

# KEEPING PUBLIC MEETINGS ACCESSIBLE: NEW OPEN MEETING LAWS FOR LOCAL GOVERNMENTS

THURSDAY, JUNE 22, 2023 | 10:30 AM – 12:00 PM

# THANK YOU FOR JOINING US!



*Host & Moderator*

**MELISSA KUEHNE**  
*Senior Program Manager*  
*Institute for Local Government*



# WEBINAR OVERVIEW

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**Welcome**

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**Brown Act & Teleconferencing Law Overview**

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**City of Vernon Insights on Hybrid Meeting Practices**

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**Audience Q&A**

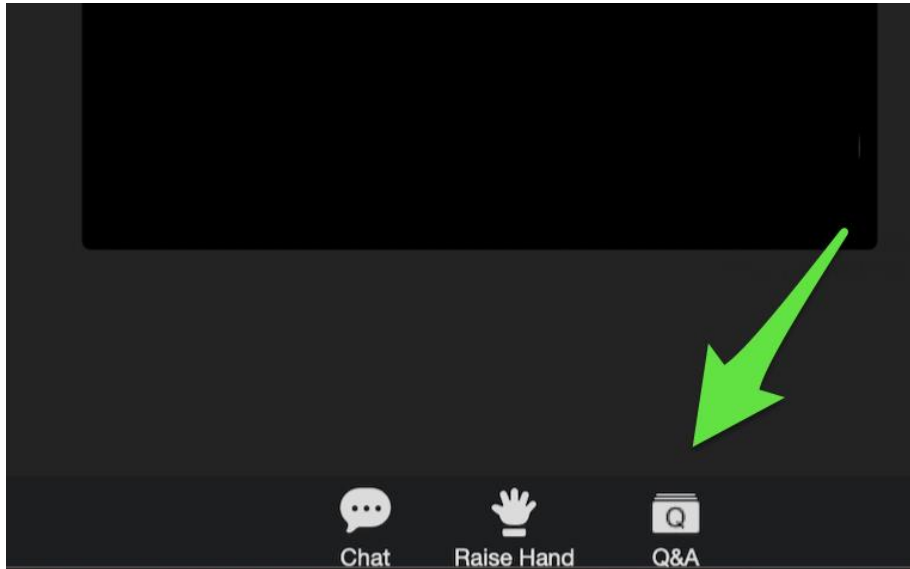
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**Wrap Up & Adjourn**

*We welcome your written questions and comments in the Q&A throughout the webinar*

# TECH OVERVIEW & HOUSEKEEPING

- All webinar participants will be on **MUTE** for the duration of the event.
- Please type any questions for into the **Q&A BOX** at any time during the session.



- A recording of the session will be available shortly after the webinar.

# ABOUT ILG



# NON-PROFIT, NON-PARTISAN AND HERE TO HELP

- The Institute for Local Government is the non-profit training and education affiliate of three statewide local government associations
- Together with our affiliates, we serve over 2,500 local agencies – cities, counties and special districts
- We provide practical and easy-to-use resources so local agencies can effectively implement policies on the ground



**California Special  
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# ILG'S PROGRAMS AND SERVICES

## Program Areas

Leadership & Governance

Civics Education & Workforce

Public Engagement

Sustainable & Resilient Communities



## Services

Education & Training

Technical Assistance

Capacity Building

Convening

Our mission is to help local government leaders **navigate complexity, increase capacity & build trust** in their communities

# TODAY'S PRESENTERS



**RUBEN DURAN**  
Partner  
Best Best & Krieger LLP



**TORI HESTER**  
Partner and Director of Government  
Policy & Public Integrity  
Best Best & Krieger LLP



**LISA POPE**  
City Clerk  
City of Vernon



# ZOOM POLL



# BBK

BEST BEST & KRIEGER LLP



**RUBEN DURAN**  
Partner  
Best Best & Krieger LLP



**VICTORIA HESTER**  
Partner and Director of Government  
Policy & Public Integrity  
Best Best & Krieger LLP



# Background



- In March 2020, standard Brown Act teleconferencing requirements were waived or modified by the Governor's Executive Orders and AB 361, which took effect on October 1, 2021.
- AB 361 required public agencies to find that a proclaimed State of Emergency still exists, and find either of the following:
  - (1) that state or local officials continue to impose or recommend measures to promote social distancing, or
  - (2) that as a result of the State of Emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The COVID-19 State of Emergency was terminated on February 28, 2023, meaning that AB 361 teleconferencing will be unavailable moving forward unless another State of Emergency is declared.

