

September 9, 2022

MEMORANDUM

To: Land Use Committee
From: Ketil Freeman, Analyst
Subject: Council Bill 120400 – Land Use Decision Meetings: Virtual and Hybrid Options

On September 14, the Land Use Committee (Committee) will have an initial briefing and discussion and will hold a public hearing on [Council Bill \(CB\) 120400](#), which would authorize virtual, in-person, or hybrid in-person / virtual meetings required for land use decisions.

This memo: (1) describes changes to the Open Public Meetings Act (OPMA) that authorize the hybrid meetings; (2) briefly describes what CB 120400 would do; and (2) sets out procedural next steps.

Changes to the Open Public Meetings Act

In March 2020, Governor Inslee issued Proclamation 20-28 modifying OPMA requirements to allow government to meet virtually during the pandemic. In April 2020, the Council passed [Ordinance 126072](#), invoking the authority in Proclamation 20-28 to authorize virtual meetings for regulatory processes administered by the Seattle Department of Construction and Inspections (SDCI) and the Department of Neighborhoods, such as Design Review Board and Landmark Preservation Board meetings. In October 2020, the Council extended those provisions through [Ordinance 126188](#). Pursuant to ORD 126188, the option for virtual meetings will expire two months after the Mayor terminates the COVID civil emergency.

In March 2022, the Washington State Legislature passed [Engrossed Substitute House Bill \(ESHB\) 1329](#). ESHB 1329 modifies the OPMA to make permanent some of changes necessitated by the COVID-19 pandemic, such as the option for virtual attendance at public meetings.

Among other things, ESHB 1329 authorizes members of governing bodies¹ to attend meetings virtually and encouraged public agencies to provide the public with opportunities for virtual participation, provided that most meetings subject to the OPMA must still have physical location for the public to attend. Changes in ESHB 1329 became effective on June 9, 2022.

What Would CB 120400 Do?

CB 120400 would amend the Land Use Code to reflect changes to the OPMA. Specifically, the bill would authorize SDCI to hold virtual, in-person, or hybrid meetings required for permitting processes. Those meetings include:

¹ “Governing body” is defined by the OPMA as any “multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” ([RCW 42.30.020](#))

- Design Review Board meetings,
- Community meetings required for development of permanent supportive housing,
- Meetings for planned community developments,
- Environmental Impact Statement scoping meetings,
- Elective meetings for Master Use Permit and full subdivision applications, and
- Meetings held by the Hearing Examiner on land use decisions.

CB 120400 does not prescribe whether a meeting should be in-person, virtual, or hybrid. It merely authorizes all three possibilities. However, under current conditions SDCI must provide an option for in-person attendance by the public.

The summary and fiscal note to the bill sets out the different estimated annual costs associated with each alternative. Prior to the pandemic, SDCI spent approximately \$50,000 annually for room rentals for public meetings. Since June, SDCI has been providing an in-person attendance option for Design Review Board meetings in the Seattle Municipal Tower.

Continuing that option will require future position and appropriation authority to allow for staffing of in-person locations that did not need to be staffed when those meetings were held entirely virtually. SDCI estimates the cost for that option with an additional in-person meeting space and staffing would be approximately \$217,000 more annually. Those costs would be borne by permit fees from the Construction and Inspections Fund.

The bill includes an intent statement that assumes that the Mayor has terminated the COVID civil emergency proclaimed on March 3, 2020. If the Mayor has not terminated the civil emergency by the date of Council action on the bill, that statement would need to be amended.

Next Steps

The Committee will hold a public hearing on CB 120400 on September 14. Committee discussion and a potential recommendation on the bill to the City Council could occur at the special meeting of the Committee scheduled for September 22.

cc: Esther Handy, Director
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