



Contra Costa County Airport Land Use Commission

AGENDA

When: Thursday, September 15, 2022 - 7:00 P.M.

Where: Zoom Webinar

Please click the link below to join the webinar:

<https://cccouny-us.zoom.us/j/86551931678>

Or Telephone:

(888) 278-0254 US; Conference code: 198675# #; Meeting ID: 865 5193 1678

-
1. Call to Order
 2. Public Comment - Provides an opportunity for any member of the public to speak on any item under the purview of the ALUC that is **not** on the agenda.
 3. Consent
(Items are subject to removal from Consent Calendar by request of any Commissioner or on request for discussion by a member of the public. Items removed from the Consent Calendar will be considered with the discussion items under "Public Hearing.")
 - a. **ADOPT** Resolution No. 2022-10 authorizing the Contra Costa Airport Land Use Commission to conduct teleconference meetings under Government Code section 54953(e) and make related findings (Assembly Bill 361-Open meetings: state and local agencies: teleconferences). (Jamar Stamps, ALUC staff) ***Page 2**
 4. Past and Pending Projects Report. ***Page 6**

Public Hearing

5. Public Hearing, Action, and Discussion Item(s):
 - a. **CONSIDER** authorizing the Contra Costa Airport Land Use Commission to conduct teleconference meetings under the direction of the Contra Costa County Board of Supervisors, which authorized its advisory bodies to meet virtually, at their option, without needing to adopt a separate resolution, and **DIRECT** ALUC staff to implement the new teleconferencing rules or maintain the existing rules going forward. (Jamar Stamps, ALUC staff) ***Page 9**
6. Staff Updates
7. Commissioner Updates
 - a. Case Study: Fatal Plane Crash, Idaho (Commissioner Gunderson)
8. Adjournment

* - Attachment

ALUC staff Contact: Jamar Stamps, AICP, Principal Planner :: (925) 655-2917 :: jamar.stamps@dcd.cccounty.us

Item 3.a.

CONTRA COSTA AIRPORT LAND USE COMMISSION
RESOLUTION NO. 2022-10

A RESOLUTION OF THE CONTRA COSTA AIRPORT LAND USE COMMISSION
AUTHORIZING TELECONFERENCE MEETINGS UNDER ASSEMBLY BILL 361

Recitals

- A. On March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Gov. Code § 8550 et seq.
- B. On March 10, 2020, the Board of Supervisors found that due to the introduction of COVID-19 in the County, conditions of disaster or extreme peril to the safety of persons and property had arisen, commencing on March 3, 2020. Based on these conditions, pursuant to Government Code section 8630, the Board adopted Resolution No. 2020/92, proclaiming the existence of a local emergency throughout the County.
- C. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the Brown Act), provided certain requirements were met and followed.
- D. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which clarified the suspension of the teleconferencing rules set forth in the Brown Act and further provided that those provisions would remain suspended through September 30, 2021.
- E. On September 16, 2021, Governor Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislative body subject to the Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing.
- F. On September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings that include recommended measures to promote social distancing.
- G. Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are strongly recommended as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of an/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed, and it is recommended that the protocol require social distancing – i.e., six feet of

separation between attendees – and face masking of all attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.

- H. The California Department of Public Health (CDPH) and the federal Centers for Disease Control and Prevention (“CDC”) caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations.
- I. The emergence of the Delta variant has led to a severe rise of COVID-19 infections, hospitalizations, and deaths in Contra Costa County in the past two months. The Delta variant became the predominant strain among samples sequenced in Contra Costa County and California in early July 2021, and currently represents over 95% of samples sequenced both at the Contra Costa County Public Health lab and per reports of statewide sequencing.
- J. As of October 1, 2021, the seven-day rolling average of new cases in the County was 127 cases per day, a case rate that is in the “substantial” community transmission tier, the most serious of the CDC’s community transmission tiers.
- K. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the ALUC intends to invoke the provisions of Assembly Bill 361 related to teleconferencing.

