Beverly Hills City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

CITY OF BEVERLY HILLS
455 N. Rexford Drive
Beverly Hills, CA 90210

TELEPHONIC / VIDEO CONFERENCE MEETING

Beverly Hills Liaison Committee Meeting
https://beverlyhills-org.zoom.us/my/adhoc
Meeting ID: 549 782 5652
Passcode: 90210

You can also dial in by phone:
+1 669 900 9128 US
+1 877 853 5247 (Toll-Free)

One tap mobile
+16699009128,,5497825652# US
+18778535247,,5497825652# US (Toll-Free)

Wednesday, January 26, 2022
5:00 PM

Pursuant to Government Code Section 54953(e)(3), members of the Beverly Hills City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee and staff may participate in this meeting via a teleconference. In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at www.beverlyhills.org/live and on BH Channel 10 or Channel 35 on Spectrum Cable, and can participate in the teleconference/video conference by using the link above. Written comments may be emailed to mayorandcitycouncil@beverlyhills.org.

AGENDA

1) Public Comment
   a. Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.

2) Resolution of the Beverly Hills City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee continuing to authorize public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e) and making findings and determination regarding the same.

Recent legislation was adopted allowing the Beverly Hills City Council Liaison/ Open BH Code Changes and Fees Ad Hoc Subcommittee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions and the proposed resolution implements the necessary requirements.
3) Open BH Conversion Code and Fee Structure Subcommittee Meeting #2
4) Future Agenda Items
5) Adjournment

Huma Ahmed
City Clerk

Posted: January 24, 2022

A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT
WWW.BEVERLYHILLS.ORG

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least twenty-four (24) hours advance notice will help to ensure availability of services.
STAFF REPORT

Meeting Date: January 26, 2022
To: City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee
From: Gabriella Yap, Committee Secretary
Subject: A RESOLUTION OF THE CITY COUNCIL LIAISON / OPEN BH CODE CHANGES AND FEES AD HOC SUBCOMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCE PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

Attachments: 1. Proposed resolution

RECOMMENDATION

Staff and the City Attorney’s office recommend that the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee adopt a resolution making the following findings so that meetings of the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee will be subject to the special Brown Act requirements for teleconference meetings: (1) the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee has reconsidered the circumstances of the COVID-19 state of emergency; (2) the state of emergency continues to directly impact the ability of the members to meet safely in person; and (3) state or local officials continue to impose or recommend measures to promote social distancing. Though the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee adopted such a resolution in the past, these findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

FISCAL IMPACT

The proposed resolution allowing the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee greater flexibility to conduct teleconference meetings is unlikely to cause a greater fiscal impact to the City as the City Council Liaison / Open BH
Code Changes and Fees Ad Hoc Subcommittee has been conducting such teleconference meetings for over a year.

**INTRODUCTION**

AB 361 allows the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions. These special requirements give the City greater flexibility to conduct teleconference meetings when there is a declared state of emergency and either social distancing is mandated or recommended, or an in-person meeting would present imminent risks to the health and safety of attendees.

**BACKGROUND**

On September 16, 2021, the Governor signed AB 361, amending the Brown Act to establish special requirements for teleconference meetings if a legislative body of a local public agency holds a meeting during a proclaimed state of emergency and either state or local officials have imposed or recommended measures to promote social distancing, or the body determines, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act's standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

**DISCUSSION**

To continue to hold meetings under these special teleconferencing requirements, the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee needs to make two findings pursuant to Government Code Section 54953(e)(3). First, there must be a declared state of emergency and the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee must find that it has reconsidered the circumstances of such emergency. Second, the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee must find that such emergency continues to directly impact the ability of the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee’s members to meet in person. Alternatively, for the second finding, the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee must find that state or local officials continue to impose or recommend social distancing measures. These findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

The declared emergency is still in effect. Furthermore, the State of California and the County of Los Angeles have recommended measures to promote social distancing. The Centers for Disease Control and Prevention continue to advise that COVID-19 spreads...
more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time. Additionally, the Los Angeles County Department of Public Health still encourages people at risk for severe illness of death from COVID-19 to take protective measures such as social distancing and, for those not yet fully vaccinated, to physically distance from others whose vaccination status is unknown. The County Health Department also continues to recommend that employers take steps to support physical distancing and the City Council continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees.

Please note that AB 361 applies to all legislative bodies. Therefore, Commissions and standing committees will need to also comply with the requirements of AB 361.

Gabriella Yap
Secretary of the
City Council Liaison / Open BH Code
Changes and Fees Ad Hoc Subcommittee
Approved By
RESOLUTION NO. CCL-OBHCFC-02

RESOLUTION OF THE CITY COUNCIL LIAISON / OPEN BH CODE CHANGES AND FEES AD HOC SUBCOMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

WHEREAS, the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19 and to support physical distancing during the COVID-19 pandemic; and

WHEREAS, all meetings of the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code Sections 54950 – 54963), so that any member of the public may attend, participate, and watch the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee conduct its business; and

WHEREAS, pursuant to Assembly Bill 361, signed by Governor Newsom and effective on September 16, 2021, legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. 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.

