



**DELTA CONVEYANCE FINANCE AUTHORITY  
BOARD OF DIRECTORS MEETING  
REGULAR MEETING**

Thursday, January 20, 2022  
11:00 a.m.  
Via Teleconference: +1 (408) 650-3123  
Access Code: 352-551-277

**AGENDA**

***PUBLIC PARTICIPATION:*** Pursuant to Government Code 54593(e) and given the current health concerns, members of the public can access meetings via conference call at **United States: +1 (408) 650-3123, Access Code: 352-551-277.** In addition, members of the public can submit comments electronically for consideration by **9:00 a.m. on January 19, 2022** by sending them to **[lindastandlee@dcfinanceauthority.org](mailto:lindastandlee@dcfinanceauthority.org)**. To ensure distribution to the members of the DC Finance Authority Board of Directors prior to consideration of the agenda, **please submit comments prior to 9:00 a.m. on January 20, 2022.** Those comments will be distributed to the members of the DC Finance Authority Board and will be made part of the official public record of the meeting. Contact Linda Standlee at 916-812-6400 with any questions.

***ACCESSIBILITY:*** If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, in order to observe and/or offer public comment may request such reasonable modification, accommodation, aid, or service by contacting **Linda Standlee** by telephone at **916-812-6400** or via email to **[lindastandlee@dcfinanceauthority.org](mailto:lindastandlee@dcfinanceauthority.org)** no later than **5:00 p.m. on January 19, 2022.**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. PUBLIC COMMENT**
- 5. OTHER MATTERS**

a. None.

**6. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the Board of Directors and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a director so requests, in which event the item will be removed from the Consent Calendar and considered separately.*

- a. Adopt a resolution to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of the Delta Conveyance Finance Authority.
- b. Approval of the minutes from the meeting of December 16, 2021.

**7. SCHEDULED ACTION ITEMS**

- a. Election of Officers

**8. REPORTS AND ANNOUNCEMENTS**

- a. Treasurer's Report
- b. General Counsel's Report
- c. Executive Director's Report

**9. FUTURE AGENDA ITEMS**

- a. Future agenda items to be considered.

**10. CLOSED SESSION**

- a. Conference with legal counsel pursuant to Government Code section 54956.9, potential litigation: one case.

**11. ADJOURNMENT**



**Agenda Item 6.a**

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## **MEMORANDUM**

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DATE: January 20, 2022

SUBJECT: **Receive and Adopt Resolution for use of AB-361 proposed exemptions to Brown Act teleconferencing requirements**

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### **SUMMARY**

*In response to the Covid - 19 pandemic, the California Governor signed a new bill on 9/16/21 that would temporarily exempt certain requirements of the Brown Act and add additional requirements for public meetings held by teleconference. This staff report provides an analysis of the changes to the Brown Act per the proposed bill and recommends the Board's adoption of a Resolution that would put the temporary exemptions and changes into place.*

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### **BACKGROUND**

In March of 2020, the Governor of California issued Executive Order N-29-20, which waived Brown Act requirements found in Gov. Code § 54953(b)(3) for teleconference participation in public meetings. In particular, this Order waived:

- a) The requirement that state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- b) The requirement that each teleconference location be accessible to the public;
- c) The requirement that members of the public may address the body at each teleconference location;
- d) The requirement that state and local bodies post agendas at all teleconference locations; and
- e) The requirement that, during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

Executive Order N-29-20 expired on September 30, 2021. However, AB 361 was signed by the Governor to extend the provisions of N-29-20, subject to certain conditions to be met by the local legislative body utilizing its exemptions. AB 361 also imposes certain new requirements, detailed below.

## **ANALYSIS**

AB 361 exempts local legislative bodies from certain Brown Act requirements currently governing teleconferencing. These exemptions may be used only in one of the following circumstances:

- a) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- b) The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- c) The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Currently, the Governor's state of emergency regarding COVID-19 is still in effect, and the Sacramento County Health Officer has recommended that legislative bodies in the County continue to follow social distancing measures to prevent the spread of COVID.

