

# CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 2114 • OAKLAND, CALIFORNIA 94612

Planning and Building Department  
Bureau of Planning

(510) 238-3941  
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**MEMORANDUM:** Request to Renew The Adoption of A Resolution Determining That Conducting In-Person Meetings of the Planning Commission And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(e), A Provision of AB-361.

**TO:** City Planning Commission  
**DATE:** November 3, 2021

## Summary

On October 6, 2021, at a duly noticed Special Meeting of the Planning Commission, the Planning Commission adopted a Resolution determining that conducting in-person meetings of the Planning Commission and its Committees would present imminent risks to attendees' health, and elected to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361.

The purpose of this memorandum is to request the City Planning Commission to renew its determination that conducting in-person meetings of the Planning Commission and its Committees would present imminent risks to attendees' health, and reaffirm its election to continue conducting meetings using teleconferencing in accordance with State law, as identified above.

All City of Oakland legislative bodies, including the City Planning Commission, are required to adopt a renewed Resolution of Findings pursuant to AB-361 every thirty (30) days in order to continue meeting via teleconference.

## Analysis

This renewed Resolution of Findings (Attachment A to this report) states that the purpose of meeting by teleconference is to generally protect the health and safety of our community while the state of emergency related to COVID-19 is still in effect. The renewed Resolution also states that a proclamation of local emergency is still in effect, as well. These are required findings under AB-361 to allow for continued use of a virtual platform for hosting Planning Commission (and Committee) meetings.

By adopting the renewed Resolution, the Planning Commission would renew allowance for continued use of a virtual platform for hosting Planning Commission meetings during the COVID-19 emergency, as proclaimed by either the state or local jurisdiction. Adopting the Resolution would also allow the Planning Commission committees to continue to meet on a virtual platform (including, but not limited to, the Design Review Committee,

the Residential Appeals Committee, the Zoning Update Committee, The Special Projects Committee, and Policies and Procedures Committee, as well as any subcommittee thereof).

As noted in the October 6, 2021, staff report (Attachment B to this report), the Planning Commission will be asked to adopt the Resolution every thirty (30) Days for the duration of the COVID-19 emergency. In the future, this same report and Resolution will be included as a consent calendar item on the at least once every 30 days during the State or local emergency.

## **Recommendation**

Staff recommends that the Planning Commission renew the adoption of the Resolution Determining That Conducting In-Person Meetings of the Planning Commission And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(e), A Provision of AB-361.

Prepared by:

**Catherine Payne**

Catherine Payne, Development Planning Manager

Approved for forwarding to the Planning Commission:

**Robert Merkamp**

Robert Merkamp, Acting Deputy Director  
Bureau of Planning

Attachments:

- Attachment A: Renew the Adoption of A Resolution Determining That Conducting In-Person Meetings of the Planning Commission And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(e), A Provision of AB-361.
- Attachment B: October 6, 2021, Staff Report
- Attachment C: Adopted and Signed Resolution: October 6, 2021

## OAKLAND PLANNING COMMISSION

### RESOLUTION NO. November 3, 2021

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**RENEW THE ADOPTION OF A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE PLANNING COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

**WHEREAS**, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

**WHEREAS**, City Council Resolution No. 88075 remains in full force and effect to date; and

**WHEREAS**, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

**WHEREAS**, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. See <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

**WHEREAS**, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

**WHEREAS**, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms

stay home. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

**WHEREAS**, persons without symptoms may be able to spread the COVID-19 virus. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

**WHEREAS**, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

**WHEREAS**, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

**WHEREAS**, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

**WHEREAS**, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

**WHEREAS**, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

**WHEREAS**, on October 6, 2021, the Planning Commission adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

**RESOLVED:** that the Planning Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

**FURTHER RESOLVED:** that, based on these determinations and consistent with federal, state and local health guidance, the Planning Commission renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

**FURTHER RESOLVED:** that the Planning Commission firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

**FURTHER RESOLVED:** that the Planning Commission will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section

54953(e) until the state of emergency related to COVID-19 has been lifted, or the Planning Commission finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.

# ATTACHMENT B (11/3/21)

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**MEMORANDUM:** Request to Adopt A Resolution Determining That Conducting In-Person Meetings of the Planning Commission And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(e), A Provision of AB-361.

**TO:** City Planning Commission  
**DATE:** October 6, 2021

## Summary

The purpose of this memorandum to the City Planning Commission is to request continuance of teleconference meetings (commonly referred to as virtual meetings) given recent changes to the State's open meeting laws. Assembly Bill 361 (AB-361) was adopted on September 15, 2021, amending provisions of the Brown Act that allow local jurisdictions to meet by teleconference provided the legislative body adopts specific findings in compliance with the new State law. All City of Oakland legislative bodies, including the City Planning Commission, have been advised to adopt a Resolution of Findings pursuant to AB-361 in order to continue meeting via teleconference.

