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Council strikes a more measured note in response to Skinner letter

By Pippa Fisher



The Lafayette City Council at the dais. Photo Pippa Fisher

The Lafayette City Council spent close to an hour and a half thrashing out the nuances of language for their response to a message received in December from State Sen. Nancy Skinner at a recent meeting. Choosing between two versions of a response, four of the five members voted to send the more neutral version and not to escalate any questions regarding the ethics of the senator's letter.

in an active land-use application." It was a sentiment shared by Vice Mayor Susan Candell who said that she could not agree more, while Council Member Teresa Gerringer took a more cautious view saying, although she was concerned, she wanted to find out more about any implications.

At the previous meeting Council Member Cam Burks had expressed extreme concern over Skinner's Dec. 11 letter in which she reminded the council of her bills, Senate Bill 167 and SB 330, that would "likely impact not only the Terraces project but any project consistent with local zoning rules as defined in the amended Housing Accountability Act and in SB 330. Thank you for your consideration." Burks said at that meeting he had never been more outraged as he referred to what he called the "height of abuse of power" from Skinner's "interference

At that Jan. 13 meeting the council postponed a decision until the Jan. 27 meeting in order to get advice from Robert Hodil, the outside attorney hired by the council to advise on issues concerning the controversial 315-apartment Terraces project.

So, did Skinner cross a legal or ethical line with the letter and was it 'interference in an active land-use application' as Burks suggested?

Hodil, weighing in at the Jan. 27 meeting, said he did not see that. In terms of ethical rules the senator is bound to follow, he said that he didn't see any violations from a legal perspective.

"I can understand how many may feel that this is an unethical action on her part," he said, "but there's nothing in terms of any clear rules she has violated by doing this in my opinion."

Burks remained in favor of referring the senator's letter to various agencies for review and for sending a harsher draft of the response to register the city's concern with "a state senator declaring an opinion on the processing of a development project (the Terraces of Lafayette) that is not even in her district," and referred to "potentially unethical partiality regarding the Terraces project in Lafayette."

However the other four council members did not support such a response at the Jan. 27 meeting and opted to send a response acknowledging the senator's views on housing and assuring her that "the city will continue to focus on generating much-needed housing in compliance with the applicable laws."

Regarding Burks' proposal to have the matter examined by outside review, Mayor Mike Anderson responded, "I don't believe we are going to gain by pushing this into a question of ethics." Anderson said rather than ethics, this was a question of "poor form."

Burks did not support the final vote to send out a slightly modified draft of the more neutral letter, which passed 4-1.

In comments made after the meeting he indicated his intention as an independent council member to refer the letter to the California Department of Justice, the State Senate Select Committee on Ethics and the U.S. Department of Justice Public Integrity Section, saying he is doing so on behalf of the constituents, based on what he believes they elected him and the entire council to do - "to uphold and defend values of integrity and transparency."

"I will continue to pursue action that calls Senator Skinner's actions into question and places analysis of potential violations of ethics and public corruption in the hands of trained investigative/enforcement and specialized legal experts; of which we as a council and our retained city attorney, are not," Burks said, adding that his focus is solely on the senator's action, not the project.

Burks said that, while he has great respect for his colleagues, he was disappointed with the council's reversal. "The council signaled indignation only two weeks before, expressing strong dissent with the senator's interference . I took this as a sign of commitment to the expected principles required of us as elected leaders."

Burks continued, "The Constitution of this state grants us, the city and residents of Lafayette, with the extraordinary authority to govern local land use, which in turn will shape the future of Lafayette and the character of our hometown; I believe this imperative wasn't recognized on Monday night and in my opinion, we let our community down."

Editor's note: Sen. Skinner's office did not respond to a request for comment by the time this paper went to press.

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