



Architectural Review Board

Staff Report (ID # 14936)

Report Type: Action Items **Meeting Date:** 11/17/2022

Summary Title: Bylaws Discussion Regarding Meeting Attendance in 2023

Title: Discussion Regarding Amending ARB Bylaws to Address Meeting Attendance in 2023

From: Jonathan Lait

Recommendation

Staff recommends that the Architectural Review Board (ARB) take the following action(s):

1. Discuss adding Section 6.3 to the ARB bylaws to address attendance at ARB meetings in 2023.

Report Summary

The updated 2022 ARB Bylaws are attached to this report (Attachment A). They do not include rules on attendance such as how many consecutive meetings a member can miss. The Bylaws do not take into account the COVID-19 Pandemic when virtual meeting attendance became necessary.

The Palo Alto Municipal Code Chapter 2.21 provides content regarding the composition of the board and how often the board may meet (twice monthly or at the pleasure of the chairperson). The meeting frequency is also cited in Section 6.0 of Article VI of the ARB Bylaws.

The report is to support the board's discussion regarding remote attendance, in response to Council's May 2022 motion for all commissions and boards to adopt their own attendance policy.

The City Clerk will soon be offering training to staff and appointed officials in Palo Alto regarding changes to the Brown Act with respect to meeting attendance.

Background/Discussion

ARB Bylaws

City of Palo Alto
 Planning & Development Services
 250 Hamilton Avenue
 Palo Alto, CA 94301
 (650) 329-2442

The ARB Bylaws contain three sections in Article VI regarding meetings. Staff suggests the ARB discuss whether to establish a maximum number or percentage of annual meetings a board member may attend remotely. The ARB may wish to discuss adding Bylaws Section 6.3 to set forth an attendance policy.

Options include allowing members to attend all regular meetings remotely, a percentage of regular meetings remotely, or a limited number remotely each year. For retreats, the ARB could decide these will be in-person meetings.

Bylaws Article VI currently includes three sections:

- Section 6.0 Regular meetings of the ARB shall be held not less than twice a month. The Chairman shall establish the dates of the meetings. Meetings shall be held on Thursday at 8:30 A.M. in the Palo Alto City Hall. Regular meetings may be adjourned and reconvened upon a majority vote of the members present.
- Section 6.1 The Chair, Vice Chair and Secretary shall meet ahead of each public hearing to go over the agenda and submit early questions to staff that will be answered at the hearing.
- Section 6.2 Special meetings may be called at any time by the Chairman, or at the request of three members, by a written or oral notice given to each member at least 48 hours before the time specified for the proposed meeting.

PAMC Chapter 2.21 – Architectural Review Board

Section 2.21.010 states that the ARB shall be composed of five members. Section 2.21.030 states, “the architectural review board shall meet at least monthly and shall prescribe bylaws, forms, applications, rules and regulations for the conduct of its business. All meetings of the architectural review board shall be open to the public. The architectural review board shall send a report, not less than once a year, to the planning commission and city council for the purpose of communicating the concerns of the board with respect to the city's plans, policies, ordinances, and procedures as these affect the projects which the board reviews.”

Attendance Policies of Other Boards/Commissions

Council in May 2022 asked all the commissions to adopt their own attendance policy; however, no committee has done so to date. More recently, Council decided to limit Councilmembers’ remote attendance to three times per year. This motion carried, though there was previously a motion for unlimited remote meeting attendance.

The HRB, PTC, and ARB have not adopted attendance policies to date. It is not required that all boards and commissions choose to follow the Council’s decision regarding three remote meetings. Staff anticipates more conversations and direction about remote attendance with

the changes to the Brown Act that will start in January. As noted, the City Clerk will be providing training on this topic in 2022.

Brown Act Requirements

The Brown Act has long permitted remote attendance through teleconferencing, as long as: 1) the locations of each teleconference participant are provided in notices and agendas, 2) the agenda is posted at each teleconference location, and each location is open to the public, and 3) at least a quorum of the board members participates from locations within the boundaries of the City. The Brown Act does not limit the number of times these procedures can be used.

AB 361 allowed a local government to suspend these teleconference requirements during a statewide emergency, such as the COVID-19 pandemic, by making certain findings. However, if the statewide emergency is lifted in early 2023, as currently anticipated, AB 361 exceptions will no longer apply.