## Analysis

This Resolution of Findings states that the purpose of meeting by teleconference is to generally protect the health and safety of our community while the state of emergency related to COVID-19 is still in effect. The Resolution also states that a proclamation of local emergency is still in effect, as well. These are required findings under AB-361 to allow for continued use of a virtual platform for hosting Planning Commission (and Committee) meetings.

By adopting the Resolution, the Planning Commission would allow for continued use of a virtual platform for hosting Planning Commission meetings during the COVID-19 emergency, as proclaimed by either the state or local jurisdiction. Adopting the Resolution would also allow the Planning Commission committees to continue to meet on a virtual platform (including, but not limited to, the Design Review Committee, the Residential Appeals Committee, the Zoning Update Committee, The Special Projects Committee, and Policies and Procedures Committee, as well as any subcommittee thereof).

The Planning Commission will be asked to adopt the Resolution every month for the duration of the COVID-19 emergency. In the future, this same report and Resolution will be included as a consent calendar item on the first meeting agenda no longer than every 30 days during of the emergency.

**Recommendation**

Staff recommends that the Planning Commission adopt the Resolution Determining That Conducting In-Person Meetings of the Planning Commission And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(e), A Provision of AB-361.

Prepared by:

**Catherine Payne**

Catherine Payne, Development Planning Manager

Approved for forwarding to the Planning Commission:

**Ed Manasse**

Ed Manasse, Deputy Director  
Bureau of Planning

Attachment: A Resolution Determining That Conducting In-Person Meetings of the Planning Commission And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(e), A Provision of AB-361.

**ATTACHMENT**

**OAKLAND CITY PLANNING COMMISSION**

**RESOLUTION October 6, 2021**

**NO.** \_\_\_\_\_

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**ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE CITY PLANNING COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. *See* <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>

**WHEREAS**, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

**WHEREAS**, City Council Resolution No. 88075 remains in full force and effect to date; and

**WHEREAS**, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>;

**WHEREAS**, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. *See* <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>;

**WHEREAS**, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. *See* <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>;

**WHEREAS**, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms stay home. *See* <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>;

**WHEREAS**, persons without symptoms may be able to spread the COVID-19 virus. *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>;

**WHEREAS**, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. *See* <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>;

**WHEREAS**, the City's public-meeting facilities are indoor facilities that do not designed to ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; now therefore be it:

**WHEREAS**, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

**WHEREAS**, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

**WHEREAS**, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; now therefore be it:

**RESOLVED:** that the City Planning Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

**FURTHER RESOLVED:** that, based on these determinations and consistent with federal, state and local health guidance, the City Planning Commission determines that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

**FURTHER RESOLVED:** that the City Planning Commission firmly believes that the community's health and safety seriously and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

**FURTHER RESOLVED:** that the City Planning Commission will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the City Planning Commission finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever is occurs first.

IN THE PLANNING COMMISSION, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - <sup>Absent</sup> LIMON, <sup>Absent</sup> FEARN, SHIRAZI, RAY-LYNCH, RENK, SUGRUE, AND CHAIR MANUS

NOES - 0

ABSENT - 2

ABSTENTION - 0

ATTEST:   
DESMONA ARMSTRONG  
Clerk of the Planning Commission of the City of Oakland,  
California

Signature: *Catherine Payne*

Email: CPayne@oaklandca.gov

Signature: *Catherine Payne*

Email: CPayne@oaklandca.gov

Signature:   
Edward Manasse (Oct 28, 2011 15:38 PDT)

Email: EManasse@oaklandca.gov

Signature: 

Email: RMerKamp@oaklandca.gov

# Sigs 110321 consent tele reso

Final Audit Report

2021-10-18

Created:	2021-10-15
By:	Catherine Payne (CPayne@oaklandca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAifPo3_YB0b8Y0MmWzPkvS6zPVA68Ujnk

## "Sigs 110321 consent tele reso" History

-  Document created by Catherine Payne (CPayne@oaklandca.gov)  
2021-10-15 - 1:02:57 AM GMT- IP address: 73.222.190.28
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Signature Date: 2021-10-15 - 1:04:08 AM GMT - Time Source: server- IP address: 73.222.190.28
-  Document emailed to Robert Merkamp (RMerkamp@oaklandca.gov) for signature  
2021-10-15 - 1:04:10 AM GMT
-  Email viewed by Robert Merkamp (RMerkamp@oaklandca.gov)  
2021-10-18 - 3:58:23 PM GMT- IP address: 209.232.103.90
-  Document e-signed by Robert Merkamp (RMerkamp@oaklandca.gov)  
Signature Date: 2021-10-18 - 3:59:39 PM GMT - Time Source: server- IP address: 209.232.103.90
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