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Report to Carson Reclamation Authority

Monday, February 07, 2022

Consent

SUBJECT:

CONSIDER RESOLUTION NO. 22-04-CRJPA PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY EXECUTIVE ORDERS N-25-20, N-29-20, AND N-35-20, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODY OF CARSON RECLAMATION AUTHORITY FOR THE PERIOD OF FEBRUARY 7, 2022 THROUGH MARCH 7, 2022 PURSUANT TO BROWN ACT PROVISIONS

I. SUMMARY

A number of laws have changed since the beginning of the COVID pandemic related to the Brown Act as it relates to public meetings, both from Governor Newsom's Executive Orders and recently from the enactment of AB 361. The CRA, as all public agencies in California, must now modify certain elements of remote public meetings. The major change is that the public must now be allowed to make comments live during the public comment period, either live (in person, if allowed), telephonically, or otherwise electronically (such as by Zoom).

The other major change is that all public agencies, if they want to continue to conduct public meeting remotely, must adopt a resolution every 30 days making the findings of necessity to do so and affirming the measures in place to allow remote public comments by the public.

In January, the CRA Board adopted a follow-up version of this ordinance, which is to be adopted every 30 days. Because the duration between the January 3 and February 7 meetings is longer than 30 days, however, the Act requires the readoption of the original resolution declaring the emergency and not the continuation resolution. Therefore, this staff report and resolution are substantially the same as the October 4 and December 6 actions.

II. RECOMMENDATION

1. WAIVE further reading and approve RESOLUTION NO. 22-04-CRJPA PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF

EMERGENCY BY EXECUTIVE ORDERS N-25-20, N-29-20, AND N-35-20, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODY OF CARSON RECLAMATION AUTHORITY FOR THE PERIOD OF FEBRUARY 7, 2022 THROUGH MARCH 7, 2022 PURSUANT TO BROWN ACT PROVISIONS.

2. AUTHORIZE the Chair to execute the resolution.

1.

III. ALTERNATIVES

TAKE any action the Board deems appropriate.

IV. BACKGROUND

Starting in March 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the state, Governor Newsom issued Executive Orders N-25-20, N-29-20, and N-35-20 aimed at containing the coronavirus and which collectively modified certain requirements of the Brown Act.

On June 11, 2021, the Governor issued Executive Order N-08-021 to roll back certain provisions of his COVID-19 related Executive Orders and to clarify that other provisions remained necessary to help California respond to, recover from, and mitigate the impacts of the COVID-19 pandemic. Paragraph 42 of Executive Order N-08-021 waived and set forth certain requirements related to public meetings of local legislative and state bodies and specified that it would be valid through September 30, 2021.

On September 16, 2021, the Governor signed into law Assembly Bill 361 (AB 361), which relates to the same subject matter as paragraph 42 of Executive Order N-08-21. AB 361 extends the authority of public agencies to conduct meetings by teleconference, including video conference, without compliance with all of the Brown Act's limitations on such meetings, while the state of emergency resulting from the COVID-19 pandemic and accompanying recommendations for social distancing remain in place.

After September 30, 2021, the CRA has two options for conducting public meetings:

1. Comply with traditional Brown Act requirements, which means either meeting in-person or teleconferencing by adhering to the traditional teleconferencing requirements under the Act; or

2. Conduct public meetings via remote teleconferencing in compliance with AB 361.

AB 361 allows local legislative bodies to continue using teleconferencing and virtual meeting technology without complying with the traditional teleconferencing requirements of the Brown Act if:

1. There is a proclaimed "state of emergency" by the Governor; and

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2. One of the following:

   a. State or local officials have imposed or recommended measures to promote social distancing; or

   b. The legislative body has determined by majority vote that, as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees. (Government Code Section 54953(e)(1).

Both of the above conditions are presently satisfied. The Governor's March 4, 2020 State of Emergency Declaration and the City's March 25, 2020 proclamation of a local emergency remain in place and have not been lifted. Additionally, the Los Angeles County Department of Public Health ("LACDPH") continues to recommend social distancing as one measure to reduce the spread of COVID-19.

Once the initial invocation of AB 361 is made, continued reliance on AB 361 for subsequent meetings requires the following:

1. Either the "state of emergency" must remain active or state or local officials have imposed or recommended measures to promote social distancing; and

2. No later than 30 days after teleconferencing for the first time under AB 361 rules, and every 30 days thereafter, the legislative body, by majority vote, finds that it has reconsidered the circumstances of the state of emergency and at least one of the following circumstances exist:

   a. The state of emergency continues to impact the ability of the members to meet safely in person; or

   b. State or local officials continue to impose recommended measures to promote social distancing.

If a public agency invokes AB 361, the alternative notice and participation requirements for teleconferenced meetings are as follows:

1. No physical location is required for public attendance or public comment. However, the public must be able to access and participate in the meeting through a call-in or an internet-based service, and instructions for how to participate must appear in the posted notices or agenda;

2. Teleconferenced meetings must protect the statutory and constitutional rights of the parties and the public;

3. The public must be able to attend the meeting via call-in option or internet-based

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service option;

4. Legislative bodies may allow public comments to be submitted prior to a meeting but must also allow the public to participate in real time through call-in or internet-based service. A legislative body cannot require public comments be submitted in advance of the meeting;

5. If there is any disruption of the call-in or internet-based service the legislative body must suspend the meeting and take no further action until the problem is fixed;

6. When providing a public comment period, whether after each item or during a general comment period, a legislative body must allow reasonable time for members of the public to comment, and must also include reasonable time for members to register with a third-party host, if applicable. Timed public comment periods cannot be closed until that timed public comment period has elapsed.

These provisions of AB 361 are effective until January 1, 2024. This means these provisions may be invoked any time there is a proclaimed state of emergency by the Governor (i.e. wildfires).

In light of AB 361, the continuing COVID-19 emergency, especially the Delta variant in the Fall of 2021 and the Omicron variant today, the continuing recommendations by the Los Angeles County Department of Public Health of social distancing as one mechanism for preventing the spread of COVID-19, and the continued threats to health and safety posed by indoor meetings with large attendance, staff recommends that Board adopt the proposed resolution making the findings required to initially invoke AB 361. Doing so will allow the CRA meetings to continue to occur by teleconference, without compliance with the teleconferencing requirements set out in Government Code Section 54953(b) that would otherwise apply.

Continued reliance on AB 361 requires the Board to adopt a new resolution making the required findings every 30 days. Because the duration between the January 3 and February 7 meetings is longer than 30 days, however, the Act requires the readoption of the original resolution declaring the emergency. Therefore, this staff report and resolution are substantially the same as the October 4 and December 6 actions, which are copies of the original resolution, and not the continuation resolution.

V. FISCAL IMPACT

There is no fiscal impact of this resolution.

VI. EXHIBITS

1. Resolution No. 22-04-CRJPA (Pgs. 6-9)

1.

Prepared by: John S. Raymond, Executive Director

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