NOW, THEREFORE, the CONTRA COSTA AIRPORT LAND USE COMMISSION resolves as follows:

1. The ALUC finds that the Contra Costa County Health Officer has strongly recommended that public meetings be held by teleconferencing as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19.
2. The ALUC finds that meeting in person for meetings of the ALUC would present imminent risks to the health or safety of attendees because the case rate of COVID-19 infections in the County is in the “substantial” community transmission tier, the most serious of the CDC’s community transmission tiers.
3. As authorized by Assembly Bill 361, the ALUC will use teleconferencing for its meetings in accordance with the provisions of Government Code section 54953(e).
4. Staff is authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act.

5. Staff is directed to return no later than 30 days after this resolution is adopted with an item for the ALUC to consider whether to continue meeting under the provisions of Assembly Bill 361.

PASSED AND ADOPTED on September 15, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Geoff Logan, Chair
Contra Costa ALUC

ATTEST:

Jamar Stamps, ALUC Administrative Staff

Item 4

**Contra Costa ALUC
Past/Pending Project Review Log**

Project Initiation	File#/Name Location (Lead Agency)	Project Description	ALUC Approval (Staff or Commission)
May 2022	LP22-2017 APN: 001-041-064 (Contra Costa County/ Unincorporated Byron)	Proposed second residence on an 85-acre site.	Staff: 5/17/22
	LP22-2013 APN: 001-061-007 (Contra Costa County/ Unincorporated Byron)	Proposed industrial hemp farm on an existing 300-acre site (18-acres within Contra Costa County and 282-acres within Alameda County).	Commission: 6/16/22 <i>(ALUC Determination Letter sent 6/17/22)</i>
April 2022	DP22-3012 APN: 002-200-021, -014 (Contra Costa County/ Unincorporated Byron)	Byron Hot Springs Hotel. Improvements include only structural restoration of the existing hotel building to prevent further deterioration (i.e., no building footprint expansion) and filling two manmade ponds (Pond 1: 53,424 cubic yards of fill and Pond 2: 50,099 cubic yards) from the previous golf course. Once improvements are completed the hotel will not be in operation or open to the public.	Staff: 4/20/22
December 2021	PR21-2011 APN: 002-210-020 (Contra Costa County/ Unincorporated Byron)	Preapplication review for the proposed expansion of an existing wood, green waste, concrete, and asphalt recycling facility ("Organics Recycling Facility") to include a food, green waste, and mulching operation on approximately 20-acre site	Staff: 1/4/22 <i>(Note: Preapplication comments only)</i>
October 2021	LP21-2042 APN: 001-041-057, -058 (Contra Costa County/ Unincorporated Byron)	Proposed commercial (not open to the public) green material composting facility on approximately 30 acres of a 50-acre site.	<i>In process (ALUC hearing 12/16/21, letter sent to County staff)</i>
August 2021	AC21-0004 APN: 126-325-004 (City of Concord)	Future Chrysler Dodge Jeep Ram of Concord. Future Chrysler Dodge Jeep Ram of Concord is planning to move their current new auto dealerships and related service operations from 4901 Marsh Road to 2121 Diamond Blvd. (former auto dealership). To accommodate their new location, they will be remodeling the existing building currently occupied by ServiceMaster.	Staff: 8/23/21
June 2021	AC21-0003 APN: 159-140-042 (Contra Costa County/ Unincorporated Martinez)	Contra Costa Central Sanitary District ("Central San") proposes construction and operation of a 1.75-megawatt solar facility on approx. 8.2 acres of a 48-acre parcel (APN 150-140-042), which is owned by Central San.	Commission: 8/19/21