Beginning January 1, 2023, AB 2449 will provide an additional, limited exception to the typical teleconference requirements which do not rely on the existence of a statewide emergency. A board member may participate remotely, without making their location available to the public, only when there exist a “just cause” or “emergency circumstances” approved by the board, for remote participation, and the reason is disclosed to the public. In addition, a quorum of the board must meet in a single location (i.e. the meeting must be a “hybrid” meeting). The exception under AB 2449 may not be used by a member of the board for more than three consecutive months or more than 20% of the regular meetings in a calendar year.

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Attachments:

- Attachment A: 2022 ARB By-Laws (DOCX)
- Attachment B: Draft / Example Attendance Policy Language (DOC)

RULES AND REGULATIONS AND BY-LAWS OF THE
PALO ALTO ARCHITECTURAL REVIEW BOARD

ARTICLE I

NAME

Section 1.0 The name of this board shall be the PALO ALTO ARCHITECTURAL REVIEW BOARD (ARB)

ARTICLE II

Section 2.0 This board shall perform any duties imposed upon it by Ordinances of the City of Palo Alto and by applicable State and Federal law, or as requested by the City Council of the City of Palo Alto.

ARTICLE III

Officers

Section 3.0 The officers of the Board Shall consist of a Chairperson, a Vice Chairperson, and a Secretary who shall be a non-voting member.

Section 3.1 The offices of Chairperson and Vice Chairperson shall be elected from among the appointed members of the Board, and the person so elected shall serve for a term of one year or until a successor is elected. Elections shall be held at the first meeting in April of each year, which coincides with the first meeting of new Board members.

Section 3.2 The Director of Planning and Development Services of the City of Palo Alto or their designated representative shall be the Secretary of the Board.

Section 3.3 The duties of the offices of the ARB shall be as follows:

Section 3.31 It shall be the duty of the Chairperson to preside over all meeting of the Board, to appoint committees and to serve as an ex-officio member of the committees so appointed, to call special meetings of the Board and to designate the time and place of such meeting, to set the date and time for the public hearing held by the Board, to sign documents and correspondence in the name of the Board, to ensure the Annual Report/Council Work Plan is completed before the end of their term (March 31st), and to represent the Board before the City Council, its commissions and committees, and such other groups and organizations as may be appropriate. The Chairperson may designate the Vice Chair, or in the Vice Chairperson's absence, another member of the Board to act in their stead.

- Section 3.32 It shall be the duty of the Vice Chairperson to assist the Chairperson and to act in their stead during their absence.
- Section 3.33 It shall be the duty of the Secretary to keep a record of all meeting of the Board, to accept in the name of the Board documents and correspondence addressed to it, to present such correspondence to the Board, to provide the Board with early notification of pending projects that will require the ARB's review, and perform other staff functions as deemed necessary by the Board. The Secretary will determine the agenda for all public meeting of the Board, based upon an assessment of the applications made to the City requiring architectural review, and based also upon the desirability of hearing such other matters as may be deemed, by the Chairperson or by the Secretary, to be of concern to the Board.

ARTICLE IV

Committees

- Section 4.0 The Chairperson shall appoint special committees as they be desired or required.

ARTICLE V

Quorums and Voting

- Section 5.0 Three members of the Board shall constitute a quorum for the purposes of conducting business.
- Section 5.1 All actions taken must be by affirmative vote of majority of those Board members present, except to adjourn or continue for lack of a quorum.

A tie vote constitutes a denial of an item, except that a member of the Board may then move that the item be reconsidered or continued to another meeting. A majority of the Board may then vote to reconsider or continue the item to another meeting

ARTICLE VI

Meetings

- Section 6.0 Regular meetings of the ARB shall be held not less than twice a month. The Chairperson shall establish the dates of the meetings. Meetings shall be held on Thursday at 8:30 A.M. in the Palo Alto City Hall. Regular meetings may be adjourned and reconvened upon a majority vote of the members present.

- Section 6.1 The Chair, Vice Chair and Secretary shall meet ahead of each public hearing to go over the agenda and submit early questions to staff that will be answered at the hearing.
- Section 6.2 Special meetings may be called at any time by the Chairperson, or at the request of three members, by a written or oral notice given to each member at least 48 hours before the time specified for the proposed meeting.

ARTICLE VII

Rules

- Section 7.0 All meetings of the Board shall be conducted in accordance with a modified Robert's Rules of Order.

