



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

Thursday, January 19, 2023
11:00 a.m.

Join Zoom Meeting

<https://zoom.us/j/98591247863?pwd=WW16NldDU0JXMytKNdJSV0F0dkhuQT09>

Meeting ID: 985 9124 7863

Passcode: 165287

Via Teleconference: +1 669 900 6833

Meeting ID: 985 9124 7863

Passcode: 165287

One Tap Mobile: +16699006833,,98591247863#,,,,*165287#

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: **+16699006833,,98591247863#,,,,*165287#**. In addition, members of the public can submit comments electronically for consideration by **9:00 a.m. on January 18, 2023** by sending them to **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 19, 2023**. Those comments will be distributed to the members of the Delta Conveyance 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** no later than **5:00 p.m. on January 18, 2023**.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. PUBLIC COMMENT**
- 5. OTHER MATTERS**
- 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. Approval of the minutes from the meeting of November 17, 2022.

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

7. SCHEDULED ACTION ITEMS

- a. Election of Officers

8. REPORTS AND ANNOUNCEMENTS

- a. Delta Conveyance Design & Construction Authority Update – presentation by Graham Bradner
- b. Treasurer’s Report
- c. General Counsel’s Report
- d. Executive Director’s Report

9. FUTURE AGENDA ITEMS

- a. Future agenda items to be considered.

10. CLOSED SESSION

- a. Conference with legal counsel: Government Code §54956.9: potential litigation: one case.

11. ADJOURNMENT

BOARD OF DIRECTORS MEETING

MINUTES

SPECIAL MEETING
Thursday, November 17, 2022
11:30 am

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER

The special meeting of the Delta Conveyance Finance Authority (Finance Authority) Board of Directors was called to order by President Kremen via teleconference at 11:32 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 Paul Sethy, Valerie Pryor, Thomas Todd, Gary Kremen, Lynne Chaimowitz, Mark Krause, Matthew Stone, and Robert Cheng.

Directors Cindy Saks, Randy Record and Dwayne Chisam were absent.

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

3. PLEDGE OF ALLEGIANCE

The Board recited 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

6. CONSENT CALENDAR:

6.a. Approval of the minutes from the meeting of October 20, 2022.

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

Motion:	Approve the Consent Calendar
Move to Approve:	Valerie Pryor
Second:	Robert Cheng
Yeas:	Paul Sethy, Valerie Pryor, Thomas Todd, Gary Kremen, Lynne Chaimowitz, Mark Krause, Matthew Stone, and Robert Cheng

Nays:	None
Abstains:	None
Recusals:	None
Absent:	Cindy Saks, Randy Record and Dwayne Chisam
Summary:	8 Yeas; 0 Nays; 0 Abstains; 3 Absent. (Motion passed as MO 22-11-01)

7. SCHEDULED ACTION ITEMS

- a. Approve contract with Brian G. Thomas Consulting LLC for Executive Director services.

Director Kremen requested Board comments. Director Sethy requested clarification regarding the “total contract value” language of the contract, suggesting that the contract should state “Not To Exceed \$60,000”, as it was an hourly contract. Mr. Thomas noted that was the intent of the language and that the draft contract would be revised to include language stating the contract value was “Not to Exceed \$60,000”. Director Sethy also commented on the meal-by-meal language in the contract and suggested that a dollar amount per day would be preferred.

Director Kremen requested public comment; none was provided.

Motion:	Approve a contract with Brian G. Thomas Consulting LLC for Executive Director Services with the following revisions: 1. Revise contract language to indicate a Not-to-Exceed contract value of \$60,000; and 2. Replace the meal-by-meal language with a daily spending cap.
Move to Approve:	Paul Sethy
Second:	Robert Cheng
Yeas:	Paul Sethy, Valerie Pryor, Thomas Todd, Gary Kremen, Lynne Chaimowitz, Mark Krause, Matthew Stone, and Robert Cheng
Nays:	None
Abstains:	None
Recusals:	None
Absent:	Cindy Saks, Randy Record and Dwayne Chisam
Summary:	8 Yeas; 0 Nays; 0 Abstains; 3 Absent. (Motion passed as MO 22-11-02)

8. REPORTS AND ANNOUNCEMENTS

- a. Treasurer’s Report

Bernadette Robertson, MWD staff, provided the report to the Board. Ms. Robertson noted that as of September 30, 2022, four invoices totaling \$21,735 were paid; interest receipts totaling \$1,267, were recorded; and the cash balance on hand is \$393,321.

b. General Counsel's Report

Steve O'Neill, Finance Authority General Counsel, reported on recent activities, noting work focused on reviewing and revising the Executive Director's contract and discussing possibilities regarding remote meetings and issues around closed session.

c. Executive Director's Report

Executive Director Thomas reported to the Board that the primary activity continues to be administrative in nature along with working with SWP Contractors, DWR and DCA staff.

9. FUTURE AGENDA ITEMS

- a. Future agenda items to be considered.

10. CLOSED SESSION

- b. Conference with legal counsel: Government Code §54956.9: potential litigation: one case.

Steve O'Neill, DC Finance Authority General Counsel, reported that Board met pursuant to Government Code §54956.9 to discuss one item of potential litigation; a report was given to the Board and no formal action was taken.

