



TOWN OF HILLSBOROUGH

Architecture and Design Review Board
San Mateo County
1600 Floribunda Avenue
Hillsborough, CA 94010

Agenda Item # 1

- Consent Calendar
- Public Hearing
- Preliminary Review
- Discussion

STAFF MEMORANDUM

ITEM SUBJECT: Resolution Making Findings and Determinations Under Assembly Bill 361 for the Continuation of Virtual Meetings

SUMMARY:

On March 17, 2020, in the face of the COVID-19 pandemic, Governor Gavin Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means.

The provisions in the Brown Act that were suspended by the Governor's Executive Order are contained at Government Code Section 54953(b)(3) and require that when teleconferencing is used, outside of a statewide emergency, that the following occur:

- An agenda is required to be posted at all locations, including any teleconference locations
- Each teleconference location must be identified on the actual agenda
- Each teleconference location shall be accessible to the public
- A quorum of the legislative body must be in the jurisdiction

ANALYSIS:

On September 16, 2021, the Governor signed AB 361, which allows legislative bodies to meet virtually provided there is a state of emergency declared by the Governor, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees. As a result, if the ADRB desires to have virtual meetings on or after October 1, 2021, it must do so consistent with the requirements of AB 361.

AB 361 preserves many of the provisions of the earlier executive orders, including the suspension of the four teleconferencing requirements noted above, while also adding new requirements to the management of remote and teleconference public meetings in order to better achieve the levels of transparency that the Brown Act demands. Specifically, AB 361 imposes two new rules on remote public meetings:

1. Local governments and agencies hosting teleconference meetings in lieu of traditional in-person public meetings must permit direct public comment during the teleconference, and must leave open the opportunity for public comment until the comment period for a given item is closed during the ordinary course of the meeting. The opportunity to make public comment must be of a sufficient duration so as to allow actual public participation.

2. Any action by the governing body during a public teleconference meeting must occur while the agency is actively and successfully broadcasting to members of the public through a call-in option or an internet-based service option. If a technical disruption within the agency's control prevents members of the public from either viewing the meeting of the public agency or prevents members of the public from offering public comment, the agency must cease all action on the meeting agenda until the disruption ends and the broadcast is restored. Action taken during an agency-caused disruption may be challenged as a violation of the Brown Act.

In order to continue to hold virtual meetings when a state of emergency remains active, the ADRB must make findings every 30 days that 1) the ADRB has reconsidered the circumstances of the state of emergency and 2) the state of emergency continues to directly impact the ability of the members to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing.

The City Council previously adopted Resolution No. 21-____, on October 11, 2021, making findings and determinations under Assembly Bill 361 for the continuation of virtual meetings. Those conditions have not changed and continue to exist. Staff is recommending that the ADRB authorize remote teleconference meetings pursuant to the provisions of AB 361 by adoption of the attached Resolution.

ENVIRONMENTAL ANALYSIS:

The action being considered is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(5) as it constitutes an organizational or administrative activity of the government that will not result in direct or indirect physical changes in the environment. Further, virtual meetings are likely to reduce certain impacts associated with vehicular travel related to in-person public meetings.

ATTACHMENTS: Resolution

RESOLUTION NO. 21-___

**RESOLUTION OF THE ARCHITECTURE AND DESIGN REVIEW BOARD (ADRB)
OF THE TOWN OF HILLSBOROUGH MAKING FINDINGS AND DETERMINATIONS
UNDER AB 361 FOR THE CONTINUATION OF VIRTUAL MEETINGS**

WHEREAS, the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*) generally requires local agencies meeting via teleconference, including through other virtual or electronic means, to, among other things, provide public access at each location in which members of the legislative body are teleconferencing; and;

WHEREAS, the Legislature recently enacted Assembly Bill 361 (AB 361), which amended Government Code section 54953 to allow local agencies to meet fully virtually, without fully adhering to the rules otherwise applicable to teleconferencing, during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Governor issued a proclamation declaring a state of emergency on March 4, 2020 due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act, and this proclaimed state of emergency currently remains in effect; and

WHEREAS, the Architecture and Design Review Board of the Town of Hillsborough has considered the circumstances of the state of emergency; and

WHEREAS, state or local officials continue to recommend measures to promote social distancing to prevent the spread of COVID-19, in particular, Cal-OSHA regulation 3205 recommends physical distancing in the workplace generally and regulates a “close contact” defined as being within 6 feet of another under certain circumstances; and

WHEREAS, the City Council of the Town of Hillsborough previously adopted Resolution No. ____, on October 11, 2021, finding that the requisite conditions exist for the legislative bodies of the Town to hold virtual meetings pursuant to AB 361 and Government Code section 54953(e); and

WHEREAS, in order to continue to impose social distancing while holding in-person meetings there is a high likelihood that members of the public would not all be able to be present in the meetings spaces; and

WHEREAS, the continuation of virtual meetings will allow for full participation by members of the public until social distancing recommendations are no longer necessary.

NOW, THEREFORE, BE IT RESOLVED that the Architecture and Design Review Board of the Town of Hillsborough hereby finds, determines, and resolves as follows:

1. The ADRB has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it.

Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. Consistent with the provisions of Government Code section 54953(e), the ADRB finds and determines that: (a) a state of emergency related to COVID-19 is currently in effect; and (b) state and local officials have imposed or recommended measures to promote social distancing in connection with COVID-19. Based on such facts, findings and determinations, meetings of the ADRB will continue to be conducted remotely in compliance with AB 361 and Government Code section 54953(e)(2).

3. This resolution shall become effective upon adoption.

This resolution was adopted by the Architecture and Design Review Board of the Town of Hillsborough at its regular meeting held on the 31 day of May 2022, by the following vote of the members thereof:

Chair

Attest:

AYES:	Members	_____
NOES:	Members	_____
ABSENT:	Members	_____
ABSTAIN:	Members	_____