) risk

levels. In addition, performances are permitted only if, in the exercise of their discretion, the relevant health officer approves the precautions taken to ensure the safety of audience members, performers and others connected with the performance. Performances may have no more than 50 persons in the audience in counties in the “Moderate” (orange) risk level and no more than 100 in counties in the “Minimal” (yellow) risk level. <https://www.rivcoph.org/coronavirus> and <https://covid19.ca.gov/stay-home-except-for-essential-needs/>.

Mitigation for permitted gatherings includes public health measures such as social distancing of 6 feet, wearing a mask, temperature checks, health screenings, sanitation of equipment, etc. Implementation of these mitigation measures necessarily includes additional staff resources and equipment and/or personal protective equipment (PPE) for the public. A reasonable amount of lead time would be required to acquire and/or implement changes regardless of when in person meetings resume.

2. When conducting in person meetings again, would the Council prefer a partial opening with only Council and staff in the Chambers, or a full opening with the public in the Chambers as well? If a partial opening is preferred, when would the Council prefer the full opening of the Chambers to occur?

Direction Given at the March 23, 2021 Meeting on Item #2: A full opening with both the City Council and members of the public in attendance with the appropriate public health measures in place.

As mentioned under the previous item, in person Council meetings, whether partial or full, would require implementation of public health measures to mitigate for gathering prohibitions under State and County public health orders. The number of staff, amount of equipment, and space accessibility that is needed to implement the measures varies dependent on whether the opening is partial or full. For example, with a partial opening less space is needed as Council may be social distanced on the dais and staff may be socially distanced in the general seats of the Chamber. Public health measures are already administratively required for all employees onsite. With a full opening to in person meetings, there may be additional needs for space in the Conference Center, PPE availability for the public, temperature check equipment near entrances, etc. that will require additional onsite staff before, during and after the meetings are conducted.

3. When conducting in person meetings again, which health and safety protocols would the Council like to have in place? What enforcement mechanisms would the Council like in place for these health and safety protocols.

Direction Given at the March 23, 2021 Meeting on Item #3: Public health measures for in person meeting attendance by the City Council and members of the public include social distancing, mask wearing, sanitation station, cleaning and disinfecting equipment, temperature checks, and signage communicating public health measures.

Best practices utilized by public and private sectors and recommended by the Centers for Disease Control and Prevention (CDC) to mitigate virus spread include the following: (1) Get Vaccinated,

(2) Wear a Mask, (3) Stay 6 Feet Away From Others, (4) Avoid Crowds and Poorly Ventilated Spaces, (5) Wash Your Hands, (6) Cover Coughs and Sneezes, (7) Clean and Disinfect, and (8) Monitor Your Health Daily. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> It is important to note that these measures are guidelines and recommendations to slow community spread of the disease. At the time of print, neither the State nor the County had a uniform mandate in place. However, mandates for public and private sector employers and businesses are commonplace based on Cal OSHA and worker's compensation insurance requirements. As an example, many local governments administratively require public health measures as do many restaurants, retail stores, etc. Enforcement mechanisms vary greatly depending upon the sector, type of business, employer preference for reducing workers' compensation liability and public claims, etc. Enforcement can range from a reminder or warning to put on a mask to the denial of services. Depending upon the level of enforcement desired of public health measures at in person Council meetings, staff will need to be present and informed to address any situations that may arise. Historically and pre-pandemic, a deputy sheriff or two were regularly present at in person Council meetings and were available to assist non-safety staff accordingly.

4. When conducting in person meetings again, how would the Council like to receive and record public comments?

Direction Given at the March 23, 2021 Meeting on Item #4: Public comments may be received in person with public health measures in place or via electronic mail and read into the record consistent with current practice.

Public comments may be received in person, telephonically or electronically consistent with Executive Order N-29-20, however, Executive Order N-29-20 does not require in-person attendance or comments at a City Council Meeting. Additionally, one or more Council Members may participate by telecommunication consistent with Executive Order N-29-20. In person comments from the general vicinity of the podium may be received with the appropriate public health measures utilized by both the speaker and staff in between speakers (i.e., masks and sanitation). All other standard requirements under the Brown Act and timing practices would still be applicable. Given the ongoing existence of the pandemic and the City's obligation to provide reasonable accommodations under the Americans with Disabilities Act (ADA), the City would still need to continue to receive comments electronically via email as is current practice for the record. The practice of emails being read into the record is consistent with ADA, Brown Act and Executive Order considerations. It is important to note that changes in these practices would need to be appropriately noticed on the agenda for public awareness. While telephonic comments have been referenced in passing discussions, implementation would require additional staff review of which systems are available, how they can be implemented in a manner that is consistent with the Brown Act for timing and accessibility, what meeting production elements will be impacted, how technological challenges will be mitigated, etc. Challenges associated with duplication of comments by the same caller, etc. would also need to be evaluated. A hybrid approach of in person and email comments received in real time and read into the record is also possible.

