



OFFICE OF THE CITY CLERK

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CITY COUNCIL STAFF REPORT

Meeting: February 4, 2020

Subject

Municipal Code Amendment to Cupertino Municipal Code Section 2.20.010 to remove the City Clerk's duty to attend each closed session of the City Council and keep closed session minutes; designate the City Manager as the City employee/official to attend each closed session of the City Council and keep closed session minutes.

Recommended Action

1. Conduct the first reading of Ordinance No. 20-____: "An Ordinance of the City Council of the City of Cupertino amending City Code Section 2.20.010 (Recordkeeping Duties-Closed Sessions) of Chapter 2.20 (City Clerk) to Title 2 (Administration and Personnel) to remove the City Clerk's duty to attend City Council closed sessions and keep minutes."
2. Adopt Resolution No. 20-____ "A Resolution of the Cupertino City Council designating the City Manager as the City employee/officer to attend City Council closed sessions and keep minutes."

Background

The Brown Act, contained in California Government Code Section 54950 et seq., authorizes a City Council to go into closed session to discuss certain sensitive matters, including personnel, salary negotiations, real property transactions, and litigation. Government Code Section 54957.2 authorizes a City Council to designate by ordinance or resolution an officer or employee to attend closed sessions and keep a minute book with a record of the topics discussed and decisions made in closed session. Under the Government Code, the minute book is confidential.

Cupertino Municipal Code Section 2.20.010 discusses recordkeeping duties for the City Clerk, including for closed sessions. It states that the City Clerk shall attend all closed sessions and keep and enter a minute book as a record of topics discussed and decisions made. It also states that with respect to any particular closed session, the Council may order that minutes be kept by another officer or employee of the City. In addition, it provides that any minutes taken by a person other than the City Clerk shall be retained in a minute book by the City Attorney.

Discussion

The City's practice has been to have the City Manager attend closed sessions of the City Council; the City Clerk has not attended for several years. From a staffing perspective, it is more efficient to have the City Manager be the designated city employee/official to attend closed sessions and

take minutes, as opposed to having the City Clerk also in attendance. Accordingly, staff is proposing actions to designate the City Manager as the individual to attend closed sessions and keep minutes. The draft ordinance amends the Municipal Code to remove the City Clerk's closed session duties, and the draft resolution designates the City Manager and retains the existing municipal code provisions that as to any particular closed session, the Council may order another city employee or officer to keep minutes. The resolution also provides that the closed session minute book shall be retained by the City Attorney. The minutes will include the subject discussed, roll call, any recusals, action taken, and a vote of the action taken. The Mayor would continue to report out any reportable actions in open session.

Sustainability Impact

None

Fiscal Impact

None

Prepared by: Heather Minner, City Attorney

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A – Draft Ordinance

B – Draft Resolution