2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the
emergency, meeting in person would present imminent risks to the health or safety of attendees.

3. The legislative body holds a meeting during a proclaimed state of emergency and 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.

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency in response to the COVID-19 pandemic (the “Emergency”); and

WHEREAS, the Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time; and

WHEREAS, the Los Angeles County “Responding together at Work and in the Community Order (8.23.21)” provides that all individuals and businesses are strongly encouraged to follow the Los Angeles County Public Health Department Best Practices. The Los Angeles County Public Health Department “Best Practices to Prevent COVID-19 Guidance for Businesses and Employers”, updated on September 13, 2021, recommend that employers take steps to reduce crowding indoors and to support physical distancing between employees and customers; and

WHEREAS, the unique characteristics of public governmental buildings is another reason for continuing teleconferenced meetings, including the increased mixing associated with bringing people together from across several communities, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public
meetings and the challenge of achieving compliance with safety requirements and recommendations in such settings; and

WHEREAS, the Beverly Hills City Council has adopted a resolution that continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees; and

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee intends to continue holding public meetings via teleconferencing pursuant to Government Code Section 54953(e).

NOW, THEREFORE, the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee of the City of Beverly Hills resolves as follows:

Section 1. The Recitals provided above are true and correct and are hereby incorporated by reference.

Section 2. The City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee hereby determines that, as a result of the Emergency, meeting in person presents imminent risks to the health or safety of attendees.

Section 3. The City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee shall continue to conduct its meetings pursuant to Government Code Section 54953(e).

Section 4. Staff is hereby authorized and directed to continue to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and
public meetings in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act.

Section 5. The City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee has reconsidered the circumstances of the state of emergency and finds that: (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (ii) state or local officials continue to impose or recommend measures to promote social distancing.

Section 6. The Secretary of the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolution of the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee of this City.

Adopted: January 26, 2022

JULIAN A. GOLD
Presiding Councilmember of the City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee of the City of Beverly Hills, California
INTRODUCTION
This item provides the Councilmembers assigned to the Open BH Conversion Code Changes and Fees Ad Hoc Subcommittee with an outline of the discussion points for today’s meeting.

DISCUSSION
Background
At the September 21, 2021, City Council Study Session meeting, the City Council expressed interest in long-term conversion of outdoor dining currently allowed under OpenBH to enhance the City’s economic sustainability by increasing sidewalk vitality and preserving the nightlife created via OpenBH. At the meeting, the City Council directed Staff to return to the full Council to discuss broad policy questions, and also approved the formation of two subcommittees:

- Subcommittee 1: Design and Operating Standards Subcommittee (Parklets)
  - Options for physical and aesthetic standards
- Subcommittee 2: Code and Fee Structure Changes Subcommittee (Open Air Dining)
  - Potential code changes for existing sidewalk dining
  - Fees for use of public right-of-way, installation of traffic control measures

Through the OpenBH program that was established during the COVID-19 pandemic, open air dining installations have been approved on a temporary basis that do not always conform to the Beverly Hills Municipal Code (BHMC) regulations for permanent open air dining. As restaurant owners seek to make their OpenBH open air dining permanent, it is necessary to review the existing permanent regulations to determine if changes to the code requirements, fees, or approval process are necessary or desired.

The Open BH Conversion Code Changes and Fees Subcommittee (Subcommittee) met for its first meeting on November 29, 2021 and considered several questions to guide a discussion about potential changes to the permanent open air dining code regulations. A summary of the conversation from the November 29, 2021 meeting, as well as additional points for consideration, and staff recommendations are provided in this report in order to continue the discussion.
the Subcommittee agree with staff recommendations, staff will return at a future meeting with drafted code language that memorializes the direction of the committee.

In addition to the draft code language, staff recommends that at a future meeting, this Subcommittee consider if any changes should be made to the process for obtaining an open air dining permit approval and fees charged for permanent open air dining installations.

**Summary of Discussion from First Meeting and Recommendations**
During the meeting held in November 2021, this Subcommittee discussed the following questions. A summary of the discussion is also provided.

