



2075 Woodside Road | Redwood City, CA 94061  
(650) 260-0005 | [peninsulacleanenergy.com](http://peninsulacleanenergy.com)

## SPECIAL Meeting of the Audit and Finance Committee of the Peninsula Clean Energy Authority (PCEA)

### AGENDA

Thursday, November 18, 2021

6:25 p.m.

Zoom Link: <https://pencleanenergy.zoom.us/j/82172572134>

Meeting ID: 821-7257-2134 Passcode: 2075 Phone: +1(253)215-8782

**NOTE: Please see attached document for additional detailed teleconference instructions.**

*In accordance with AB 361, the Committee will adopt findings that meeting in person would present imminent risks to the health or safety of attendees of in-person meetings. Consistent with those findings, this Committee Meeting will be held remotely. PCEA shall make every effort to ensure that its video conferenced meetings are accessible to people with disabilities as required by Governor Newsom's March 17, 2020 Executive Order N-29-20. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials should contact Nelly Wogberg, Board Clerk, at least 2 working days before the meeting at [nwogberg@peninsulacleanenergy.com](mailto:nwogberg@peninsulacleanenergy.com). Notification in advance of the meeting will enable PCEA to make best efforts to reasonably accommodate accessibility to this meeting and the materials related to it.*

*If you wish to speak to the Audit and Finance Committee, please use the "Raise Your Hand" function in the Zoom platform or press \*6 if you phoned into the meeting. If you have anything that you wish to be distributed to the Audit and Finance Committee and included in the official record, please send to [nwogberg@peninsulacleanenergy.com](mailto:nwogberg@peninsulacleanenergy.com).*

### CALL TO ORDER / ROLL CALL

### PUBLIC COMMENT

*This item is reserved for persons wishing to address the Committee on any PCEA-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. Members of the public who wish to address the Committee are customarily limited to two minutes per speaker. The Committee Chair may increase or decrease the time allotted to each speaker.*

### ACTION TO SET AGENDA AND TO APPROVE CONSENT AGENDA ITEMS

1. Adopt Findings Pursuant to AB 361 to Continue Fully Teleconferenced Board Meetings Due to Health Risks Posed by In-Person Meetings

### ADJOURNMENT

Public records that relate to any item on the open session agenda are available for public inspection. The records are available at the Peninsula Clean Energy offices or on PCEA's Website at: <https://www.peninsulacleanenergy.com>.

## Instructions for Joining a Zoom Meeting via Computer or Phone

### Best Practices:

- Please mute your microphone when you are not speaking to minimize audio feedback
- If possible, utilize headphones or ear buds to minimize audio feedback
- If participating via videoconference, audio quality is often better if you use the dial-in option (Option 2 below) rather than your computer audio

### Options for Joining

- A. Videoconference with Computer Audio – see Option 1 below
- B. Videoconference with Phone Call Audio– see Option 2 below
- C. Calling in via Telephone/Landline – see Option 3 below

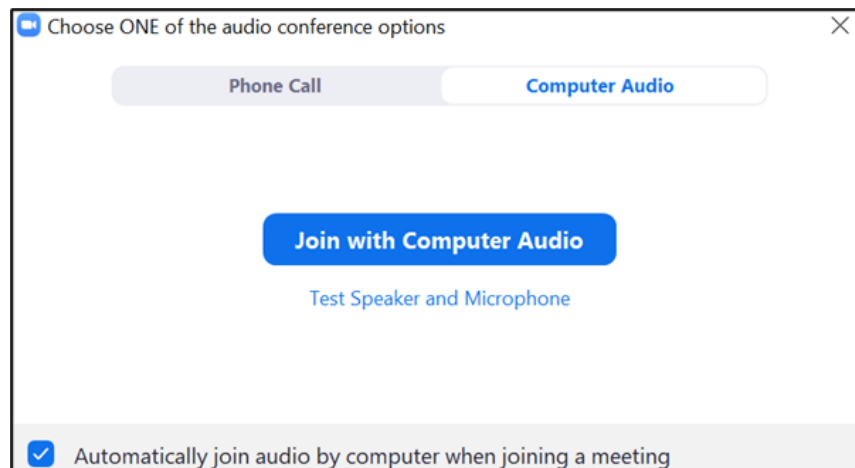
### Videoconference Options:

Prior to the meeting, we recommend that you install the Zoom Meetings application on your computer by clicking here <https://zoom.us/download>.

If you want full capabilities for videoconferencing (audio, video, screensharing) you must download the Zoom application.

