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Los Altos, California 94022-3087

MEMORANDUM

DATE: November 12, 2024

TO: Los Altos City Council

FROM: City Attorney

SUBJECT: NEW CALIFORNIA ATTORNEY GENERAL OPINION REGARDING BROWN ACT AND REMOTE MEETINGS

The purpose of this memorandum is to address a recent California Attorney General (AG) Opinion regarding meetings of legislative bodies (Council and Commissions) and remote participation. The AG Opinion 23-1002 is attached.

In July 2024, California AG Opinion 23-1002 concluded that remote participation in Brown Act meetings is a “reasonable accommodation” under the Americans with Disabilities Act (ADA). This opinion overrules the prior AG Opinion that held attending Council meetings was an “essential function” of being a councilmember. Note that the new opinion applies to **members of legislative bodies** (Council and Commissions). There is no mention of members of the public. In addition, it only applies to members of the legislative body with a **“qualifying disability.”**

Holding:

The ADA generally requires a local agency’s legislative body to allow remote participation as a reasonable accommodation for a member with a qualifying disability that precludes their in-person attendance at meetings of the body.

The traditional Brown Act (posting the location and providing members of the public access) and AB 2449 (requiring “just cause” or “emergency” and limited to 20% of the meetings) still apply to the Council and Commissioners as set forth in the Brown Act and Norms. If the ADA remote appearance is requested by a member of a legislative body, then the AB 2449 remote appearance rules apply.

- Real-time connection: member of the legislative body must use two-way audio and video to connect in real time.
- Disclose others present: member of the legislative body Participants must identify any adults present with them and their relationship to the participant.

- No action on agenda items: If the member of the legislative body's connection is disrupted, no action can be taken on agenda items until the connection is restored.