

# Z O N I N G A D J U S T M E N T S B O A R D M E M O R A N D U M

FEBRUARY 9, 2023

## Update – Return to In-Person Meetings for the Zoning Adjustments Board

Please see the attached memorandum from the City Clerk's Office regarding the return to in-person boards and commissions meetings, effective March 1, 2023. The memorandum states that the City does not have the technical capabilities for commissions to meet in hybrid format; however, the Zoning Adjustments Board (ZAB), is able to hold hybrid-format meetings since the in-person meetings will be held at the Berkeley Unified School District Board Room. This will allow for teleconferencing via Zoom for the public, applicants, and project staff. Members of ZAB, and ZAB secretaries and clerks will attend all meetings in person.

Board members and commissioners are not permitted to teleconference unless a reasonable accommodation request under the American with Disabilities Act (ADA) is provided. This is noted in the [Commissioner's Manual 2019 Edition](#), Basic Rules and Procedures of Commission Meetings (page 64):

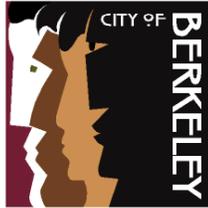
Teleconferencing by commissioners is not permitted for requests based on travel, vacation, work conflict or any other unforeseen situation. Teleconferencing by commissioners is only permitted when provided as a reasonable accommodation under the American with Disabilities Act (ADA) as determined by the Commission Secretary and Disability Services Program personnel. Teleconferencing is approved on a case-by-case basis and is dependent upon accommodation resources available at the meeting location. Pursuant to the Brown Act, the address from which the commissioner is teleconferencing must be included on the relevant meeting agenda and the meeting agenda must be posted at the teleconferencing location.

The first in-person meeting of the ZAB is scheduled for March 9, 2023, and will begin at 7:00 pm. ZAB members are encouraged to arrive ahead of the start time to get familiar with the space and technology.

**Attachment:**

1. Update – Return to In-Person Meetings City Clerk Memorandum, dated January 23, 2023

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City Clerk Department

January 19, 2023

To: Members of Berkeley Boards & Commissioners  
From: Mark Numainville, City Clerk  
Subject: Update – Return to In-Person Meetings

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This memo provides an update on the return to in-person meetings for City boards and commissions.

The Governor stated that the Declaration of Emergency by the State of California for COVID-19 will end on February 28, 2023. The end of the Declaration of Emergency means that the exemptions to the Brown Act that allowed for virtual-only meetings of legislative bodies will also end. Starting on March 1, 2023, all legislative bodies in the State of California must meet in-person. There is no authority for any local jurisdiction to override or appeal this requirement in state law.

The responses from commissioners in the November 2022 survey regarding in-person meetings have been very helpful in determining the primary concerns of commissioners and what the City may be able to do to accommodate them. There was a range of responses and the City will not be able to accommodate every preference.

At this time, the City does not have the technical capabilities for commissions to meet in a hybrid format. All participation will be in-person at a physical meeting location. Information was provided to all commission secretaries regarding meeting locations that have large rooms in order to facilitate distancing and air flow. Larger meeting spaces was one of the top requests in the commissioner survey. Some commissions will have a new meeting location from where they met pre-pandemic. In addition, the North Berkeley Senior Center is serving as a warming center for unhoused persons through April and is not available for commission meetings until May.

More information will be provided at a later date regarding the recommended health and safety protocols for in-person commission meetings. These protocols will take into

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account the responses of the survey, the recommendations of the Public Health Officer, and the protocols that have been used for recent in-person meetings of the City Council.

Ad-hoc subcommittees of City commissions are not considered legislative bodies under the Brown Act. Subcommittees do not have noticing requirements and may continue to meet virtually.

We understand that this is a significant change from the temporary virtual meeting format and procedures for commissioners, many of which may have joined commissions during the pandemic. The City will support your commission and your secretary in any manner possible within the constraints of state law and available resources.

cc: Department Directors  
Commission Secretaries