### Option 1 Videoconference with Computer Audio:

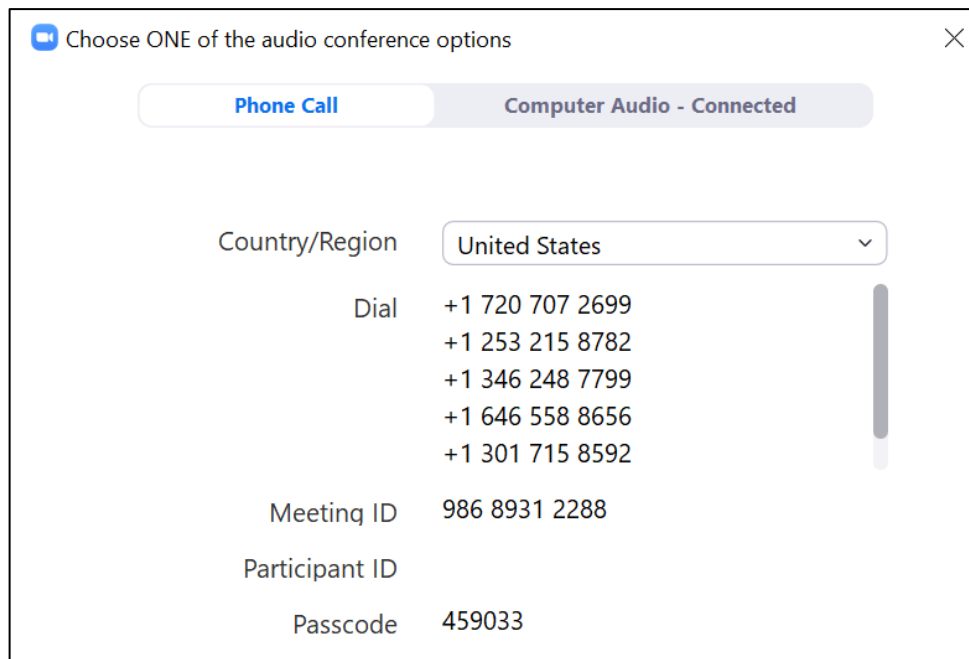
1. From your computer, click on the following link that is also included in the Meeting Calendar Invitation : <https://pencleanenergy.zoom.us/j/98689312288>
2. The Zoom application will open on its own or you will be instructed to open Zoom.
3. After the application opens, the pop-up screen below will appear asking you to choose ONE of the audio conference options. Click on the Computer Audio option at the top of the pop-up screen.



4. Click the blue, "Join with Computer Audio" button.
5. In order to enable video, click on "Start Video" in the bottom left hand corner of the screen. This menu bar is also where you can mute/unmute your audio.

### **Option 2 Videoconference with Phone Call Audio:**

1. From your computer, click on the following link that is also included in the Meeting Calendar Invitation: <https://pencleanenergy.zoom.us/j/98689312288>
2. The Zoom Application will open on its own or you will be instructed to Open Zoom.
3. After the application opens, the pop-up screen below will appear asking you to choose ONE of the audio conference options. Click on the Phone Call option at the top of the pop-up screen.



4. Please dial +1 (669) 900-9128
5. You will be instructed to enter the meeting ID: **986-8931-2288 followed by #**
6. You will be instructed to enter in your participant ID. Your participant ID is unique to you and is what connects your phone number to your Zoom account.
7. After a few seconds, your phone audio should be connected to the Zoom application on your computer.
8. In order to enable video, click on "Start Video" in the bottom left-hand corner of the screen. This menu bar is also where you can mute/unmute your audio.

### **Audio Only Options:**

**Please note that if you call in/use the audio only option, you will not be able to see the speakers or any presentation materials in real time.**

### **Option 3: Calling in via Telephone/Landline:**

1. Dial +1 (669) 900-9128.
2. You will be instructed to enter the meeting ID: **986-9831-2288 followed by #**.
3. You will be instructed to enter your **Participant ID** followed by #. If you do not have a participant ID or do not know it, you can press # to stay on the line.
4. You will be instructed to enter the meeting passcode **459033 followed by #**.

**PENINSULA CLEAN ENERGY AUTHORITY  
JPA Board Correspondence**

**DATE:** November 9, 2021  
**COMMITTEE MEETING DATE:** November 18, 2021  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** Majority Present

**TO:** Honorable Peninsula Clean Energy Authority Audit & Finance  
Committee

**FROM:** Jan Pepper, Chief Executive Officer, Peninsula Clean Energy Authority

**SUBJECT:** Resolution to Make Findings Allowing Continued Remote Meetings  
Under Brown Act

**RECOMMENDATION:**

Adopt a resolution finding that, as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees.

**BACKGROUND:**

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021 for public agencies to transition back to public meetings held in full compliance with the Brown Act. The original Executive Order provided that all provisions of the Brown Act that required the physical presence of members or other personnel as a condition of participation or as a quorum for a public meeting were waived for public health reasons. If these waivers fully sunset on October 1, 2021, legislative bodies subject to the Brown Act would have to contend with a sudden return to full compliance with in-person meeting requirements as they existed prior to March 2020, including the requirement for full physical public access to all teleconference locations from which committee members were participating.

On September 16, 2021, the Governor signed AB 361, a bill that formalizes and modifies the teleconference procedures implemented by California public agencies in response to the Governor's Executive Orders addressing Brown Act compliance during shelter-in-place periods. AB 361 allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders when certain circumstances occur or when certain findings have been made and adopted by the local agency.

