



CHINO BASIN WATERMASTER

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PETER KAVOUNAS, P.E.
General Manager

STAFF REPORT

DATE: July 28, 2022
TO: Board Members
SUBJECT: Resolution 2022-07 Authorizing Remote Teleconference Meetings Under Brown Act (Business Item I.A.)

SUMMARY:

Issue: The Watermaster Board needs to adopt specific findings to continue to hold remote teleconference meetings during the COVID-19 pandemic consistent with amendments to the Ralph M. Brown Act (Brown Act) by Assembly Bill (AB) 361. [Normal Course of Business]

Recommendation: Adopt Resolution 2022-07 Authorizing Remote Teleconference Meetings under the Ralph M. Brown Act.

Financial Impact: None

Future Consideration
Watermaster Board – July 28, 2022: Adoption

ACTIONS:
Watermaster Board – July 28, 2022:

Watermaster's function is to administer and enforce provisions of the Judgment and subsequent orders of the Court, and to develop and implement an Optimum Basin Management Program

BACKGROUND

Due to the COVID-19 pandemic, the Watermaster Board had been meeting remotely since March 2020. With the recent issuance of the Governor's Executive Order No. N-5-22 on March 7, 2022, lifting mask mandates though still strongly recommending them regardless of vaccination status, the Watermaster Board held its first in-person meeting on March 24, 2022, with one Board member in attendance remotely and has been the practice since.

The Governor's Executive Order No. N-29-20 (Executive Order) suspended the Brown Act's requirements for standard teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, members of the public are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. The provisions of the Executive Order, however, expired on September 30, 2021.

DISCUSSION

In recognition that the pandemic remains ongoing, on September 16, 2021, the Governor signed AB 361, an urgency measure, amending the Brown Act and authorizing remote teleconference public meetings under certain circumstances. AB 361 took effect on October 1, 2021, and expires on January 1, 2024. Though not strictly required to comply with the Brown Act, Watermaster's policy is to operate generally in accordance with the Brown Act's requirements. If the Watermaster Board desires to continue to meet remotely, it should comply with the Brown Act as amended by AB 361.

AB 361 applies to meetings during a state of emergency as declared by the Governor. There also must be either imposed or recommended measures to promote social distancing by state or local officials, or a finding by the legislative body that meeting in person would present imminent risks to the health or safety of attendees as a result of the emergency. The bill, however, does not require legislative bodies to continue to hold teleconference or hybrid public meetings.

AB 361 also requires several procedural safeguards to protect public participation during a remote meeting, which are generally consistent with the Watermaster Board's current remote meeting practices. Key safeguards include: (1) the public must have the ability to address the legislative body directly, and must be provided information on how to address the body; (2) the public must have either a call-in or internet-based service option; (3) the legislative body must stop the meeting in the event of a disruption of the call-in or internet-based option; and (4) the legislative body must allow for a reasonable time for real-time comments, including time to register to provide remote public comments. Should the Watermaster Board decide to hold teleconference meetings, as it has during the COVID-19 pandemic, it should comply with these requirements.

If the Watermaster Board elects to hold one or more meetings by teleconference, it will need to adopt the proposed Resolution. Watermaster findings are required every 30 days in order to continue holding remote teleconference meetings. Thus, if the Watermaster Board elects to continue remote teleconference meetings, the Board will need to make similar findings at each meeting. The last Resolution (Resolution 2022-06) was adopted at the Board's regular meeting held on June 23, 2022, and was effective until July 22, 2022.

ATTACHMENTS

1. Resolution 2022-07 (Draft)

**RESOLUTION NO. 2022-07
OF THE
CHINO BASIN WATERMASTER**

**AUTHORIZING REMOTE TELECONFERENCE MEETINGS
OF THE CHINO BASIN WATERMASTER BOARD
FOR THE PERIOD JULY 28 – AUGUST 27, 2022**

1. **WHEREAS**, the Chino Basin Watermaster (Watermaster) is committed to preserving and fostering public access and participation in meetings of Watermaster Board (Watermaster Meetings), consistent with its policy to generally operate in accordance with the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*) (Brown Act), so that any member of the public may attend and participate as the Watermaster conducts its business; and
2. **WHEREAS**, the Brown Act contains special provisions for remote teleconference participation in meetings when the Governor has declared a state of emergency pursuant to Government Code section 8625, and either state or local officials have imposed or recommended measures to promote social distancing, or an in-person meeting would present imminent risks to the health and safety of attendees (Gov. Code § 54953(e)); and
3. **WHEREAS**, such conditions now exist within the County of San Bernardino (County). On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency for the COVID-19 pandemic. On March 7, 2022, the California Department of Public Health and Governor Newsom's office issued Executive Order N-5-22 lifting mask mandates though still strongly recommending them regardless of vaccination status. As an arm of the court, Watermaster has followed guidance issued by the County Superior Court. The County Superior Court continues to encourage all court users to access remote service options to help prevent the spread of COVID-19 and strongly recommends the use of face coverings in court facilities.
4. **WHEREAS**, Watermaster finds that the current situation with regard to COVID-19 is causing, and will continue to cause, risks to the safety of persons within the County and finds that Watermaster shall conduct Watermaster Meetings with remote teleconference participation in the manner authorized by Government Code Section 54953, subdivision (e) and in compliance with the requirements to provide public access in Government Code Section 54953, subdivision (e)(2); and

5. **NOW THEREFORE, WATERMASTER DOES HEREBY RESOLVE AS FOLLOWS:**

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Affirmation that Local Emergency Conditions Persist. The Watermaster Board hereby considers the conditions of the state of emergency in the Chino Basin and finds that local emergency conditions persist throughout the Chino Basin, and due to the high transmission rate of the Omicron variant (and Subvariants), risk to unvaccinated and vaccinated individuals, greater risk of transmission at indoor gatherings, and although the County's number of COVID-19 cases have declined since February 2022, meeting in person could present risk to the health and safety of Board members and the public.

Section 3. Remote Teleconference Meetings. shall conduct Watermaster Meetings with remote teleconference participation in the manner authorized by Government Code Section 54953, subdivision (e), and in compliance with the requirements to provide public access in Government Code Section 54953, subdivision (e)(2).

Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of August 27, 2022, or such time as Watermaster adopts a resolution in accordance with Government Code Section 54953, subdivision (e)(3) to extend the time during which meetings may continue to be held via remote teleconference in compliance with that section.

PASSED AND ADOPTED by the Chino Basin Watermaster Board, this 28th day of July 2022, by the following vote:

APPROVED:

By: _____
Board Chair
Chino Basin Watermaster

ATTEST:

By: _____
Board Secretary/Treasurer
Chino Basin Watermaster

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN BERNARDINO)

I, Bob Kuhn, Secretary/Treasurer of the Chino Basin Watermaster,
DO HEREBY CERTIFY that the foregoing Resolution being No. 2022-07, was adopted at a
regular meeting of the Chino Basin Watermaster Board on July 28, 2022, by the following vote:

AYES: 0
NOES: 0
ABSENT: 0
ABSTAIN: 0

CHINO BASIN WATERMASTER

Watermaster Board Secretary/Treasurer

Date: July 28, 2022