Further, AB 361 requires the District to reconsider the state of emergency and make such determination every 30 days after commencing use of its exemptions. However, if during the 30-day period the District wishes to meet in person, they may choose to do so despite adopting the proposed Resolution. The intent of the Resolution is merely to allow the Board to avail themselves of the AB 361 teleconferencing conveniences if they so choose.

Finally, in addition to allowing for the above exemptions, AB 361 adds the following requirements:

- a) The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
- b) The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to

address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.

- c) The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
- d) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.
- e) The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.
- f) The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.
- g) If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment under f) until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary under f).

## **RECOMMENDATION**

As noted above, AB 361 requires an agency to reconsider the state of emergency and make the required determinations every 30 days after commencing use of its exemptions. The DCFA board approved such a resolution at its last regularly scheduled meeting in December, and staff recommends that this Board adopt the attached resolution to enable use of AB 361's exemptions to Brown Act teleconferencing requirements for the next 30 days, while allowing the Board to hold in person meetings at its discretion.

**RESOLUTION NO. 22-01**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF DELTA CONVEYANCE FINANCE AUTHORITY  
AUTHORIZING THE REVISED USE OF TELECONFERENCING FOR PUBLIC MEETINGS**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DELTA CONVEYANCE FINANCE AUTHORITY AGENCY** as follows:

**WHEREAS**, the Governor of the State of California (“Governor”) proclaimed a State of Emergency to exist as a result of the threat of COVID-19. (Governor’s Proclamation of a State of Emergency (Mar. 4, 2020).)

**WHEREAS**, the Governor’s Exec. Order No. N-25-20 (Mar. 12, 2020); Governor’s Exec. Order No. N-29-20 (Mar. 17, 2020); and Governor’s Exec. Order No. N-08-21 (Jun. 11, 2021) provided that local legislative bodies may hold public meetings via teleconferencing and make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body and waived the Brown Act provisions found in Govt. Code section 54953(b)(3) which require the physical presence of the members, the clerk, or other personnel of the body, or the public, as a condition of participation in, or quorum for, a public meeting, including:

- a) The requirement that state and local bodies notice each teleconference location from which a member will be participating in a public meeting.
- b) The requirement that each teleconference location be accessible to the public.
- c) The requirement that members of the public may address the body at each teleconference location.
- d) The requirement that state and local bodies post agendas at all teleconference locations.
- e) The requirement that, during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

**WHEREAS**, the provisions of Governor’s Exec. Order No. N-25-20 (Mar. 12, 2020); Governor’s Exec. Order No. N-29-20 (Mar. 17, 2020); and Governor’s Exec. Order No. N-08-21 (Jun. 11, 2021) expired on September 30, 2021 and are no longer in effect thereafter;

**WHEREAS**, the Center for Disease Control is currently contending with the Delta Variant and the Omicron Variant of the COVID-19 virus and anticipates the development of potential other strains which may further impede public agency operations and prolong the need for social distancing requirements; and

**WHEREAS**, recent legislation (A.B. 361) authorizes a local legislative body to use teleconferencing for a public meeting without complying with the Brown Act’s teleconferencing quorum, meeting notice, and agenda requirements set forth in Government Code section 54953(b)(3), in any of the following circumstances:

- a) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- b) The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.

- c) The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

**WHEREAS**, on November 18, 2021 the Board of Directors of the Delta Conveyance Finance Authority (DCFA) made a finding that, as a result of the above-described emergency, meeting in person would present imminent risks to the health or safety of attendees.

**WHEREAS**, the Board of Directors of the Delta Conveyance Finance Authority has determined that an imminent risk to the health and safety of the attendees at DCFA meetings continues to exist.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Delta Conveyance Finance Authority as follows:

Section 1.        Incorporation of Recitals. All of the foregoing Recitals are true and correct, and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

Section 2.        Adoption of AB 361. The Board has determined by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Section 3.        Continued Implementation of AB-361. If the state of emergency remains active, and state or local officials have imposed measures to promote social distancing, the Board of Directors of the Delta Conveyance Finance Authority shall, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make the following findings by majority vote:

- a) The legislative body has reconsidered the circumstances of the state of emergency; *and*
- b) Either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing.