ARTICLE VIII

Design Awards

- Section 8.0 Design Awards for outstanding built projects may be awarded every five years beginning in 2005. Award-winning projects shall be selected from those reviewed by the ARB, and completed since the last awards were made.
- Section 8.1 Criteria and number of awards shall be determined by the awarding board.
- Section 8.2 Winning projects may be displayed in the City Hall lobby for one month following the presentation of awards. The ARB shall request that the Mayor of the City of Palo Alto issue an appropriate proclamation.

THE FOREGOING BY-LAWS WERE ADOPTED BY A MAJORITY VOTE OF THE PALO ALTO ARCHITECTURAL REVIEW BOARD THE 28TH DAY OF JUNE, 1973.

Amended: July 3, 1974
 May 19, 1977
 August 4, 2005
 February 5, 2015
 September 15, 2022

DRAFT / EXAMPLE - Attendance Policy

1. Regular and Special UAC Meetings and Study Sessions – Attendance Required
 - a. Commission Members, and the Staff Liaison, along with any other City staff that have been requested to be physically present, shall take their regular stations in the Council chamber at 6:00 p.m. on the first Wednesday of each month, except during the established Commission vacation. The Chair or other presiding officer will ensure that during each regular or special meeting there will be one 10-minute break.
 - b. The Commission expects its members to attend regularly and notify the Commission Clerk of any planned absences.
2. Remote Attendance of Commissioners at UAC Meetings – General Guidelines and Requirements
 - a. The remote attendance provisions in this UAC Attendance Policy shall apply to Commission Members unless there exists a proclaimed state of emergency which results in alternative teleconferencing requirements under the Brown Act, in which case only the requirements of the Brown Act shall govern remote attendance.
 - b. Commission Members are strongly encouraged to attend commission meetings in person.
 - c. Commission Members are permitted to attend Commission meetings remotely up to four times per *calendar year*. A Commission Member who has already attended two meetings remotely *for any reason* in one calendar year may not attend another remotely under section 4. (Note for Boards with 14 or fewer meetings per year, 20% is less than 3)
 - d. At least a quorum of the Commission must participate from a singular physical location within the City.
 - e. At any meeting where any Commission Member is appearing remotely, the Commission Clerk shall ensure the agenda will identify and include an opportunity for the public to attend and directly address the UAC through a call-in option, an internet-based service option, and in-person at the location of the meeting.
 - f. If there is a disruption to the meeting broadcast or in the ability to take call-in or internet-based public comment, no further action shall be taken on agenda items until the issue is resolved.
 - g. If the threshold requirements in section 2(c), (d) and (e) of this Policy are met, a Commission Member may attend a Commission meeting remotely under section 3 (standard remote attendance) or section 4 (“just cause” and “emergency circumstances” remote attendance). The requirements of section 3 shall only apply to standard remote attendance. The requirements of section 4 shall only apply to “just cause” and “emergency circumstances” remote attendance, as applicable.

3. Standard Remote Attendance Requirements

- a. A Commission Member who will be attending remotely under this section must ensure that:
 - i. The UAC meeting agenda identifies the remote location and is posted at that location in an area that is accessible and visible 24 hours a day for at least 72 hours prior to the meeting.
 - ii. The remote location is open and fully accessible to the public, and fully accessible under the Americans with Disabilities Act, throughout the entire meeting.
 - iii. The remote technology used must be open and fully accessible to all members of the public, including those with disabilities.
 - iv. The accessibility requirements in subsections (i) – (iii), above, apply to private residences, hotel rooms, and similar facilities, all of which must remain fully open and accessible throughout the meeting, without requiring identification or registration.
 - v. Members of the public who attend the meeting at the remote location must have the same opportunity to address the Commission from the remote location that they would if they were present in Council Chambers.
 - vi. The remote location must not require an admission fee or any payment for attendance.
 - vii. If the meeting will include a closed session, the Commission Member must also ensure that there is a private location available for that portion of the meeting.
- b. Responsibilities of Commission Members Attending a Meeting Remotely under this Section:
 - i. The Commission Member must give the Commission Clerk five days' written notice of remote attendance in advance of the publication of the agenda.
 - ii. The notice must include the address at which the remote meeting will occur, the address the Commission packet should be mailed to, and the phone number of the remote location.
 - iii. Commission Members need to ensure all technology necessary for them to attend remotely is functioning.
 - iv. The Commission Member is responsible for posting the Commission agenda in the remote location, or having the agenda posted by someone else at the location and confirming that posting has occurred. The Commission Clerk will assist, if necessary, by emailing, faxing or mailing the agenda to whatever address or fax number the Commission Member requests; however, it is the Commission Member's responsibility to ensure that the agenda arrives and is posted. If the Commission Member will need the assistance of the Commission Clerk in delivery of the agenda, the fax number or address must be included in the five-day advance written notice above.
 - v. The Commission Member must ensure that the location will be publicly accessible while the UAC meeting is in progress.
 - vi. The Commission Member must state at the beginning of the Commission meeting that the agenda posting requirement was met at the location and that the location is publicly accessible, and must describe the location.
- c. A Commission Member may only participate remotely under this section if they determine that all the requirements of section 3 (a) and (b) can be met.