# Brown Act – Teleconferencing



- 2 Potential Options:
  - Pre-Pandemic Rule
  - “Just Cause” or “Emergency Circumstances” (AB 2449)
- Notes:
  - All are in Government Code 54953
  - Only applies to legislative body members, not staff or consultants

# Brown Act – Pre-Pandemic Teleconferencing



- Classic Rule - Still Applicable
  - You must:
    - Give your location on the agenda
    - Post an agenda at the site
    - Allow public access to the site
    - Take rollcall vote
  - You do not have to:
    - Have video
    - Allow public to teleconference
  - Potentially can have multiple public sites.
  - Quorum must be in jurisdiction, but not in a single place
  - What if no board members shows up to remote location?

# Brown Act – AB 2449 Teleconferencing



- AB 2449 – Limited Teleconferencing
  - No need to post location if other requirements are met.
  - Requirements:
    - Physical Location. A quorum must participate from a single physical location within the agency’s jurisdiction
    - Video. The meeting must have either two-way video (e.g., Zoom) or telephone with live webcasting
    - Notice/Participation. Agenda must show how public virtually participates
    - Public Comments. Must allow during meeting; cannot limit to advanced comments
    - Technical Difficulties. Must stop meeting if on agency’s end

# Brown Act – AB 2449 Teleconferencing



- **Must have valid reasons for teleconferencing:**
  - Only two justifications:
    - Just Cause
      - ❖ Childcare or family caregiving need (limited to certain family)
      - ❖ Contagious illness
      - ❖ A need related to physical or mental disability
      - ❖ Travel while on official business of the legislative body or another state or local agency
    - Medical Emergency
      - ❖ Physical medical emergency that prevents in-person participation
      - ❖ Family medical emergency that prevents in-person participation

# Brown Act – AB 2449 Teleconferencing



- **Notification Requirements**

- **Just Cause**

- Notice to legislative body at earliest opportunity
    - Must give general description of reasons

- **Medical Emergency**

- Must make request of legislative body at earliest opportunity
    - Legislative body must take action to approve request
      - ❖ Can be added as a late item by 2/3 vote
    - Must give general description of reasons
    - Do not have to disclose confidential medical information



# Brown Act – AB 2449 Teleconferencing



- **Limitations**

- Just Cause

- No more than two meetings in a calendar year

- AB 2449 generally

- No more than three consecutive months or 20% of meetings within a calendar year.

- If less than 10 meetings a year, no more than two meetings.

# Brown Act – AB 2449 Teleconferencing



- **Participation Requirements**
  - Must disclose whether anyone 18 or older is present in the room
  - Disclose general nature of relationship to those in room
  - Must use both audio AND visual technology
- **Some Agencies have adopted policies that they will not use AB 2449**

# Brown Act – AB 2449 Teleconferencing



- In Sum:
  - Provides a limited basis to participate virtually if the official gives a reason and appears on video, and the legislative body approves participation.
  - The legislative body must have the capability to provide audio and visual technology and enable public participation virtually.

# Brown Act – AB 2449 Practical Considerations



- Consider adopting a policy to implement
- Consider stating on the agenda when the virtual participation option is being provided only for the convenience of the public and is not required by law
- Other best practices and recommendations