ALUC = Airport Land Use Commission

ALUCP or Plan = Contra Costa Airport Land Use Compatibility Plan

Updated 9/8/22

**Contra Costa ALUC
Past/Pending Project Review Log**

Project Initiation	File#/Name Location (Lead Agency)	Project Description	ALUC Approval (Staff or Commission)
May 2021	LP21-2016 APN: 125-046-009 (Contra Costa County/ Unincorporated Pacheco)	Proposed 65' digital display sign (billboard), replacing existing 45' static billboard.	<i>In process (awaiting applicant response to request for additional information)</i>
April 2021	LP21-2011 APN: 002-190-002 (Contra Costa County/ Unincorporated Byron)	1,500 ton per day construction and demolition debris recycling operation with products sold on and off-site (no proposed storage of hazardous materials).	Staff: 5/11/21
March 2021	AC21-0002 APN: 126-010-033 (City of Concord)	Proposed 4,460 square foot building addition to an existing automobile dealership (Concord Nissan) on a 3.06-acre site.	Commission: 4/15/21
	AC21-0001 APN: 126-030-037 (City of Concord)	Proposed 12,670 square foot building expansion rooftop solar and commercial solar carport installations (totaling approximately 29,586 square feet) at the existing BMW Concord Dealership on a 5.25-acre site.	Commission: 4/15/21
November 2020	LP20-2028, LP20-2029 APN: 002-210-019, 002-210-025 (Contra Costa County/ Unincorporated Byron)	Proposed commercial photovoltaic ("PV") solar facilities on two sites (6.5-acre PV facility on a 10-acre parcel and 35-acre PV facility on a 126.48-acre parcel).	Commission: 12/17/20
August 2020	AC20-0003 APN: 153-030-004 (City of Pleasant Hill)	Proposed General Plan Amendment (from Semi-Public and Institutional to Multi-Family Residential), rezoning (from R-7 Single Family Residential – High Density to Specific Plan/Planned Unit Development), a Minor Subdivision, Development Plan and Use Permit for the construction of a proposed 4-story, 82-unit senior housing facility with associated day-health care and administrative facilities, and a 90-children preschool on an approximately 4-acre site.	Staff: 9/1/20
May 2020	AC20-0002 APN: 126-323-007 (City of Concord)	Proposed General Plan Amendment from Regional Commercial to Commercial Mixed Use, Rezoning from Regional Commercial to Commercial Mixed-Use zoning district, and a Use Permit for the construction of an 86-room, 4-story, 48,100 sq. ft. hotel on an approximately 1.24-acre site.	Staff: 5/19/20

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Updated 9/8/22

Item 5.a.



Department of Conservation and Development

Airport Land Use Commission

Thursday, September 15, 2022 – 7:00 P.M.

STAFF REPORT

Agenda Item # 5.a

Project Title:	Assembly Bill ("AB") 361 – Teleconference Meetings
ALUC File #:	n/a
Lead Agency:	Contra Costa Airport Land Use Commission ("ALUC")
Applicant/Owner:	n/a
Site Address/Location:	n/a
Staff Recommendation(s):	CONSIDER authorizing the Contra Costa Airport Land Use Commission to conduct teleconference meetings under the direction of the Contra Costa County Board of Supervisors, which authorized its advisory bodies to meet virtually, at their option, without needing to adopt a separate resolution, and DIRECT ALUC staff to implement the new teleconferencing rules or maintain the existing rules going forward.
List of Exhibits:	Exhibit A: Revised Board Direction on Conduct of Live Advisory Body Meetings. (6/22/22)
Staff Contact:	Jamar Stamps, AICP, ALUC staff, (925) 655-2917

I. BACKGROUND

When the COVID-19 pandemic began, Governor Newsom issued an executive order that allowed local agencies to meet remotely without complying with the strict teleconferencing requirements of the Brown Act. Executive Order N-29-20 suspended the Brown Act's nonemergency teleconferencing rules, including the requirements that each teleconference location must be physically accessible to the public and that the public must be given an opportunity to comment at each teleconference location. Since March 2020, the ALUC has been meeting virtually, as authorized by Executive Order N-29-20 and subsequent orders. This authority expired September 30, 2021.

Assembly Bill 361 amended the teleconferencing provisions of the Brown Act, Government Code section 54953. Effective October 1, 2021, subsection (e) of Government Code section 54953 authorizes a local agency to use special teleconferencing rules when the legislative body of the local agency holds a meeting during a state of emergency declared by the state, and either (a) state or local officials have imposed or recommended measures to promote social distancing, or (b) the legislative body is meeting to determine, or has determined, that meeting in person would present imminent risks to the health or safety of meeting attendees.

The following rules apply to teleconferencing meetings held under Government Code section 54953(e):

- The agency must provide notice of the meeting and post an agenda as required by the Brown Act, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The legislative body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the call-in or internet-based meeting service, the legislative body must stop and take no further action on agenda items until public access is restored.
- The agency may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The legislative body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the legislative body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.

