City of Long Beach **Memorandum**
Working Together to Serve

Office of the City Attorney

DATE: August 31, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Monica J. Kilaita, Deputy City Attorney

SUBJECT: SB 1100 - Amendment to the Brown Act to Clarify Procedure for Removal of Disruptive Individuals From Public Meetings

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On August 22, 2022, the Governor of California approved Senate Bill No. 1100 regarding the removal of disruptive individuals from public meetings.

Effective January 1, 2023, public bodies subject to the Ralph M. Brown Act must comply with the following procedure when removing disruptive individuals from public meetings:

1. **Issuance of a warning**:

    a. The presiding member (for example, the Mayor, the Chair, etc.) of the body, or their designee, must first **warn** the individual that their behavior is disrupting the meeting and that failure to cease their disruptive behavior could result in their removal.

        - "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting.

    b. Exception: A warning is **not** required for removal if the disruptive individual uses force or makes a true threat of force.

        - "True threat of force" is a threat that has sufficient indicia of intent and seriousness that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

2. **Removal**: the disruptive individual may be removed once the above-referenced procedure is followed and the individual has not promptly ceased their disruptive behavior.

SB 1100 does not change or limit any First Amendment rights at public meetings, nor does it revise the meaning of "actually disruptive" behavior as determined by the

courts[1]. SB 1100 instead provides a uniform process for removal of disruptive persons at public meetings of legislative bodies throughout the State.

Finally, in addition to SB 1100, the City has existing tools for handling disruptive behavior at public meetings. For instance, Penal Code section 403 makes it a misdemeanor offense punishable by up to 6 months in jail or a fine of up to $1,000 for a person to willfully disturb or break up a public meeting. However, to err on the side of caution, use of this law should be reserved in instances where an individual is not complying with a request to cease the disturbance and leave the meeting peacefully in accordance with SB 1100. As always, legislative body members and staff are encouraged to remain calm and professional, even during highly charged issues, to set an example to the public they interact with and serve.

Our office will coordinate with the Mayor with respect to potential changes to the Long Beach Municipal Code related to SB 1100 and will present recommended amendments, if any, to the City Council for its review and approval early next year once the adopted legislation is effective.

MJK:kjm

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cc: CHARLES PARKIN, CITY ATTORNEY
DAWN MCINTOSH, ASSISTANT CITY ATTORNEY
GARY ANDERSON, ASSISTANT CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, CITY MANAGER
LINDA F. TATUM, ASSISTANT CITY MANAGER
TERESA CHANDLER, DEPUTY CITY MANAGER
KATY NOMURA, DEPUTY CITY MANAGER
APRIL WALKER, ADMINISTRATIVE DEPUTY CITY MANAGER
MONIQUE DE LA GARZA, CITY CLERK
DEPARTMENT HEADS

[1] The Ninth Circuit ruled that a meeting is *actually* disrupted when the legislative body is prevented from accomplishing its business in a reasonably efficient manner, as such conduct may interfere with the rights of other speakers. (*White v. City of Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990); emphasis added.) Further, a disruption doesn't occur simply because a member of the legislative body is or feels attacked, and an individual cannot be removed from a meeting solely because of the use of profanity unless the profanity actually disturbs or impedes the meeting. (*Dowd v. City of Los Angeles*, 2013 WL 4039043 (C.D. Cal. 2013).)