



CITY OF
**PALO
ALTO**

Historic Resources Board Staff Report

From: Jonathan Lait, Planning and Development Services Director
Lead Department: Planning and Development Services

Meeting Date: March 9, 2023
Report #: 2302-0988

TITLE

Review and Adoption of Historic Resources Board By-Laws to Address Remote/Virtual Meeting Attendance

RECOMMENDATION

Staff recommends that the Historic Resources Board (HRB) adopt a revision to its By-Laws to address allowances for remote meeting attendance. Staff has included a very simple statement to add to the bylaws.

Attachment B is a lengthier version of an alternative bylaw addition. While this version contains more guidance, staff does not believe the detail of this version is necessary to include within the bylaws.

PROJECT DESCRIPTION/BACKGROUND

The draft modification to the HRB Bylaws is to align with recently adopted state law (AB 2449); see Section 6.2 in Attachment A to this report. On May 2, 2022, Council directed all commissions and boards to adopt their own remote attendance policy. The current HRB by-laws were last updated in January 2017. The By-laws do not include rules on attendance such as how many meetings a member can miss, nor do they take into account the COVID-19 Pandemic when virtual meeting attendance became necessary.

On November 10, 2022, the HRB discussed the new state law regarding remote meeting attendance. The HRB did not direct staff to modify the by-laws to align with state regulations regarding remote meeting attendance. The HRB had not yet received the training about the new law provided by the City Clerk. A link to the November 10, 2022 HRB report¹ is provided below.

Recent Council Action

¹ Link to November 10, 2022 HRB report <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/historic-resources-board/2022/hrb-11.10.2022-bylaws.pdf>

On January 30, 2023, Council adopted revisions to the Council Procedures and Protocol Handbook that allowed for a total of five remote hearings per legislative body (i.e. five for Council and five for each Council Committee). However, the Brown Act requirements, as discussed further below, also apply. The Councilmembers receive a stipend for their participation as members, while the ARB, HRB and PTC do not. It is not required that all boards and commissions choose to follow the Council's direction.

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, when the statewide emergency is formally lifted this month, as currently anticipated, AB 361 exceptions will no longer apply.

Effective January 1, 2023, AB 2449 provides 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 exists 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 (Four (4) total meetings per year for the HRB).

As has always been the case under the Brown Act, if a member of the board wishes to attend virtually without citing one of the "just cause" or "emergency circumstances" identified under the law and follows the necessary standard remote attendance procedures set forth in Attachment A, then they may do so without a limitation on the meetings.

ANALYSIS

Attachment A contains a new section 6.2 with a simple sentence similar to the one the Planning and Transportation Commission adopted in late 2022.

Attachment B is an alternative section 6.2, with extended language that would cite an expectation for the number of remoted attendance meetings by a member (more limiting than state law). I

In accordance with the Brown Act, as amended per AB 2449, a boardmember may only attend remotely without following the standard remote attendance procedures and under “just cause” or “emergency circumstances” up to 4 times (20% of the hearings). The By-laws draft section 6.2 in Attachment B aligns with Council’s motion on January 30, 2023. If the HRB chooses a lengthier section 6.2 in Attachment B, the HRB may choose to allow for more than five meetings to be attended remotely, as long as the proper noticing is completed, and the remote attendee’s location is made accessible to the public. Only four hearings (20%) and for no more than 3 consecutive months may be attended remotely without following the standard remote noticing procedures and under “just cause” or “emergency circumstances.”

The definitions of ‘just cause’ and ‘emergency circumstances’ are defined in the law as follows: “Just cause” is defined as:

- a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires remote attendance,
- a contagious illness that prevents in-person attendance,
- a need related to a physical or mental disability which cannot be resolved by a request for reasonable accommodation, or
- travel while on the business of a state or local agency.

“Emergency circumstances” is defined as:

- a physical or family medical emergency that prevents a Boardmember from attending the Historic Resources Board meeting in person.”

ENVIRONMENTAL REVIEW

This is not considered a project as defined by CEQA and no review is required.

ALTERNATIVE RECOMMENDATION

Staff believes that, like the PTC, the HRB can adopt the bylaw with a simple sentence regarding compliance. The board may instead wish to pick a maximum number of meetings that a boardmember can attend remotely per year.

ATTACHMENTS

Attachment A: HRB Bylaws with New Section 6.2 inserted

Attachment B: Alternative New Section 6.2 for HRB Consideration

AUTHOR/TITLE:

Amy French, Chief Planning Official

RULES AND REGULATIONS AND BY-LAWS OF THE
PALO ALTO HISTORIC RESOURCES BOARD

ARTICLE I

NAME

Section 1.0 The name of this board shall be the PALO ALTO HISTORIC RESOURCES BOARD (HRB)

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 January of each year, or as soon thereafter as possible.

Section 3.2 The Director of Planning and Community Environment of the City of Palo Alto or his/her designated representative shall be the Secretary of the Board.

Section 3.3 The duties of the offices of the HRB 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, 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 Chairperson, or in the Vice Chairperson's absence, another member of the Board to act in his/her stead.

Section 3.32 It shall be the duty of the Vice Chairperson to assist the Chairperson and to act in his/her stead during his/her 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, 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 historic 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 Four 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 HRB shall be held twice a month or at the pleasure of the Chairperson. 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. HRB regular meetings shall occur on alternate Thursdays from ARB regular meetings. Regular meetings may be adjourned and reconvened upon a majority vote of the members present.

