



## CITY ATTORNEY'S OFFICE

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### CITY COUNCIL STAFF REPORT

Date: July 7, 2026

#### Subject

Consider approval of response to the 2026 Civil Grand Jury of Santa Clara County Report entitled "Convenience vs. Compliance: Brown Act risks in Cupertino's meeting practices"

#### Recommended Action

Approve the response to the 2026 Civil Grand Jury of Santa Clara County entitled "Convenience vs. Compliance: Brown Act risks in Cupertino's meeting practices"

#### Background

On May 4, 2026, the 2026 Civil Grand Jury of Santa Clara County released a report on various aspects of the use of remote meeting participation in the City of Cupertino (Attachment A). The topics discussed in the May 4, 2026 Grand Jury Report includes the following findings and recommendations:

#### **Finding 1**

Cupertino's practice of ending a meeting if a teleconference participant disconnects disrupts meetings, creates needless delays, and prioritizes the convenience of council members over the public's right to access.

#### **Recommendation 1a**

Cupertino should continue its meetings when a teleconferencing member leaves the meeting, and a quorum remains in its jurisdiction. Cupertino should adopt and incorporate this into the City Council Procedures Manual. This recommendation should be implemented by December 15, 2026.

#### **Recommendation 1b**

Because teleconferencing is optional and Cupertino interprets the requirements in a manner that promotes council members' self-interest, Cupertino should determine whether the optional use of teleconferencing under these circumstances is consistent with its responsibilities to its constituents. This recommendation should be implemented by December 15, 2026.

### **Recommendation 1c**

Whenever teleconferencing is utilized, Cupertino should ensure that access at the teleconference location is maintained for the duration of the meeting, regardless of the council members' attendance. Cupertino should adopt and incorporate this into the City Council Procedures Manual. This recommendation should be implemented by December 15, 2026.

### **Finding 2**

Cupertino's process for ensuring that all policies, staff, and council members comply with the requirements for teleconferencing does not promote accountability with the Brown Act.

### **Recommendation 2**

Cupertino should adopt formal, written teleconferencing procedures and verification processes to ensure compliance with all Brown Act requirements, including:

- Standard agenda language identifying precise teleconference location and its accessibility to the public;
- On-the-record confirmation of compliance at the start of all meetings subject to the Brown Act;
- Documented verification confirming that teleconference locations meet public access and that the agenda was posted in a timely and appropriate manner.

This recommendation should be implemented by December 15, 2026.

### **Finding 3**

Cupertino's practice of permitting teleconferencing from locations that are not meaningfully accessible to the public, including private or restricted spaces, is inconsistent with the purpose and intent of the Brown Act.

### **Recommendation 3**

Cupertino should provide written guidance to council members and any relevant staff about appropriate teleconferencing locations that are genuinely and meaningfully accessible to the public for the duration of the meeting. The guidance should also list prohibited locations such as private or restricted spaces, including private hotel rooms, airport lounges beyond security checkpoints, vehicles, or other locations requiring special access. This recommendation should be implemented by December 15, 2026.

### **Finding 4**

Cupertino's practice of automatically terminating city council meetings when a teleconferencing council member disconnects fundamentally prioritizes the convenience of the councilmember above the public and a mechanism to weaponize the practice for strategic gain, as was the case on December 2, 2025.

### **Recommendation 4**

Cupertino should amend its City Council Procedures Manual to clarify that:

- Quorum requirements are governed by applicable law and are independent of teleconferencing participation;
- Teleconferencing is a discretionary accommodation subject to conditions that protect public rights.

This recommendation should be implemented by December 15, 2026.

Pursuant to California Penal Code section 933(c), the City must respond to the Grand Jury Report's findings and recommendations by December 15, 2026. A draft response for the City Council's consideration is included as Attachment B. The proposed responses focus on the findings and recommendations made by the Grand Jury and do not evaluate the accuracy of other factual conclusions in the Grand Jury Report. Staff seeks Council input on the draft response and to the implementation of the Grand Jury's recommendations.

Once a response is approved by the City Council, the Interim City Attorney will forward the respond to the Presiding Judge of the Santa Clara County Superior Court.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

City Work Program (CWP) Item/Description

None.

Council Goal:

Public Engagement and Transparency

California Environmental Quality Act

Not applicable.

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Approved for Submission by: Tina Kapoor, City Manager

Attachments:

A - Civil Grand Jury of Santa Clara County Report

B - Draft Response to Civil Grand Jury of Santa Clara County