1. **Should permanent open air dining be allowed beyond the restaurant space that it serves?**
   - Points raised during discussion:
     - Current regulations do not allow open air dining beyond the restaurant space, however this has been temporarily allowed through OpenBH.
     - Subcommittee discussed several scenarios to consider such as what if the neighboring business changes ownership, and how to handle railings if the rail is in front of a neighboring business.
     - Subcommittee member suggested that extending beyond restaurant space could be allowed with approval from neighboring property owners, however, railings would have to be moveable if they are in front of neighboring business.
     - Subcommittee discussed a desire to see restaurants attempt to use a parklet before attempting to extend dining beyond existing storefront. Having both parklet and extension of dining beyond restaurant space could be a large amount of dining for one business.
   - **Recommendation.** Direct staff to develop regulations that:
     - Allow extension of dining beyond existing restaurant space with permission from neighboring businesses and regulations that require removal of such dining if neighboring businesses no longer want to allow a dining extension in front of adjacent businesses.
     - Set a maximum number of tables/chairs that can be established in front of other businesses and require that any barriers used in front of other businesses be easily moved.
     - Do not allow a restaurant to have both a parklet and extend their dining beyond their restaurant space.

2. **Should the minimum sidewalk clearance width be changed?**
   - Points raised during discussion:
     - Staff recommended requiring a wider path of travel than the current 5 foot pedestrian pathway requirement (Increase it to 6 or 7 feet in order to accommodate increased pedestrian activity) and limiting open air dining installations to no more than 50% of the width of the sidewalk. Staff also recommended discussing
minimum width for path of travel if there is an open air dining installation in conjunction with a parklet dining installation at the same location.

- Committee members expressed concern about how this could impact businesses on narrow sidewalks and requested more information about how requiring more than 5 feet would impact businesses on narrow or busy sidewalks.

- Committee members stated that they would not make the sidewalk smaller than 5 feet, which should be the absolute minimum for pedestrian passage.

- **Additional comments:**
  
  - Staff has analyzed the widths of sidewalks where open air dining is most commonly requested and established. The sidewalks in the Business Triangle and on streets with dining are generally 12 feet wide, with some sidewalks as narrow as 6 feet (portions of Crescent Drive) and others as wide as 15-19 feet (Canon Drive and Rodeo Drive).

  - The Committee should consider that while requiring a larger width for pedestrian travel could prohibit some larger installations on narrower sidewalks, an alternative for new or remodeled restaurants could be to recess the storefront (similar to Avra on N. Beverly) in order to allow for more open air dining space without adversely impacting the pedestrian path of travel.

- **Recommendation.** Direct staff to develop regulations that:

  - Require a minimum of 5 feet for pedestrian passage for sidewalks adjacent to restaurants existing as of the adoption of the updated regulations, and 7 feet for any new restaurants where they could reasonably recess the façade of the restaurant as part of a tenant improvement.

  - Require a minimum 6 or 7 feet sidewalk clearance if there is open air dining and a parklet flanking the sidewalk on both sides. This provides additional room for pedestrian travel in a scenario where dining is occurring on both sides of the sidewalk.

3. **Should there be a ratio of open air dining area to inside dining area?**

- **Points raised during discussion:**

  - Staff recommended that there should be a regulation that does not allow small restaurant spaces with very large open air dining spaces.

  - The committee members expressed that it could be unfair competition if there were very small indoor dining spaces with large open air dining spaces.

  - Committee members noted that there should be a ratio between indoor and outdoor dining sizes. The Committee noted that fees (the cost to rent square feet of sidewalk) could be variable based on the size of the outdoor dining area.

  - Committee members requested information about ratio of indoor/outdoor dining for restaurants. Staff has assessed this request and the ratio between indoor and outdoor dining varies wildly, ranging from a restaurant with no indoor dining and
several hundred square feet of outdoor dining to restaurants with thousands of square feet of interior space and a few hundred square feet of outdoor dining. Staff estimates that a majority of restaurants with outdoor dining have less outdoor dining than indoor dining.

- **Recommendation. Direct staff to develop regulations that:**
  - Limit open air dining to no more than 50% of the interior square footage of the tenant space unless otherwise approved by the Planning Commission.

4. **Should the parking requirements for open air dining be changed?**

  - **Points raised during discussion:**
    - Staff recommended removing parking requirements for open air dining on private property if open air dining is within the first 20 feet of property from the sidewalk. This is in line with recent parking changes made by City Council to provide more flexibility to restaurants in the City.
    - Committee members noted that if open air dining is being provided in parking lots, the parking spaces used for dining needs to be replaced.

- **Recommendation. Direct staff to develop regulations that:**
  - Do not require additional parking for restaurants that are creating open air dining on private property within the first 20 feet of the sidewalk. If new open air dining is provided beyond the first 20 feet of the sidewalk, parking will need to be provided.
  - Do not allow open air dining on parking lots that are providing code required parking unless that parking is replaced through in-lieu or off-site parking.

**FISCAL IMPACT**
None at this time. To be evaluated at future meetings.

**RECOMMENDATION**
Staff recommends that the Subcommittee provide direction regarding the above listed summary and recommendations from the November 2021 meeting as well as potential changes to the code regarding open air dining. Staff will return at the next Subcommittee meeting with drafted code language and a discussion on fees and approval process for open air dining.