



CITY MANAGER'S OFFICE

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CITY COUNCIL STAFF REPORT

Meeting: December 6, 2022

Subject

Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period December 6, 2022 through January 5, 2023 pursuant to the Brown Act, as amended by AB 361

Recommended Action

Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the December 6, 2022 through January 5, 2023 pursuant to the Brown Act, as amended by AB 361

Background

On March 2, 2020, Governor Newsom declared a state of emergency due to the public health threat posed by COVID-19. On March 4, 2020, Governor Newsom issued Executive Order No-29-20, which suspended certain elements of the Brown Act and specifically allowed legislative bodies to hold meetings entirely electronically with no physical meeting. In accordance with the Executive Order, the City held its first teleconference meeting on March 24, 2020, to help stop the spread of COVID-19. On June 11, 2021, Governor Newsom issued Executive Order No-08-21, which stated that the provisions in Executive Order No-29-20, suspending certain elements of the Brown Act, would continue to apply through September 30, 2021. On October 17, 2022, Governor Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023.

On September 15, 2021, Governor Newsom signed AB 361 into law, which allows state and local agencies to continue using teleconferencing during certain state-declared emergencies under modified Brown Act requirements. AB 361 became effective immediately after signing due to its emergency clause and is set to sunset on January 1, 2024. Under AB 361, teleconference meetings may be held during a state of emergency if (1) state or local officials have imposed or recommended measures to promote social distancing, or (2) a legislative body determines by a majority vote that meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code, § 54953(e)(1).)

To continue teleconference meetings beyond a 30-day period, AB 361 requires the Council to make a determination that either (i) "[t]he state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) "State or local officials continue to impose or recommend measures to promote social distancing." (Gov. Code, § 54953(e)(3)(B).) That determination must be reviewed each 30 days thereafter to continue teleconference meetings. (*Ibid.*)

Discussion

AB 361 allows the City Council and other City legislative bodies to continue meeting exclusively via teleconference so long as a state emergency declaration remains in place and the statute's conditions for permitting remote meetings are met. To continue meeting remotely, the City Council must find that state or local officials have imposed or recommend measures to support social distancing, or that the state of emergency continues to directly impact the ability of the members to meet safely in person.

On November 15, 2022, Council adopted Resolution No. 22-133 affirming findings related to AB 361 and authorizing the City Manager and legislative bodies of the City of Cupertino to meet exclusively by teleconference in accordance with Government Code section 54953(e)(3) and other applicable provisions of the Brown Act through December 15, 2022 (Attachment B). Council may make either or both of the permitted findings to extend the time to allow teleconference meetings to continue. The Santa Clara County Health Officer continues to recommend that public bodies meet remotely to the extent possible, specifically including use of newly enacted AB 361 to maintain remote meetings under the Ralph M. Brown Act and similar laws (Attachment C). It is therefore recommended that Council adopt the Draft Resolution authorizing continued teleconference meetings for the City of Cupertino's legislative bodies in order to protect the health and safety of all attendees and participants, particularly those who are unvaccinated (Attachment A).

Sustainability Impact

Conducting meetings remotely has reduced paper consumption by providing electronic access to meeting materials instead of printed materials.

Fiscal Impact

No fiscal impact.

Prepared by: Kirsten Squarcia, City Clerk

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Resolution

B – Adopted Resolution No. 22-133

C – Health Officer Recommendation Regarding Public Governmental Meetings