



Department of Conservation and Development

County Planning Commission

Wednesday, October 12, 2022 – 6:30 P.M.

STAFF REPORT

Agenda Item # _____

Subject: Continuing Teleconference Meetings (AB 361, Government Code § 54953(e))

RECOMMENDATION(S):

1. **FIND** that the County Planning Commission has reconsidered the circumstances of the Statewide state of emergency proclaimed by the Governor on March 4, 2020, and the Countywide local emergency proclaimed by the Governor on March 10, 2020.
2. **FIND** that the following circumstances exist: (a) the Statewide state of emergency and the Countywide local emergency continue to directly impact the ability of the County Planning Commission to meet safely in person because the highly transmissible Omicron variant of COVID 19 and its subvariants are present in the County, and within the County the COVID 19 case rate, test positivity numbers, related hospitalizations, and wastewater surveillance amounts are increasing; (b) the County Health Officer's recommendations for safely holding public meetings, which recommend virtual meetings and other measures to promote social distancing, are still in effect; and (c) meeting in person would present imminent risks to the health or safety of attendees.
3. **AUTHORIZE** the County Planning Commission to continue teleconference meetings under Government Code section 54953(e) for the next 30 days.
4. **DIRECT** staff to take all actions necessary to implement the intent and purpose of this order, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act.
5. **DIRECT** staff to return to the Commission no later than 30 days after this order is adopted, with an item to reconsider the state of emergency and whether to continue meeting virtually under the provisions of Government Code section 54953(e) and to make required findings.

BACKGROUND:

On September 28, 2022, the County Planning Commission adopted Resolution No. 2022/003, which authorized the Commission to conduct teleconferencing meetings under Government Code section 54953(e). This section of the Brown Act, which was added by Assembly Bill 361, allows a local agency to use special teleconferencing rules during a declared state of emergency. When a legislative body uses the emergency teleconferencing provisions under Government code section 54953(e), the following rules apply:

- The agency must provide notice of the meeting and post an agenda as required by the Brown Act and Better Government Ordinance, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the meeting, or of the public's ability to comment virtually for reasons within the body's control, the legislative body must stop the meeting and take no further action on agenda items until public access and/or ability to comment is restored.
- Local agencies may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- AB 361 sunsets on January 1, 2024.

Under Government Code section 54953(e), if the local agency wishes to continue using these special teleconferencing rules after adopting an initial resolution, the legislative body must reconsider the circumstances of the state of emergency every 30 days and make certain findings. The agency must find that the state declared emergency continues to exist and either that it continues to directly impact the ability of officials and members of the public to meet safely in person, or that state or local officials continue to impose or recommend measures to promote social distancing.

The Commission is able to make the required findings and authorize the continued use of special teleconferencing rules. The Statewide state of emergency continues to exist, that the State and Countywide local emergencies continue to directly impact the ability of the Commission to meet safely in person, and that State or local officials continue to impose or recommend measures to promote social distancing.

The Public Health Officer has advised that the highly transmissible Omicron variant of COVID-19 and its subvariants are present in the County, and the COVID-19 community transmission rate remains high. High amounts of COVID-19 are also showing up in wastewater surveillance data. In addition, on October 4, 2022, the County Health Officer again issued recommendations for safely holding public meetings that included recommended measures to promote social distancing. Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are encouraged as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed, and it is recommended that the protocol

require social distancing - i.e., six feet of separation between attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times; and (5) all meeting attendees should be strongly encouraged to wear masks and to be up to date on COVID19 vaccinations..

CONSEQUENCE OF NEGATIVE ACTION:

The County Planning Commission would no longer conduct teleconferencing meetings under Government Code section 54953(e).