AB 361 also requires that, if the state of emergency remains active for more than 30 days, the agency must make findings by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules. The findings are to the

effect that the need for teleconferencing persists due to the nature of the ongoing public health emergency and the social distancing recommendations of local public health officials. **Effectively, this means that agencies, including PCEA, must agendaize a Brown Act meeting once every thirty days to make findings regarding the circumstances of the emergency and to vote to continue relying upon the law's provision for teleconference procedures in lieu of in-person meetings.**

AB 361 provides that Brown Act legislative bodies must return to in-person meetings on October 1, 2021, unless they choose to continue with fully teleconferenced meetings because a specific declaration of a state or local health emergency is appropriately made. AB 361 allows for meetings to be conducted virtually *as long as* there is a gubernatorially-proclaimed public emergency in combination with (1) local health official recommendations for social distancing or (2) adopted findings that meeting in person would present risks to health. AB 361 is effective immediately as urgency legislation and will sunset on January 1, 2024.

On September 25, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with AB 361. Out of an abundance of caution given AB 361's narrative that describes each legislative body's responsibility to reauthorize remote meetings, staff and counsel brings this memo and corresponding resolution to the attention of the Audit and Finance Committee.

On September 29, 2021, the Peninsula Clean Energy Audit & Finance Committee approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On October 12, 2021, the Peninsula Clean Energy Audit & Finance Committee approved a thirty (30) day extension of remote meetings in accordance with AB 361.

On November 8, 2021, the Peninsula Clean Energy Audit & Finance Committee approved a thirty (30) day extension of remote meetings in accordance with AB 361.

**DISCUSSION:**

Because local rates of transmission of COVID-19 are still in the "substantial" tier as measured by the Centers for Disease Control, it is recommended that the Peninsula Clean Energy Audit and Finance Committee avail itself of the provisions of AB 361 allowing continuation of online meetings by adopting findings to the effect that conducting in-person meetings would present an imminent risk to the health and safety of attendees. A resolution to that effect, and directing staff to return each 30 days with the opportunity to renew such findings, is attached hereto.

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

**PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO,**

**STATE OF CALIFORNIA**

\* \* \* \* \*

**RESOLUTION FINDING THAT, AS A RESULT OF THE CONTINUING COVID-19 PANDEMIC STATE OF EMERGENCY DECLARED BY GOVERNOR NEWSOM, MEETING IN PERSON FOR MEETINGS OF THE PENINSULA CLEAN ENERGY AUDIT AND FINANCE COMMITTEE WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES**

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**WHEREAS**, on March 4, 2020, the Governor proclaimed pursuant to his authority under the California Emergency Services Act, California Government Code section 8625, that a state of emergency exists with regard to a novel coronavirus (a disease now known as COVID-19); and

**WHEREAS**, on June 4, 2021, the Governor clarified that the “reopening” of California on June 15, 2021 did not include any change to the proclaimed state of emergency or the powers exercised thereunder, and as of the date of this Resolution, neither the Governor nor the Legislature have exercised their respective powers pursuant to California Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent resolution in the state Legislature; and

**WHEREAS**, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that 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; and

**WHEREAS**, on September 16, 2021, Governor Newsom signed AB 361 that provides that a legislative body subject to the Brown Act may continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and,

**WHEREAS**, 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 that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations (<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>); and,

**WHEREAS**, the CDC has established a “Community Transmission” metric with 4 tiers designed to reflect a community’s COVID-19 case rate and percent positivity; and,

**WHEREAS**, the County of San Mateo currently has a Community Transmission metric of “substantial” which is the second most serious of the tiers, and;

**WHEREAS**, the Committee has an important governmental interest in protecting the health, safety and welfare of those who participate in its meetings;

**WHEREAS**, on September 25, 2021, the Peninsula Clean Energy Board of Directors approved a thirty (30) day extension of remote meetings in accordance with

AB 361. Out of an abundance of caution given AB 361's narrative that describes each legislative body's responsibility to reauthorize remote meetings, staff and counsel bring this resolution to the attention of the Audit and Finance Committee, and;

**WHEREAS**, on September 29, 2021, the Peninsula Clean Energy Audit and Finance Committee approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

**WHEREAS**, on October 12, 2021, the Peninsula Clean Energy Audit and Finance Committee approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

**WHEREAS**, on November 8, 2021, the Peninsula Clean Energy Audit and Finance Committee approved a thirty (30) day extension of remote meetings in accordance with AB 361, and;

**WHEREAS**, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Committee deems it necessary to find that meeting in person would present imminent risks to the health or safety of attendees, and thus intends to invoke the provisions of AB 361 related to teleconferencing.

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that

1. The recitals set forth above are true and correct.
2. The Committee finds that meeting in person would present imminent risks to the health or safety of attendees.



3. Staff is directed to return no later than thirty (30) days after the adoption of this resolution with an item for the Committee to consider making the findings required by AB 361 in order to continue meeting under its provisions.
4. Staff is directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.

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