



Architectural Review Board

Staff Report (ID # 14878)

Report Type:	Action Items	Meeting Date: 10/20/2022
Summary Title:	Resolution Authorizing Use of Teleconferencing for Architectural Review Board Meetings	
Title:	Adoption of a Resolution Authorizing Use of Teleconferencing for Architectural Review Board During Covid-19 State of Emergency	
From:	Jonathan Lait	

Recommendation

Adopt a Resolution (**Attachment A**) authorizing the use of teleconferencing under Government Code Section 54953(e) for meetings of the Architectural Review Board and its committees due to the Covid-19 declared state of emergency.

Background

In February and March 2020, the state and the County declared a state of emergency due to the Covid-19 pandemic. Both emergency declarations remain in effect.

On September 16, 2021, the Governor signed AB 361, a bill that amends the Brown Act, effective October 1, 2021, to allow local policy bodies to continue to meet by teleconferencing during a state of emergency without complying with restrictions in State law that would otherwise apply, provided that the policy bodies make certain findings at least once every 30 days.

AB 361, codified at California Government Code Section 54953(e), empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act 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

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.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B) (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code § 54953(e)(1).)

In addition, Section 54953(e)(3) requires that policy bodies using teleconferencing reconsider the state of emergency within 30 days of the first teleconferenced meeting after October 1, 2021, and at least every 30 days thereafter, and find that one of the following circumstances exists:

1. The state of emergency continues to directly impact the ability of the members to meet safely in person.
2. State or local officials continue to impose or recommend measures to promote social distancing.

Discussion

Although conditions have changed since the beginning of 2022, staff believe it is still reasonable to find that the circumstances in Section 54953(e)(1)(A) exist. The Santa Clara County Health Officer continues to recommend measures to promote outdoor activity, physical distancing, and other social distancing measures, such as masking, in certain contexts. In addition, the California Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) has promulgated Section 3205 of Title 8 of the California Code of Regulations, which requires most employers in California, including in the City, to train and instruct employees about measures that can decrease the spread of COVID-19, including physical distancing and other social distancing measures.

Accordingly, Section 54953(e)(1)(A) authorizes the City to continue using teleconferencing for public meetings of its policy bodies, provided that any and all members of the public who wish to address the body or its committees have an opportunity to do so, and that the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing are protected.

The City Attorney's office recently provided an updated analysis to the City Council regarding the ability to meet remotely under the Brown Act. That analysis is available on packet page 150 of the City Council's October 3, 2022 agenda document: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20221003/20221003accsm-amended-presentations.pdf>

Adoption of the Resolution at **Attachment A** will make the findings required by Section 54953(e)(3) to allow the continued use of teleconferencing for meetings of the Architectural Review Board and its committees.

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Attachments:

- Attachment A: Resolution Authorizing Use of Teleconferencing Under Government Code Section 54953(e) for Meetings of Architectural Review Board (DOCX)

¹ Emails may be sent directly to the ARB using the following address: arb@CityofPaloAlto.org

Resolution No. _____

Resolution Making Findings to Allow Teleconferenced Meetings Under California Government
Code Section 54953(e)

R E C I T A L S

- A. California Government Code Section 54953(e) empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act so long as certain conditions are met; and
- B. In March 2020, the Governor of the State of California proclaimed a state of emergency in California in connection with the Coronavirus Disease 2019 (“COVID-19”) pandemic, and that state of emergency remains in effect; and
- C. In February 2020, the Santa Clara County Director of Emergency Services and the Santa Clara County Health Officer declared a local emergency, which declarations were subsequently ratified and extended by the Santa Clara County Board of Supervisors, and those declarations also remain in effect; and
- D. On September 16, 2021, the Governor signed AB 361, a bill that amends the Brown Act to allow local policy bodies to continue to meet by teleconferencing during a state of emergency without complying with restrictions in State law that would otherwise apply, provided that the policy bodies make certain findings at least once every 30 days; and
- E. While federal, State, and local health officials emphasize the critical importance of vaccination and consistent mask-wearing to prevent the spread of COVID-19, the Santa Clara County Health Officer has issued at least one order, on August 2, 2021 (available online at [here](#)), that continues to recommend measures to promote outdoor activity, physical distancing and other social distancing measures, such as masking, in certain contexts; and
- F. The California Department of Industrial Relations Division of Occupational Safety and Health (“Cal/OSHA”) has promulgated Section 3205 of Title 8 of the California Code of Regulations, which requires most employers in California, including in the City, to train and instruct employees about measures that can decrease the spread of COVID-19, including physical distancing and other social distancing measures; and
- G. The Architectural Review Board has met remotely during the COVID-19 pandemic and can continue to do so in a manner that allows public participation and transparency while minimizing health risks to members, staff, and the public that would be present with in-person meetings while this emergency continues; now, therefore,

The Architectural Review Board RESOLVES as follows:

1. As described above, the State of California remains in a state of emergency due to the COVID-19 pandemic. At this meeting, the Architectural Review Board has considered the circumstances of the state of emergency.
2. As described above, State and County officials continue to recommend measures to promote physical distancing and other social distancing measures, in some settings.

AND BE IT FURTHER RESOLVED, That for at least the next 30 days, meetings of the Architectural Review Board and its committees will occur using teleconferencing technology. Such meetings of the Architectural Review Board and its committees that occur using teleconferencing technology will provide an opportunity for any and all members of the public who wish to address the body and its committees and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing; and, be it

FURTHER RESOLVED, That the Architectural Review Board staff liaison is directed to place a resolution substantially similar to this resolution on the agenda of a future meeting of the Architectural Review Board within the next 30 days. If the Architectural Review Board does not meet within the next 30 days, the staff liaison is directed to place a such resolution on the agenda of the immediately following meeting of the Architectural Review Board.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

Staff Liaison

Chair of Architectural Review Board

APPROVED AS TO FORM:

APPROVED:

City Attorney

Department Head