



# City of Orange

## Legislation Text

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**TO:** Honorable Mayor and Members of the City Council

**FROM:** Rick Otto, City Manager

### 1. SUBJECT

Review of policy on public comments for remote City Council meetings.

### 2. SUMMARY

A review of the policy and method for presenting public comments during remote City Council meetings.

### 3. RECOMMENDED ACTION

Provide policy direction on receiving public comments during remote City Council meetings.

### 4. FISCAL IMPACT

No impact.

### 5. STRATEGIC PLAN GOALS

Goal 4: Provide outstanding public service

- a: Obtain, implement, and evaluate public input into our services and programs.
- c: Enhance technology to improve public accessibility to information and services.

### 6. DISCUSSION AND BACKGROUND

In response to the initial state-wide COVID stay at home order in March 2020, the Governor issued Executive Order N-29-20 (dated March 17, 2020) that stated "...All requirements...requiring physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived." In summary, N-29-20 allowed local legislative bodies to hold public meetings via teleconference without having to provide a physical location from which members of the public may observe the meeting and offer public comment, as long as members of the public are allowed to observe and address the meeting telephonically or otherwise electronically.

As the City transitioned to virtual City Council meetings, staff continues to explore ways to ensure the public is able to provide feedback to the City Council for public meetings. Since the very first Council meeting that was conducted remotely, an e-mail address has been provided to the public to allow them to submit written comments, as well as a phone number for people to leave voice messages for the City Council. Submitted comments were provided to the City Council in advance of the meeting and became part of the public record following the meeting. This procedure was consistent with many cities in the state and was in compliance with N-29-20. Later, the City implemented the eComments portal from the Granicus agenda platform which provided an additional means to provide

public comment. Starting with the July 2020 City Council meeting, public comments submitted in advance have been read aloud by staff to ensure the public knew their comments were being heard. During public comment, the audience watching the meeting on Channel 3 or online see a screen with the item description, name of the current commenter, and the amount of time remaining for their comment. This is to communicate to the public that the comments are being read within prescribed time limits and which item the comments are attached to. In all instances, public comments are distributed to City Council prior to meetings and posted on the City's Legistar page the day after meetings.

Holding City Council meetings as remote meetings has presented unique challenges to the ways that the public's business is conducted. When the first stay at home orders occurred in March, and City Councils across the state began meeting remotely, significant security breaches occurred in some cities during their remote meetings. These incidents largely occurred because the platforms being used, such as Zoom, had never had to put more strict security measures in place, as their platforms had never previously been used for such a purpose. Cities have struggled with balancing the need for transparency, while minimizing the risk of embarrassing or compromising incidents during their live meetings. In most cases, the breaches have occurred when providing for "live" public comments during the meetings. However, for the most part, as the teleconferencing platforms have adjusted to accommodating for public meetings, breaches are now less likely.

In Orange County, approximately seven cities are providing the public the ability to give "live" public comments during a remote Council meeting. At the December 8, 2020 meeting, the City Council requested that staff look at what options are available to allow "live" comments during our meetings. Below are some of the more prominent options we have found, along with some analysis of the risks associated with these approaches.

### **Public Participation in City Council GoToMeeting/Zoom Session**

Some cities have published their GoToMeeting/Zoom session information publically, to allow for members of the public to watch and/or participate in the meeting directly. While this approach is probably the most straightforward, there are inherent risks to it. First, because there is a mixture of City Council, staff, and the public on the same call, trying to discern who is who can be very difficult, especially if microphones are being controlled by the individual users. In the early stages of the pandemic, many cities that had security breaches during their meetings were using this method. While companies have worked to reduce this risk (Zoom in particular), there are many difficulties that still exist in trying to manage a meeting in this fashion to minimize disruption. Some agencies used this method because they had no alternative to allow the public to view the meetings. Because the City already streams its meetings both online and on Channel 3, there is little additional public benefit to be able to simply observe the meeting through the GoToMeeting link.

### **Use of a Phone Line During Live Meeting**

Some cities have successfully utilized a local telephone number to call in to the meetings. This approach does allow more control over who is heard during the meeting. While we do have a phone line that goes into the Council Chamber, it is a single line phone number, allowing only one caller at a time, and anyone else calling subsequently would either get a busy signal or be routed to the City's main after-hours line. Additionally, we utilize that telephone line to conduct the meeting, so to use this method, we would need to significantly alter how we are currently conducting meetings.

### **Play Recorded Messages During Live Meetings**

Several cities report that they play voice messages left on the public comment line. Technologically speaking, this would be a viable option for the City; however, it would require us to continue to have a

cutoff time prior to the meeting, to allow for processing time. Also, this would not allow for live participation, but it would address some of the concerns that commenters have made in regards to how staff is reading comments into the record.

### **Hybrid of Allowing Public into City Council GoToMeeting/Zoom Session**

Based on the limited resources available to execute “live” public comments while maintaining order and decorum during meetings, there are few options available. However, staff has found a viable alternative may be to establish a secondary GoToMeeting or Zoom session that the public can log in to for the purposes of live comments. Our testing determined the most effective way to execute this is a one-way communication, in that the commenters can be heard by the City Council and on the public meeting. Staff would be required to monitor this secondary meeting to let people on to speak. This would include screening each call to get their information (if they choose to give it), along with finding out which item they would like to speak on. Then, when their item comes up, staff will need to bring each caller into the meeting. To help streamline the process, staff is recommending those who wish to comment live during the Council meeting pre-register through the e-comment section of the agenda or through the City Clerk’s Office. If Council gives direction to proceed, staff will prepare the appropriate protocols which will be posted on the agenda and on the City website. Given the various options and current technical limitations, this appears the best compromise to allow us to control the process while letting the public speak during the meetings.

### **Conclusion**

Should the City Council wish to expand the public comment opportunities to provide for “live” public comments, the above hybrid approach is the best option available. Whatever the direction of the City Council, staff would ensure consistent implementation across the other public boards, such as the Planning Commission.

## **7. ATTACHMENT**

- State of California Executive Order N-29-20