

UPPER VENTURA RIVER GROUNDWATER AGENCY

NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that the Upper Ventura River Groundwater Agency (“Agency”) Board of Directors (“Board”) will hold a **Special Board Meeting at 1 P.M. on Thursday, September 23, 2021 via**

ON-LINE OR TELECONFERENCE:

DIAL-IN (US TOLL FREE) 1-669-900-6833

Find your local number: <https://us06web.zoom.us/j/84144180818>

JOIN BY COMPUTER, TABLET OR SMARTPHONE:

<https://us06web.zoom.us/j/84144180818?pwd=YXo1cXdkdmVOTEo0M2hiYWwhNbG00UT09>

Meeting ID: 841 4418 0818

Passcode: 389302

New to Zoom, go to: <https://support.zoom.us/hc/en-us/articles/206175806>

PER CALIFORNIA EXECUTIVE ORDER N-29-20, SECTION 3: A local legislative body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body. A physical location accessible for the public to participate in the teleconference is not required.

**UPPER VENTURA RIVER GROUNDWATER AGENCY BOARD OF DIRECTORS
SPECIAL MEETING AGENDA**

September 23, 2021

1. MEETING CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF AGENDA

5. PUBLIC COMMENT FOR ITEMS NOT APPEARING ON THE AGENDA

The Board will receive public comments on items not appearing on the agenda and within the subject matter jurisdiction of the Agency. The Board will not enter into a detailed discussion or take any action on any items presented during public comments. Such items may only be referred to the Executive Director or other staff for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on specific agenda items should do so at the time specified for those items. In accordance with Government Code § 54954.3(b)(1), public comment will be limited to three (3) minutes per speaker.

6. ADMINISTRATIVE ITEMS

a. Resolution No. 2021-05 for Implementation of AB-361 Exemptions to Brown Act Teleconferencing Requirements

The Board will consider adopting draft Resolution 2021-5 to enable use of AB-361's exemptions to Brown Act teleconferencing requirements, while allowing the Board to hold in person meetings at its discretion.

7. GSP STAKEHOLDER WORKSHOP NO. 4B

The Agency will present a summary of the draft Sustainable Groundwater Sustainability Plan (GSP) and provide a forum for questions and comments on the Plan.

8. ADJOURNMENT

The next Regular Board meeting is October 14, 2021.

UPPER VENTURA RIVER GROUNDWATER AGENCY Item No. 6a

DATE: September 23, 2021

TO: Board of Directors

FROM: Agency Counsel

SUBJECT: Resolution No. 2021-05 for Implementation of AB-361 Exemptions to Brown Act Teleconferencing Requirements

SUMMARY

In response to the Covid -19 pandemic, the California Governor signed a new bill on September 16, 2021 that temporarily exempts certain requirements of the Brown Act and add additional requirements for public meetings held by teleconference. This staff report provides an analysis of the changes to the Brown Act per the proposed bill and recommends the Board's adoption of a Resolution that would put the temporary exemptions and changes into place.

RECOMMENDED ACTIONS

Adopt draft Resolution 2021-5 to enable use of AB-361's exemptions to Brown Act teleconferencing requirements, while allowing the Board to hold in person meetings at its discretion.

BACKGROUND

In March of 2020, the Governor of California issued Executive Order N-29-20, which waived Brown Act requirements found in Gov. Code § 54953(b)(3) for teleconference participation in public meetings. In particular, this Order waived:

- a) The requirement that state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- b) The requirement that each teleconference location be accessible to the public;
- c) The requirement that members of the public may address the body at each teleconference location;
- d) The requirement that state and local bodies post agendas at all teleconference locations; and
- e) The requirement that, during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

Executive Order N-29-20 is scheduled to expire on September 30, 2021. In light of this approaching expiration date, a recent bill (AB-361) has been signed by the State Governor to extend the provisions of N-29-20, subject to certain conditions, set out below, to be met by the local legislative body utilizing its exemptions. AB-361 would also impose certain new requirements, detailed below.