- The legislative body must reconsider the circumstances of the state of emergency and the findings in support of emergency teleconference meetings every 30 days or every time it meets.
- AB 361 sunsets on January 1, 2024.

II. UPDATE

Previously, adoption of a resolution authorizing teleconferencing under Government Code section 54953€ was required every 30 days to authorize the ALUC to hold teleconference meetings consistent with the above rules. However, the Contra Costa County Board of Supervisors (“Board”) has revised its directions regarding “live public” meetings of advisory bodies. As of June 22, 2022, the Board has directed that to limit the spread of COVID-19, the rules provided in Exhibit A would now apply. This would ultimately eliminate the need for adopting a separate authorizing resolution every 30 days.

Since the Contra Costa ALUC is independently governed by California Public Utilities Code Section 21001 (State Aeronautics Act), the ALUC would need to take formal action to implement the new teleconferencing rules. There are no provisions of the Act that would preclude the ALUC from doing so.

Exhibit A

Office of the County Counsel

1025 Escobar Street, 3rd Floor
Martinez, CA 94553

Contra Costa County

Telephone: 925.655.2200
Facsimile: 925.655.2263

Date: June 22, 2022

To: Department Heads
Fire Chiefs

From: Mary Ann McNett Mason, County Counsel

Subj: Revised Board Direction on Conduct of Live Advisory Body Meetings

On June 21, the Board of Supervisors again made findings supporting the need for the continuance of virtual meetings to prevent the spread of the COVID-19 virus and authorized its advisory bodies to meet virtually for the next thirty days, at their option. An advisory body may assess its circumstances and the needs of the community it serves and determine whether to meet virtually or live, subject to certain parameters.

The Board has revised its directions regarding “live” meetings of advisory bodies. The Board has directed that to limit the spread of COVID-19, the following rules apply to “live” meetings of *countywide* advisory bodies¹:

- A body that meets live must conduct the meeting in a hybrid format that provides the body’s members and staff the option to participate remotely in any meeting;
- The meeting format must permit members of the public to access the meeting both remotely and in-person.
- The meeting format must permit members of the public to comment in person and either via a virtual platform like Zoom or by calling in on a line that can be heard by all attending or observing the meeting.
- All votes must be by roll call.
- If the body loses the ability to broadcast its meeting remotely, or if the public loses the ability to comment remotely for a reason in the body’s control, the meeting must be stopped until access can be restored.
- A body that cannot meet the above requirements may not hold live meetings.

The following language must be included on the countywide body’s meeting agenda to permit the remote participation of members, staff, and the public:

“As permitted by Government Code section 54953 (e), and in accordance with the

¹ Countywide advisory bodies are those whose jurisdiction extends into all Supervisorial districts, such as the Library Commission, Measure X Community Advisory Board, Fire Advisory Board, and Mental Health Commission. They are distinguished from smaller advisory bodies that have jurisdiction over only a limited portion of the County’s geographic territory.

Public Health Officer's recommendations for virtual meetings and social distancing, *(insert- Board, Commission, Committee)* members may participate in the meeting remotely. The meeting will be accessible in-person and via *(specify- method of remote participation and how to access)* to all members of the public. Persons who wish to provide public comment may *(specify method for remote comment and how to access.)*"

These rules will remain in place for countywide advisory bodies until further notice, and the majority of advisory bodies will be subject to these rules. Although smaller advisory bodies with limited jurisdiction such as cemetery district boards and County service area citizen advisory committees are not required to follow these rules, the Board of Supervisors strongly encourages them to do so.

Please share this memorandum with those members of your staff supporting advisory bodies. Staff to the Planning Commission, Merit Board, and Assessment Appeals Board and staff to advisory bodies with limited jurisdictions should encourage those bodies to conduct their meetings consistent with the above-stated rules.

Should your staff have questions about the technology and process needed to conduct a hybrid meeting that permits both remote and live participation, please contact the Clerk of the Board at Jami.Morritt@cob.cccounty.us or at 925-655-2005.

MAM:am

cc: Members, Board of Supervisors
Chiefs of Staff