4. “Just Cause” and “Emergency Circumstances” Remote Attendance Requirements

- a. A Commission Member may attend a meeting remotely when they have just cause to do so pursuant to AB 2449.
 - i. “Just cause” is defined as:
 - 1. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a Commission Member to participate remotely;
 - 2. A contagious illness that prevents a Commission Member from attending in person;
 - 3. A need related to a physical or mental disability which cannot be resolved by a request for reasonable accommodation; or
 - 4. Travel while on business of the UAC or another state or local agency.
 - ii. Notification. A Commission Member attending remotely for just cause must notify the UAC and the Commission Clerk at the earliest possible opportunity, including at the start of a meeting, of their need to participate remotely and provide a general description of the circumstances related to one of the four items above.

- b. A Commission Member may attend a meeting remotely when emergency circumstances justify remote attendance pursuant to AB 2449, and the Commission approves of their remote attendance.
 - i. “Emergency circumstances” is defined as a physical or family medical emergency that prevents a Commission Member from attending the UAC meeting in person.
 - ii. Notification and acceptance.
 - 1. A Commission Member attending remotely due to emergency circumstances must notify the UAC and the Commission Clerk at the earliest possible opportunity.
 - 2. The UAC must request a general description of the circumstances relating to the Commission member’s need to appear remotely. The description does not need to have more than 20 words, and the Commission Member does not have to disclose any personal medical information.
 - 3. At the earliest opportunity available to it, the UAC may, by a majority vote of its members, take action on the request to approve or disapprove it. If the request does not allow sufficient time to place it on the agenda for the meeting for which the request is made, the legislative body may take action on the request at the beginning of the meeting by majority vote.

- c. Responsibilities of Commission Members Attending a Meeting Remotely under this Section:
 - i. Commission Members must notify the UAC and the Commission Clerk of their need to attend remotely at the earliest possible opportunity.
 - ii. Commission Members must publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member’s relationship with the individual.
 - iii. Commission Members must ensure all technology necessary for them to attend remotely is functioning, which must include two-way, live audio and visual communication at all times.
 - iv. At the start of the meeting, the Commission Member attending remotely may use the following language to identify under which provision they are attending remotely:

1. "I have **just cause** to attend this meeting remotely under AB 2449. I have not attended a meeting remotely more than once this calendar year. I will participate with both audio and video turned on throughout the meeting. I must attend remotely because...
 - a. "... I must provide caregiving to [RELATION]."
 - b. "... a contagious illness prevents me from attending in person."
 - c. "... I have a need related to a disability which could not be accommodated at this meeting."
 - d. "... I am travelling while on official business of [STATE OR LOCAL AGENCY]."

"In this room, I am accompanied by...

"...no one over the age of 18."

"...one or more individuals over the age of 18. They are [RELATION (e.g., my spouse, coworker, medical provider)]."

2. "Due to **emergency circumstances**, I request to attend this meeting remotely under AB 2449. I have not attended a meeting remotely more than once this calendar year. I will participate with both audio and video turned on throughout the meeting. The [PHYSICAL OR FAMILY] medical emergency I am facing requires my remote attendance because [BRIEF DESCRIPTION]."

"In this room, I am accompanied by...

"...no one over the age of 18."

"...one or more individuals over the age of 18. They are [RELATION (e.g., my spouse, coworker, medical provider)]."

- d. A Commission Member may only participate remotely for "just cause" or "emergency circumstances" if they determine that all the requirements of section 4, as applicable, can be met.