ANALYSIS

AB-361 will exempt local legislative bodies from certain Brown Act requirements currently governing teleconferencing (see above). These exemptions may be used only in one of the following circumstances:

- a) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- b) The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- c) The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The UVRGA is subject to the Ventura County Department of Public Health, Health Officer Order, issued 8/20/21. This order stresses the requirement of face mask coverings but does not expressly discuss social distancing protocol. Accordingly, to avail itself of the teleconferencing exemptions under AB-361, the UVRGA must determine that the state of emergency continues to present imminent risk to the health or safety of attendees at public meetings.

Further, AB-361 would require the Board to reconsider the state of emergency and make such determination every 30 days after commencing use of its exemptions. However, if during the 30-day period the Board wishes to meet in person, they may choose to do so despite adopting the proposed Resolution. The intent of the Resolution is merely to allow Board members to avail themselves of the AB-361 teleconferencing conveniences if they so choose.

Finally, in addition to allowing for the above exemptions, AB-361 adds the following requirements:

- a) The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
- b) The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.

- c) The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
- d) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.
- e) The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.
- f) The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment. g) If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment under f) until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary under f).

ATTACHMENTS

A. Draft Resolution No. 2021-05

Action: _____

Motion: _____ Second: _____

B. Kuebler___ D. Engle___ P. Kaiser___ S. Rungren___ G. Shephard___ E. Ayala___ L. Rose___

BOARD OF DIRECTORS

UPPER VENTURA RIVER GROUNDWATER AGENCY

RESOLUTION NO. 2021-05

**A RESOLUTION OF THE UPPER VENTURA RIVER GROUNDWATER AGENCY
(AGENCY) AUTHORIZING THE REVISED USE OF TELECONFERENCING FOR
PUBLIC MEETINGS**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER
VENTURA RIVER GROUNDWATER AGENCY as follows:**

WHEREAS, the Governor of the State of California (“Governor”) proclaimed a State of Emergency to exist as a result of the threat of COVID-19. (Governor’s Proclamation of a State of Emergency (Mar. 4, 2020).)

WHEREAS, the Governor’s Exec. Order No. N-25-20 (Mar. 12, 2020); Governor’s Exec. Order No. N-29-20 (Mar. 17, 2020); and Governor’s Exec. Order No. N-08-21 (Jun. 11, 2021) provided that local legislative bodies may hold public meetings via teleconferencing and make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body and waived the Brown Act provisions found in Govt. Code section 54953(b)(3) which require the physical presence of the members, the clerk, or other personnel of the body, or the public, as a condition of participation in, or quorum for, a public meeting, including:

- a) The requirement that state and local bodies notice each teleconference location from which a member will be participating in a public meeting.
- b) The requirement that each teleconference location be accessible to the public.
- c) The requirement that members of the public may address the body at each teleconference location.
- d) The requirement that state and local bodies post agendas at all teleconference locations.
- e) The requirement that, during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

WHEREAS, the provisions of Governor’s Exec. Order No. N-25-20 (Mar. 12, 2020); Governor’s Exec. Order No. N-29-20 (Mar. 17, 2020); and Governor’s Exec. Order No. N-08-21 (Jun. 11, 2021) are set to expire on September 30, 2021 and will no longer remain in effect thereafter;

WHEREAS, the Center for Disease Control is currently contending with the Delta Variant of the COVID-19 virus and anticipates the development of potential other strains which may further impede public agency operations and prolong the need for social distancing requirements;

AND WHEREAS, recent legislation (A.B. 361) authorizes a local legislative body to use teleconferencing for a public meeting without complying with the Brown Act's teleconferencing quorum, meeting notice, and agenda requirements set forth in Government Code section 54953(b)(3), in any of the following circumstances:

- a) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- b) The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- c) The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Upper Ventura River Groundwater Agency as follows:

Section 1. Incorporation of Recitals. All of the foregoing Recitals are true and correct and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

Section 2. Adoption of AB-361. The Board has determined by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Section 3. Continued Implementation of AB-361. If the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the Board of Directors of the Upper Ventura River Groundwater Agency shall, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make the following findings by majority vote:

- a) The legislative body has reconsidered the circumstances of the state of emergency; *and*
- b) Either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing.

[signature page follows]

PASSED, APPROVED AND ADOPTED this 23rd day of September 2021.

Diana Engle, Board Chair

ATTEST:

Bryan Bondy
Executive Director

APPROVED AS TO FORM:

Keith Lemieux, Upper Ventura River
Groundwater Agency General Counsel

DRAFT