Summary of March 30, 2022, County Counsel Letter: *Post-Pandemic Teleconferencing and Meeting Considerations*

May 12, 2022

Due to Brown Act requirements and COVID being less a factor, County Counsel Phil Pogledich and Senior Deputy County Counsel Eric May sent out a March 30, 2022, memo to County agencies. Highlights of the memo follow:

The Brown Act indicates that public bodies should meet in person unless they comply with various requirements that would allow members to join remotely. The California legislature gave public bodies more flexibility to meet remotely during the pandemic while the Governor’s emergency proclamation re. Covid is in place.

For public bodies to continue to meet remotely at this time, the body must make a determination that meeting in person would present imminent risks to the health or safety of members of the body or the public. (Some factors that come into play: size of room (can adequate spacing be provided), is it likely members or the public in attendance will have underlying health conditions which would make them vulnerable, community infection rates, etc.)

While there has been a current uptick in infections, the overall infection trajectory is lower than the winter surge, vaccines and treatments are widely available, and the strength of the virus strains continue to weaken. If a body elects to meet remotely, it must make a determination at each meeting that conditions are such that there is an imminent risk of transmitting COVID if the body elects to meet in person.

Further and interestingly, if the body decides to meet in person, there is no requirement for the public to be provided with remote access. If meetings of the body are in person, then the public is expected to attend in-person. However, it should be pointed out that there is nothing in the law that precludes the body on its own from offering a hybrid format for members of the public if it wishes to do so.

Lastly, if the body decides to do a hybrid arrangement where some **members** meet in person and one or more **members** participate via Zoom or via teleconference, then the public must be provided the same opportunity to meet in person or remotely. The Brown Act currently has provisions for such meetings, where a **member** may call in on a speakerphone or attend on Zoom. However, if a member elects to attend remotely and the body does not make the imminent risk finding, the Brown Act requires that the **member** provide her/his location on the agenda so that the public can attend in that location if s/he so wishes. (Some legislation has been proposed, as a result of the Pandemic, to do away with this requirement, but it has not yet been enacted.)