



**CITY OF GLENDALE, CALIFORNIA
REPORT TO THE CITY COUNCIL**

AGENDA ITEM

Report: 2020 League of California Cities Annual Conference

1. Motion to Designate a Voting Delegate, First Alternate, and Second Alternate for the League of California Cities Annual Conference to be held October 7-9, 2020
2. Motion Providing Direction on the Resolution before the General Assembly of the League on October 9, 2020

COUNCIL ACTION

Item Type: Action Item

Approved for September 15, 2020 **calendar**

ADMINISTRATIVE ACTION

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RECOMMENDATION

Staff respectfully recommends Council's designation of a voting delegate and two alternates from City Council to represent the City of Glendale during the 2020 League of California Cities Annual Conference, which will be held virtually October 7 - 9, 2020. Staff also recommends that Council provide direction regarding the one resolution to be voted on during the Annual Conference.

BACKGROUND/ANALYSIS

The League of California Cities is an association of California city officials who work together to enhance their knowledge and skills, exchange information, and combine resources so that they may influence policy decisions that affect cities. Each year, the League organizes a conference which includes an Annual Business Meeting. During this meeting, the League's membership considers and takes action on resolutions that establish League Policy. This year's conference will be held virtually October 7 - 9, 2020. The Annual Business meeting will be held on the last day of the conference during the General Assembly on Friday, October 9, at 11:00 am. Each member city has a right to cast one vote on matters pertaining to League policy during the General Assembly.

Selection of Voting Delegate & Alternates

In order for cities to cast a vote during this Business Meeting, each city's respective Council must designate a voting delegate. In the instance that the selected voting delegate is unable to serve in that capacity, the Organization's bylaws allow each city the opportunity to appoint up to two alternate voting delegates.

For this selection process to be binding, the appointment of the voting delegate and alternates must be through an official action of the City Council. Furthermore, the voting delegate and alternates must be registered to attend the conference, and at least one must be present at the Business Meeting (virtually) in order to cast a vote. Eligible individuals who may be selected as the City's voting delegate include the Mayor, all City Council Members, as well as any other city official selected by the City Council to serve in this capacity.

As of September 1, 2020, three elected officials are confirmed to attend the 2020 League of California Cities Annual Conference: Mayor Vrej Agajanian, Council Member Paula Devine, and Council Member Dan Brotman.

It is recommended that City Council select a voting delegate, along with a first voting alternate and a second voting alternate. The second alternate will only be called upon to cast a vote on behalf of the City of Glendale in the absence of the designated delegate and alternate. Customarily, if the Mayor is attending a meeting during which a vote will be cast, then he/she is selected as the voting delegate. That being said, Council may appoint its delegate and alternate as desired.

2020 Annual Conference Resolution

During the General Assembly, the City's voting delegate votes on behalf of the City on resolutions presented by the League. This year, there is one resolution to vote on to support federal legislation that would require social media companies to remove materials which promote criminal activities. This resolution is sponsored by the City of Cerritos, and was concurred by the Cities of Hawaiian Gardens, Lakewood, Ontario, Rancho Cucamonga, and Roseville.

The resolution asks that the League of California Cities call upon the US Congress to amend Section 230 of the Communications Decency Act (CDA) of 1996 to condition immunity from civil liability on the following:

1. Online platforms must establish and implement a reasonable program to identify and take down content which solicits criminal activity; and
2. Online platforms must provide to law enforcement information which will assist in the identification and apprehension of persons who use the services of the platform to solicit and engage in criminal activity; and
3. An online platform that willfully or negligently fails in either of these duties is not immune from enforcement of state and local laws which impose criminal or civil liability for such failure.

The City of Cerritos is sponsoring this resolution in reaction to events whereby persons, using social media platforms to coordinate locations, dates, and times for their planned criminal activity, have committed acts of looting and vandalism resulting in both actual economic harm for targeted businesses, and monetary loss to cities who used resources to prevent such acts from occurring when such plans are discovered.

At its core, Section 230(c)(1) of the CDA provides immunity from liability for providers and users of an "interactive computer service" who publish information provided by third-party users. Essentially, this protects websites from lawsuits if a user posts something illegal, although there are exceptions for copyright violations, sex work-related material, and violations of federal criminal law.

Protections from Section 230 have come under more recent scrutiny on issues related to hate speech and ideological biases in relation to the influence technology companies can hold on political discussions. Setting aside Section 230, there are some potential constitution issues one could raise, should there be an attempt to implement such a resolution into statute.

In the United States, the First Amendment prohibits the government from restricting most forms of speech, which would include many proposals to force tech companies to moderate content. While "illegal" types of speech enjoy limited or no First Amendment protection, the line for delineating between "legal" and "illegal" speech is very difficult to determine. Consequently, one would expect online platforms to push back on whether there is a constitutionally feasible way for them to "identify" protected speech versus unprotected speech, or whether there is a feasible way to define "content which solicits

criminal activity.” A law requiring companies to moderate content based on the political viewpoint it expresses, for example, would likely be struck down as unconstitutional.

Nonetheless, private companies can create rules to restrict speech if they so choose. Online platforms sometimes argue they have constitutionally-protected First Amendment rights in their “editorial activity,” and therefore, it violates their constitutional rights to require them to monitor (i.e., “identify and take down”) content that may be protected under the First Amendment. They may also argue, along the same lines, that the government may not condition the granting of a privilege (i.e., immunity) on doing things that amount to a violation of their First Amendment rights. This is why Facebook and Twitter ban hate speech and other verifiably false information, for example, even though such speech is permitted under the First Amendment.

With respect to privacy and the Fourth Amendment, online platforms may argue that requiring them to “provide to law enforcement information that will assist in the identification and apprehension of persons who use the services of the platform to solicit and to engage in criminal activity,” turns them into government actors that search users’ accounts without a warrant based on probable cause, in violation of the Fourth Amendment.

The Annual Conference Resolutions Packet includes the language and background information for the resolution, an analysis by the League, as well as letters of concurrence from the aforementioned cities. The packet is included as Exhibit 1 of this report.

FISCAL IMPACT

None

ALTERNATIVES

Alternative 1: The City Council may select a voting delegate, first alternate, and second alternate for the 2020 League of California Cities Annual Conference; and provide direction to support the resolution as presented in the Annual Conference Resolutions Packet.

Alternative 2: The City Council may select a voting delegate, first alternate, and second alternate for the 2020 League of California Cities Annual Conference; and provide direction to oppose the resolution as presented in the Annual Conference Resolutions Packet.

Alternative 3: The City Council may choose to not participate in the Business Meeting of the General Assembly, which would not necessitate the selection of a voting delegate or alternates.

Alternative 4: The City Council may consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

N/A

EXHIBITS

1. 2020 Annual Conference Resolutions Packet