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Agenda Date: 8/11/2015

Agenda Placement: 6X

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors

**FROM:** Jeffrey Richard for Minh Tran - County Counsel  
County Counsel

**REPORT BY:** Jeffrey Richard, CHIEF DEPUTY COUNTY COUNSEL - 253-4234

**SUBJECT:** Adopt Resolution Establishing County Policy under Brown Act for Teleconference Participation in Meetings of Legislative Bodies

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### **RECOMMENDATION**

County Counsel requests adoption of a resolution amending the Napa County Policy Manual in Part 1, effective as of September 2, 2015, to add Section 8J regarding teleconference participation in meetings.

### **EXECUTIVE SUMMARY**

County Counsel recommends that the Board adopt a resolution establishing a policy setting forth the rules and restrictions that shall govern and apply to teleconference participation by members in meetings of the Board of Supervisors and by members of all other Napa County-created boards, committees, commissions, task forces, and other legislative bodies that are subject to the provisions of the Ralph M. Brown Act ("Brown Act"). Although such procedures and rules are already set forth in California Government Code Section 54953, a provision of the Brown Act, the adoption of an express policy will provide guidance to members and administrative staff of such Brown Act Bodies and help to ensure compliance with the Brown Act when teleconference participation occurs. Section 54953 permits, but does not mandate, that Napa County allow teleconference participation by members of Brown Act bodies. Thus, in light of its inherent discretion to allow teleconferencing or not, the Board may also implement a teleconferencing policy that is consistent with but more restrictive than the Brown Act provisions. To establish consistent procedures applicable to all Napa County Brown Act bodies, County Counsel recommends adoption of the attached proposed Board policy.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

The proposed policy will set forth the rules and procedures that will apply to teleconference participation by members of the Board of Supervisors and other boards, committees and legislative bodies ("Bodies") in meetings that are subject to the provisions of the Brown Act. As set forth in California Government Code section 54953, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. The policy will incorporate the provisions of Section 54953 by reference but will also expressly set forth certain key procedures and policy requirements that will apply to teleconference participation in meetings of Napa County Bodies, subject to any changes or amendments of the Brown Act or the provisions of any other State or federal law if in conflict with these policies. Section 54953 permits, but does not mandate, that Napa County allow teleconference participation by members of Brown Act bodies. Thus, in light of its inherent discretion to choose to allow teleconferencing or not, the Board may also implement teleconferencing policies that are consistent with but more restrictive than the Brown Act provisions.

The proposed policy will set forth the following rules and procedures that are mandated by Section 54953:

- | At least a quorum of the members of the Body must participate from locations within the territory over which the Body exercises jurisdiction. In most cases, this will mean within Napa County, but there may be Bodies whose jurisdictional area occupies only a portion of Napa County.
- | The notice of the meeting of the Body and the agenda for the meeting must identify the specific location where each teleconferencing member of the Body will be calling in from.
- | The agenda must be posted not only at the main meeting site but also at all teleconference locations (for example, outside a hotel room or outside the conference center where a member of the Body will participate).
- | Each teleconference location must be open and accessible to the public, including to those with disabilities.
- | If members of the public are at the teleconference location, they must be able to hear the proceedings (and see them if the teleconference includes video presentations and participation) and they must be given the right to comment as if they were at the primary site for the Body's meeting. Therefore, the telephone used at each location must have speakerphone capability.
- | All votes taken during a teleconference meeting must be by roll call vote, and the vote must be publicly reported.

The proposed policy will also announce the following requirements that are not expressly stated in Section 54953 but which are consistent with the Brown Act:

- | The members of the Body who participate by teleconference must be located within the 50 States of the United States of America or the District of Columbia, but may not participate from a foreign country or from a consulate or embassy of the United States located within a foreign country or territory.
- | If the meeting agenda includes one or more closed session items, each teleconference location shall be selected and arranged in a way to allow exclusion of -- and steps shall be taken to prevent -- members of the public from being able to observe, hear, see or be present during any closed session portion of the

meeting.

County Counsel recommends that the new policy become effective as of September 2, 2015, to allow County Legislative Bodies sufficient time to implement the new requirements and restrictions on teleconferencing.

**SUPPORTING DOCUMENTS**

A . Resolution

CEO Recommendation: Approve

Reviewed By: Helene Franchi