Section 6.1 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.

Section 6.2 Boardmembers may attend remotely to the extent permitted by State law.

ARTICLE VII

Rules

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

THE FOREGOING BY-LAWS WERE ADOPTED BY A MAJORITY VOTE OF THE PALO ALTO HISTORIC RESOURCES BOARD THE 4TH DAY OF FEBRUARY, 2015.

Amended: January 6, 2017
March 9, 2023

RULES AND REGULATIONS AND BY-LAWS OF THE
PALO ALTO HISTORIC RESOURCES BOARD

ARTICLE I

NAME

Section 1.0 The name of this board shall be the PALO ALTO HISTORIC RESOURCES BOARD (HRB)

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 January of each year, or as soon thereafter as possible.

Section 3.2 The Director of Planning and Community Environment of the City of Palo Alto or his/her designated representative shall be the Secretary of the Board.

Section 3.3 The duties of the offices of the HRB 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, 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 Chairperson, or in the Vice Chairperson's absence, another member of the Board to act in his/her stead.

Section 3.32 It shall be the duty of the Vice Chairperson to assist the Chairperson and to act in his/her stead during his/her 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, 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 historic 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 Four 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 HRB shall be held twice a month or at the pleasure of the Chairperson. 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. HRB regular meetings shall occur on alternate Thursdays from ARB regular meetings. Regular meetings may be adjourned and reconvened upon a majority vote of the members present.

Section 6.1 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.

Section 6.2 Boardmembers are strongly encouraged to attend meetings in person. State law allows boardmembers to attend meetings remotely by following the procedures outlined in Government Code Section 54953(b) (“Standard Remote Attendance”) or the procedures outlined in Assembly Bill 2449 (2022) (“AB 2449 Remote Attendance”). If state law is subsequently amended, the amended terms of State law will apply.

1) Number of Remote Appearances Permitted. A boardmember may elect to participate remotely not more than [REDACTED] times in a calendar year, whether following Standard Remote Attendance or AB 2449 Remote Attendance procedures. Note, AB 2449 Remote Attendance may not be utilized for more than four meetings (20%) or more than three consecutive months.

2) General Procedures for Appearing Remotely. Boardmembers must follow mandatory procedures set forth in State law.

3) Standard Remote Attendance Procedures. A boardmember attending remotely using these procedures must ensure that:

- a. At least a quorum of the Board is participating from locations within the City.
- b. The meeting agenda identifies the remote attendance 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 a regular meeting and 24 hours prior to a special meeting.
- c. The remote attendance location is open and fully accessible to the public, and fully accessible under the Americans with Disabilities Act, throughout the entire meeting. These requirements 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. The Boardmember must state at the beginning of the Board meeting that the posting requirement was met at the location and that the location is publicly accessible and must describe the location.
- d. The remote attendance technology used is open and fully accessible to all members of the public, including those with disabilities.
- e. Members of the public who attend the meeting at the remote attendance location have the same opportunity to address the Board from the remote location that they would if they were present in Council Chambers.
- f. The remote attendance location must not require an admission fee or any payment for attendance.

g. Advanced written notice a minimum of 12 days ahead of the public hearing must be given by the Boardmember to the Secretary of the Board about their intent to participate remotely; the notice must include the address at which the remote attendance will occur, and the address the HRB packet should be mailed to, if a hard copy is requested.

h. The Boardmember is responsible for posting the HRB agenda in the remote location, or having the agenda posted by somebody at the location and confirming that posting has occurred. The Secretary of the Board will assist, if necessary, by emailing, faxing or mailing the agenda to whatever address or fax number the Boardmember requests; however, it is the Boardmember's responsibility to ensure that the agenda arrives and is posted. If the Boardmember will need the assistance of the Secretary of the Board in delivery of the agenda, the fax number or address must be included in the 12 day advance written notice above. If the Boardmember intending to follow the procedures of Standard Remote Attendance determines that any or all of the preceding requirements cannot be met, he or she shall not participate in the meeting remotely using Standard Remote Attendance procedures.

4) AB 2449 Remote Attendance Procedures. A Boardmember attending remotely using these procedures must ensure that:

a. At least a quorum of the Board is participating in person from a singular physical location clearly identified on the agenda and open to the public.

b. The Boardmember has either "just cause" or "emergency circumstances" that require remote participation, as required by AB 2449.

c. Notice. A Boardmember that is attending remotely due to "just cause" or "emergency circumstances" must notify the Chair and the Secretary of the Board at the earliest possible opportunity, including at the start of the meeting, of their need to participate remotely and provide a general description of the circumstances. The Boardmember is not required to disclose any personal medical information.

d. Acceptance. At the earliest opportunity available to it, the Board, 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 must take action on the request at the beginning of the meeting by majority vote.

e. Disclosures. Boardmembers attending remotely 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.

f. Technology. All technology necessary for the Boardmember and for the public to attend remotely must function at all times, which must include two-way, live audio and visual communication.

If the Boardmember determines that any or all of these requirements cannot be met, he or she shall not participate in the meeting remotely using AB 2449 Remote Attendance procedures.

ARTICLE VII

Rules

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

THE FOREGOING BY-LAWS WERE ADOPTED BY A MAJORITY VOTE OF THE PALO ALTO HISTORIC RESOURCES BOARD THE 4TH DAY OF FEBRUARY, 2015.

Amended: January 6, 2017
March 9, 2023