5. When would the Council like the boards and commissions to conduct in person meetings?

Direction Given at the March 23, 2021 Meeting on Item #5: The board and commission meetings will commence in the same manner as the City Council meetings with the same public health measures and protocols in place consistent with current practice.

Board and commission meetings are held in a manner that is consistent with City Council meetings in every way possible for consistency in application to the law as well as best practices. There are currently five boards and commissions with twenty-seven members. There is an increased interest in viewing the board and commission meetings by the public. If the City Council chooses to change the manner in which it holds its own meetings, those changes would be made applicable by default to the board and commission meetings as well, unless Council indicates otherwise.

Additional Item of Research - Use of Technology to Create a Hybrid Environment with Both In Person and Virtual Presence

At the March 23, 2021 meeting, the City Council inquired about the ability to conduct hybrid meetings with participants attending both in person and virtually. Media Services (ITSS) performed the necessary research and proposes an innovative meeting model utilizing new technologies now available. The proposed hybrid model bridges the Council Chamber audio visual equipment to the Zoom Video Conferencing solution. Meeting participants will be able to attend in person or through Zoom. The video equipment in the Council Chamber will be used for the podium, wide shots, and audience. In person and virtual meeting participants will use individual web cameras and be visible on screen allowing for enhanced group collaboration. Each participant will be able to see all meeting participants in a window, as well as the Council Chamber video feed. A new audio bridge will eliminate potential feedback, looping, and remove nearly all delays. In addition to in person attendance if so desired, audience members may view the meeting on Channel 3, stream online “live”, or join the Zoom meeting with closed captions in the current manner. This proposed solution would enable staff to host a professional quality meeting, accommodate participant collaboration, and maintain security settings to prevent actual disruption of the meeting. Upgrades can be completed by May and within the adopted budget.

Additional Item of Research - CalOSHA Standards on Face Coverings/Shields and Use of Face Coverings with Partitions

At the March 23, 2021 meeting, the City Council inquired about standards on the use of face coverings and/or shields and the concurrent use of partitions. Under the California Division of Occupational Safety and Health (CalOSHA), the City of Temecula is designated as an employer subject to various regulations and liability. Employees, which include City Council Members, are also subject to CalOSHA standards. CalOSHA emergency standards broadly require face coverings with limited exceptions. Under Section 3205(b)(8), “face covering” means a tightly woven fabric or non-woven material with no visible holes or openings, which covers the nose and mouth. Specifically, CalOSHA emergency standards are as follows:

*The California Code of Regulations, Title 8, Section 3205, COVID-19 prevention states:*

*(7) Face coverings.*

*(A) Employers shall provide face coverings and ensure they are worn by employees over the nose and mouth when indoors, when outdoors and less than six feet away from another person, and where required by orders from the CDPH or local health department. Employers shall ensure face coverings are clean and undamaged. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.*

*The following are exceptions to the face coverings requirement:*

- 1. When an employee is alone in a room.*
- 2. While eating and drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent possible.*
- 3. Employees wearing respiratory protection in accordance with section 5144 or other title 8 safety orders.*
- 4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.*
- 5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed, and the unmasked employee shall be at least six feet away from all other persons unless unmasked employees are tested at least twice weekly for COVID-19.*

In addition, the California Department of Public Health (CDPH) on November 16, 2020 issued related guidance.

#### *Guidance for the Use of Face Coverings*

*People in California must wear face coverings when they are outside of the home, unless one of the exemptions below applies.*

*Individuals are exempt from wearing face coverings in the following specific settings:*

- Persons in a car alone or solely with members of their own household.*
- Persons who are working in an office or in a room alone.*
- Persons who are actively eating or drinking provided that they are able to maintain a distance of at least six feet away from persons who are not members of the same household or residence.*
- Persons who are outdoors and maintaining at least 6 feet of social distancing from others not in their household. Such persons must have a face covering with them at all times and must put it on if they are within 6 feet of others who are not in their household.*
- Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.*
- Workers who are required to wear respiratory protection.*
- Persons who are specifically exempted from wearing face coverings by other CDPH guidance.*

*The following individuals are exempt from wearing face coverings at all times:*

- *Persons younger than two years old. These very young children must not wear a face covering because of the risk of suffocation.*
- *Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance. Such conditions are rare.*
- *Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.*
- *Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.*

*Note: Persons exempted from wearing a face covering due to a medical condition who are employed in a job involving regular contact with others must wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their condition permits it.*

Lastly, on March 25, 2021, CalOSHA confirmed through a consultation that face coverings are required with partitions irrespective of the distance apart as the partitions do not provide the same protection as face coverings do.

Additional information regarding masks, including frequently asked questions, may be found online on the State of California COVID-19 website at: <https://covid19.ca.gov/masks-and-ppe/#:~:text=Every%20Californian%20must%20wear%20a,COVID%2D19%20on%20the%20rise>

It is therefore recommended that the City Council adopt the proposed resolution formalizing its direction regarding the conduct of in person public meetings and provide additional direction as needed.

**FISCAL IMPACT:** None

**ATTACHMENTS:** Resolution