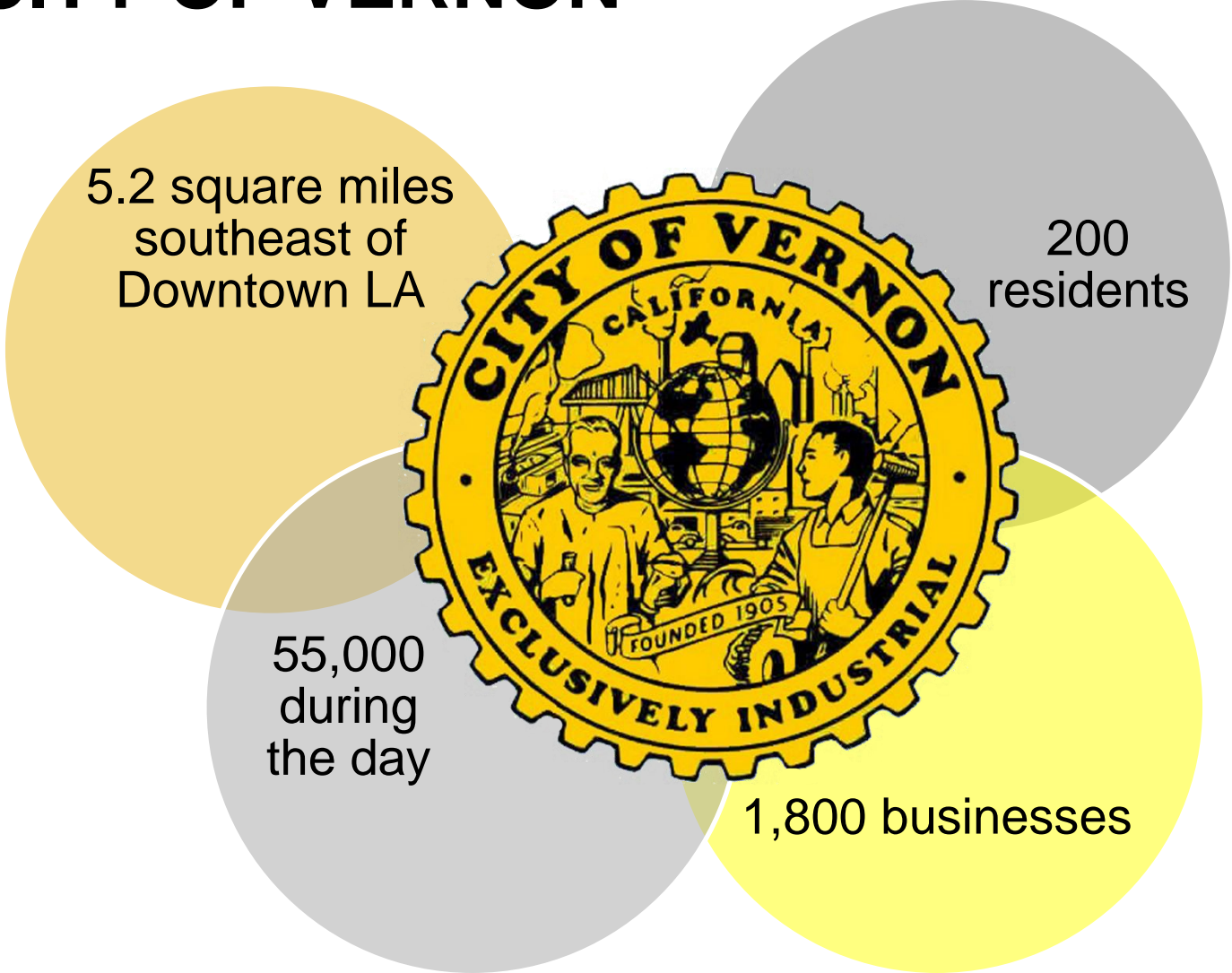
**LISA POPE**  
City Clerk  
City of Vernon



# IN-PRACTICE EXPERIENCE WITH NEW HYBRID MEETING REQUIREMENTS

- Government Code Section 54953 (1994)
- COVID rules - AB361
- Current legislation - AB2449
- Future - AB817

# ABOUT THE CITY OF VERNON



# VERNON'S HYBRID MEETING ADOPTION

- **Prior to COVID-19** - only audio recording
- **Currently Hybrid** – Public Comment in-person or via Zoom
- **Utilized AB2449 during LAUSD strike (childcare provision)**
- **July 1** – Discontinuing use of Zoom unless under AB2449



# SAMPLE HYBRID MEETING MINUTES

Mayor Lopez called the meeting to order at 9:00 a.m. She indicated that, pursuant to Government Code Section 54953(f), with a quorum of the City Council present in the Council Chamber at City Hall, she would be participating remotely under the just cause provision due to the need to care for her children during the LAUSD strike; that there was no one over 18 years of age in the room with her at her remote location; and that she was participating via Zoom webinar with both audio and video capabilities.

# WHAT'S COMING NEXT

## Discontinuing use of Zoom

- July 1
- Due to limited use
- Technical difficulties
- Need to be flexible

**Going back to Government Code Section 54953**



# AUDIENCE Q&A

What questions or comments do you have for us?



# ILG RESOURCES AND TRAININGS

## Upcoming Webinars

- **LEADING LOCAL: Artificial Intelligence & Local Government**
  - June 28, 10:30am-12:00pm
  - <https://www.ca-ilg.org/post/leading-local-artificial-intelligence-local-government>
- **Lunch and Learn: California's New Campaign Contribution Regulations, What Local Governments Need to Know**
  - July 13, 12:00-1:00pm
  - <https://www.ca-ilg.org/post/lunch-and-learn-californias-new-campaign-contribution-regulations-what-local-governments-need>

## Open Meeting Law Resources

- ***Western City*: What cities need to know about the state's new remote meeting law**
- <https://www.westerncity.com/article/what-cities-need-know-about-states-new-remote-meeting-law>

## Upcoming Public Engagement Training

- **TIERS Public Engagement Training**
  - July 26<sup>th</sup> & 27<sup>th</sup>, 10:00am-3:00pm
  - <https://www.ca-ilg.org/tierstraining>

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Institute for Local Government



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# RECORDING AVAILABLE SOON



The recorded presentation and materials will be shared electronically with all attendees a few days after the webinar.



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