Section 4.        Applicability. The health and safety findings and determination that teleconference meetings are appropriate applies to all District committees and legislative bodies subject to the Brown Act.

**PASSED, APPROVED AND ADOPTED** on January \_\_, 2022.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

**BOARD OF DIRECTORS MEETING**

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**MINUTES**

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**REGULAR MEETING**  
**Thursday, December 16, 2021**  
**11:30 am**

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER**

The regular meeting of the Delta Conveyance Finance Authority (Finance Authority) Board of Directors was called to order by President Kremen via teleconference at 11:31 a.m. Linda Standlee reviewed the process the Board and public would follow for the meeting, noting that all voting would be via roll call vote.

**2. ROLL CALL**

Board members in attendance were, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Cindy Saks, Paul Sethy, and Matthew Stone.

Directors Robert Cheng, Dwayne Chisam, Valerie Pryor, and Randy Record were absent.

Staff members in attendance were Brian Thomas, Katano Kasaine, and Steve O'Neill.

**3. PLEDGE OF ALLEGIANCE**

Jeff Davis led the Pledge of Allegiance.

**4. PUBLIC COMMENT**

President Kremen declared public comment open, limiting speaking time to three minutes.

No members of the public requested time to speak, therefore President Kremen closed public comment.

**5. OTHER MATTERS**

5.a. Adopt a resolution to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of the Delta Conveyance Finance Authority

Steve O'Neill, DC Finance Authority General Counsel, presented a report and resolution to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of the Delta Conveyance Finance Authority.

Motion:	Adopt a Resolution to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of the Delta Conveyance Finance Authority
Move to Approve:	Kathy Cortner
Second:	Jeff Davis



## Agenda Item 6.b

Yeas: Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Cindy Saks, Paul Sethy, and Matthew Stone  
Nays: None  
Abstains: None  
Recusals: None  
Absent: Robert Cheng, Dwayne Chisam, Valerie Pryor, and Randy Record  
Summary: 7 Yeas; 0 Nays; 0 Abstains; 4 Absent. (Motion passed as MO 21-12-01)

### 6. CONSENT CALENDAR:

6.a. Approval of the minutes from the meeting of November 18, 2021.

Motion: Approve the minutes from the meeting of November 18, 2021  
Move to Approve: Kathy Cortner  
Second: Paul Sethy  
Yeas: Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Cindy Saks, and Paul Sethy  
Nays: None  
Abstains: Matthew Stone  
Recusals: None  
Absent: Robert Cheng, Dwayne Chisam, Valerie Pryor, and Randy Record  
Summary: 6 Yeas; 0 Nays; 1 Abstains; 4 Absent. (Motion passed as MO 21-12-02)

### 7. ADJOURNMENT:

President Kremen adjourned the meeting at 11:38 a.m.

## Board Memo

**Contact: Brian Thomas, Executive Director**

**AGENDA DATE: January 20, 2022**

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**Item No. 8.c**

**Subject: Executive Director's Report**

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### **Executive Summary**

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The DCFA's primary activity continues to be administrative in nature, while monitoring activities regarding the Delta Conveyance Project. We continue to communicate and coordinate with the State Water Contractors, including the Metropolitan Water District, the Department of Water Resources and the Delta Conveyance Design and Construction Authority (DCA) to keep current with activities on the project.

### **Detailed Report**

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Administration. Activities included preparing agendas for December and January and processing payments for accounting and treasury services.

Meetings/calls. DWR and the DCA continue to make progress on the environmental documents.

We continue to work with DWR and SWP contractors to evaluate potential financing paths, including the idea of financing planning costs and design costs upon completion of the environmental process. There remain hurdles to any financing.

Future Activities: I will continue working with the members, the DCA, DWR and the state water project contractors to identify opportunities to support financial analysis and activities.

### **Recommended Action**

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Informational.