

REPORT TO CITY COUNCIL

DATE: NOVEMBER 9, 2022

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

SUBJECT: APPROVE AND MAKE ASSEMBLY BILL 361 FINDINGS FOR SPECIAL BROWN ACT REQUIREMENTS FOR TELECONFERENCE MEETINGS

This item is being presented in order to allow the Agoura Hills City Council, Agoura Hills Financing Authority, Agoura Hills Improvement Authority, Parking Authority of the City of Agoura Hills, Successor Agency to the Agoura Hills Redevelopment Agency, City Council Subcommittees (e.g., City/Schools Subcommittee, Communications Subcommittee, Community Services Subcommittee, Environmental Responsibility Subcommittee, Finance Subcommittee, Land Use/Economic Development Subcommittee, Law Enforcement/Fire/Emergency Response Subcommittee, and Public Works Subcommittee), Agoura Hills Planning Commission, Agoura Hills Specific Plan Update Citizens Advisory Group, Community Services Coalition, and the Cultural Arts Council (collectively referred to as the “City Council and its Other Legislative Bodies”) to meet virtually pursuant to Assembly Bill (“AB”) 361’s special Brown Act requirements for teleconference meetings. These special requirements give local public agencies greater flexibility to conduct teleconference meetings when there is a declared state of emergency and either social distancing is mandated or recommended, or when the legislative body determines an in-person meeting would present imminent risks to the health and safety of attendees.

On March 4, 2020, Governor Newsom proclaimed a state of emergency to exist in California due to the spread of COVID-19. The Governor subsequently issued numerous executive orders suspending or modifying state laws to facilitate the response to the emergency. Among other things, these executive orders superseded certain Brown Act requirements and established special rules to give local public agencies greater flexibility to conduct teleconference meetings, including authorizing council members and board members to participate in meetings from remote locations without compliance with certain noticing requirements. (Executive Order N-29-20.) Suspended teleconferencing rules included the Brown Act’s requirements that: (1) the notice of the meeting and agenda identify the location of the remote location; (2) the remote location is accessible to the public; and (3) the agenda provides an opportunity for the public to directly address the council at each teleconference location. The special rules suspending these Brown Act requirements expired on September 30, 2021. (Executive Order N-08-21, ¶ 42.)

On September 16, 2021, in anticipation of the then-imminent expiration of his special rules for teleconference meetings, the Governor signed AB 361. In key part, this bill amended the Brown Act to establish special requirements for teleconference meetings. An agency may hold a public meeting under AB 361 under certain specified circumstances, including

if it is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, or the emergency directly impacts the ability of the members of public to meet safely in person. As discussed below, the declared emergency is still in effect and the emergency directly impacts the ability of the members of the public to meet safely in person.

In order for a local public agency to continue to be subject to the AB 361 special Brown Act requirements for teleconference meetings, a legislative body of a local public agency first must make a finding that it has “reconsidered” the circumstances of a declared state of emergency. Second, the legislative body must find that such emergency continues to directly impact the ability of the members of the public to meet in person. Alternatively, for the second finding, the legislative body must find that state or local officials continue to impose or recommend social distancing measures. These findings must be made again within 30 days and on a monthly basis thereafter.

The City Council and its Other Legislative Bodies have met remotely or in a hybrid meeting format throughout the pandemic to protect the health and safety of the public and staff pursuant to these requirements. The factual circumstances exist for the City to hold meetings pursuant to AB 361. First, the Governor’s declared emergency is still in effect. Second, the emergency directly impacts the ability of the members of the public, especially those with an elevated risk for severe health outcomes due to COVID-19 infection, to meet safely in person, as Los Angeles County officials continue to recommend measures to reduce the transmission risk of the COVID-19 Omicron variant and its sub variants. The Los Angeles County Department of Public Health Order Responding Together at Work and in the Community continues to highlight its primary goal of protecting persons at elevated risk or severe health outcomes due to COVID-19 infection: “This Order’s primary intent continues to be to reduce the transmission risk of COVID-19 in the County for those in higher transmission risk settings and protect those persons at elevated risk or severe health outcomes due to COVID-19 infection. It is very likely that there will be additional and unpredictable waves of infections and hospitalizations that will require monitoring and may require implementing different strategies to meet changing mitigation needs. The County will need to be ready to meet those challenges should they arise. The County Health Department also requires masks in certain healthcare and congregate care facilities, and urges individuals to continue to take common sense measures and those persons at elevated risks for severe illness to continue to wear masks at indoor public settings to prevent COVID transmission in public settings. See the following link:

http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO_SaferReturnWorkCommunity.pdf

If the City Council makes the findings and confirms that the City Council and its Other Legislative Bodies will be meeting during a proclaimed state of emergency and the emergency directly impacts the ability of the members of the public to meet safely in person, the City Council should make these findings again within 30 days to continue to be subject to the AB 361 special Brown Act requirements.

Governor Newsom recently signed Assembly Bill 2449 into law which will become effective on January 1, 2023 and provides an updated set of rules for remote meeting access by a legislative body. Staff has analyzed the new bill and will recommend any necessary actions in January 2023. In addition, it is anticipated that the Governor will declare an end of the emergency declaration related to the COVID-19 Pandemic at the end of February 2023.

RECOMMENDATION

Staff respectfully recommends the City Council approve and make the following findings so that meetings of the City Council and its Other Legislative Bodies, will be subject to the AB 361 special Brown Act requirements for teleconference meetings: (1) the City Council has reconsidered the circumstances of the COVID-19 state of emergency; and (2) the emergency directly impacts the ability of the members of the public to meet safely in person.