11. ADJOURNMENT

President Kremen adjourned the meeting at 12:52 p.m.

DATE: January 19, 2023

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

SUMMARY

In response to the Covid -19 pandemic, the California Governor signed a 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.

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 November, 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. 23-01

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE 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 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 17, 2022, 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. This Resolution shall take effect immediately upon its adoption and shall be effective until such time as the Board of Directors, at a noticed meeting, makes additional findings or adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Authority may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

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

PASSED, APPROVED AND ADOPTED on January __, 2023.

President

ATTEST:

Secretary

Board Memo

Contact: Brian Thomas, Executive Director

AGENDA DATE: January 19, 2023

Item No. 8.d

Subject: Executive Director's Report

Executive Summary

The DCFA's primary activity continues to be administrative, as well as developing financing alternatives and monitoring activities regarding the Delta Conveyance Project. We continue to communicate with the State Water Contractors, the Department of Water Resources and the Delta Conveyance Design and Construction Authority (DCA) to keep current with activities on the project.

Detailed Report

Administration. Activities included preparing agenda packets for the January 2023 meeting and reviewing and approving the various invoices to be paid by the DCFA. In addition, we discussed meeting logistics after January.

Meetings/calls. DWR and the DCA continue to make progress on the environmental documents. The draft Environmental Impact Report was released for public comment in July, with the deadline for comments extended to December 16, 2022.

We continue to work with DWR and SWP contractors to evaluate potential financing paths. The Department is moving forward with the validation action and expects trial to be conducted in May. I also had discussions with board members, DWR staff and SWP contractors regarding the DCFA's activities and the project's progress.

Future Activities. I will continue working with the members, the DCA, DWR and the State Water Project contractors to identify opportunities to support funding, financial analysis and identify additional funding sources, including federal and state grants or contributions.

Recommended Action

Informational.

Attachment: Board Actions thru December 31, 2022

DELTA CONVEYANCE FINANCE AUTHORITY

Completed Actions as of:

December 31, 2022

Action	Date
Adopted the CEQA determination for actions related to California Water Fix – that the Board has reviewed and considered the BDCP/California WaterFix environmental documentation and adopts the lead agency’s Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program	7/19/2018
Approved agreement with Metropolitan to provide treasury and accounting services	7/19/2018
Approved submittal of WIFIA Letter of Interest	7/19/2018
Approved execution of agreement with Michael Bell Consulting to retain the services of Brian Thomas as Interim Executive Director	7/19/2018
Approved Fiscal Year 2018/19 Operating Budget	8/16/2018
Approved Debt Management Policy	8/16/2018
Approved Investment Policy	8/16/2018
Approved Bylaws	11/15/2018
Approved extension of contract with Michael Bell Management Consulting for the services of Brian Thomas as Executive Director through December 31, 2019	12/14/2018
Adopted Conflict of Interest Code	12/28/2018
Approved Reimbursement Policy	1/17/2019
Approved execution of agreement with Oliverez Madruga Lemieux O'Neill to serve as general counsel	1/17/2019
Approved execution of agreement with Norton Rose Fulbright to serve as bond counsel	2/21/2019
Approved execution of agreement with Stradling Yocca Carlson & Rauth to serve as disclosure counsel	2/21/2019
Approved Fiscal Year 2019/20 Operating Budget and annual membership fees	5/16/2019
Approved execution of agreement with Richardson & Co. to provide external audit services	5/16/2019
Approved updated and amended Investment Policy	7/18/2019
Approved amendments to the DCFA bylaws	7/18/2019

DELTA CONVEYANCE FINANCE AUTHORITY

Completed Actions as of:

December 31, 2022

Action	Date
Approved no-cost extension to agreement with Michael Bell Management Consulting Services to provide Executive Director Services through December 2020	10/17/2019
Received and filed audited financial statements for fiscal year 2018/19	10/17/2019
Appointed Board Officers and Executive Committee	1/16/2020
Appointed MWD CFO as the Treasurer for the Authority	1/16/2020
Approved Fiscal Year 2020/21 Budget	5/21/2020
Approved Updated Investment Policy and Delegated authority to the Treasurer to invest funds	7/16/2020
Approved no-cost extension to agreement with Michael Bell Management Consulting Services to provide Executive Director Services through December 2021	10/15/2020
Received and filed audited financial statements for fiscal year 2019/20	10/15/2020
Appointed Board Officers and Executive Committee	1/21/2021
Approved Fiscal Year 2021/22 Budget	4/15/2021
Approved Investment Policy for 2021/22 and delegated investment authority to MWD Treasurer	8/19/2021
Approved agreement with Bell, Burnett & Associates to provide Executive Director services through December 31, 2022	11/18/2021
Appointed board Officers, including Treasurer	1/20/2022
Approved Fiscal Year 2022/23 Budget	5/19/2022
Approved agreement with Aleshire & Wynder to provide general counsel services	5/19/2022
Approved Investment Policy for 2022/23 and delegated investment authority to MWD Treasurer	9/15/2022
Received and filed fiscal year 2021/22 audited financial statements	10/20/2022
Approved agreement with Brian G. Thomas Consulting, LLC to provide Executive Director services through December 31, 2023	11/17/2022