



TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 08/23/2022

ITEM NO: 2

DATE: August 15, 2022
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discussion and Direction for Potential Modifications to the Remote Participation Provisions Contained in Town Council Policy 2-01: Town Agenda Format and Rules

RECOMMENDATION:

Discussion and direction for potential modifications to the remote participation provisions contained in Town Council Policy 2-01: Town Agenda Format and Rules.

BACKGROUND:

In November 2021, the Town Council adopted modifications to Town Council Policy 2-01: Town Agenda Format and Rules to provide clarity for remote participation in light of the pandemic and the more common availability of Zoom and other conferencing software (see Attachment 1). These provisions reinforced the Town's longstanding preference for in-person participation by Council and Commission members while providing the public the option of participating remotely or in-person (see Attachment 1, page 5, section M. Attendance at Meetings).

The current provisions provide that:

1. Requests by Council Members to attend a regular Council meeting via remote appearance are allowed on a limited basis and with no more than two remote participations in a row. Remote attendance shall be permitted for a medical, family or work event requiring a Council Member's absence or in the event the Council Member is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town.
2. Requests by Commissioners to attend a Commission meeting via remote appearance should be allowed on a limited basis to mirror the existing attendance requirements and with no more than two remote participations in a row.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Town Clerk

BACKGROUND (continued):

3. When a Council Member or Commissioner is participating remotely, they shall have their camera on and be visible for the duration of the meeting.
4. The public may participate in all public meetings remotely by following the remote participation instructions that are provided on the agenda . The remote participation instructions shall be provided on all Town Council and Commission agendas.

DISCUSSION:

Currently, the Santa Clara County Health Officer recommends remote participation for government public meetings. Assembly Bill 361 allows towns/cities to hold remote meetings without posting agendas in physical locations or making remote meeting sites accessible to the public during a declared state of emergency. The Los Gatos Town Council has been adopting the required Resolutions to maintain its remote meetings given the State, County, and Town Emergency Declarations that remain in effect as well as other facts documented in the Resolutions.

It is expected that the Emergency Proclamations for the pandemic will be lifted at some point in the future and the guidance for government public meetings will be updated to facilitate in-person meetings. Council members have asked that the Policy Committee and Town Council take a fresh look at the remote participation provisions to prepare for this eventuality.

The following specific questions were raised:

- How do we navigate hybrid meetings in the future?
- Who must be in person?
- If a Council/Commission/Committee member or staff member is ill or even has “just a cold” can they participate remotely, or is it an absence?
- What constitutes a quorum if some members are remote and others in person?
- If a Council or Commission member is participating remotely while meeting is in-person, will remote participant have to allow the public access to the remote location?
(Currently, State law dictates the noticing and access requirements under the Brown Act and related legislation.)

AB 1944 (Lee) was introduced to protect the privacy of public officials when participating remotely. This bill is being held for a year by the author and did not move forward this legislative session. It is unsure what its future might be. If this or a similar bill does not move forward, then when the state of emergency is lifted, public officials will be required to share their private addresses when participating remotely and make those locations accessible to the community.

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SUBJECT: Remote Participation

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CONCLUSION:

Staff looks forward to the Committee's discussion and direction. Based on the direction, staff will return to the Policy Committee with a proposed draft of the updated Policy for its consideration and potential recommendation to Town Council.

COORDINATION:

The preparation of this report was coordinated with the Town Clerk and the Town Attorney.

FISCAL IMPACT:

The Committee's discussion and direction will not result in negative fiscal impacts. The Town has already invested in technology to facilitate remote participation by the public, staff, and/or Town Council.

ENVIRONMENTAL ASSESSMENT:

The Committee's discussion and direction are not a project defined under CEQA, and no further action is required.

Attachment:

1. Town Council Policy 2-01: Town Agenda Format and Rules