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Orinda city council has wide-ranging discussion about how to communicate with public

By Sora O'Doherty

In considering changes to its policy and procedures manual, the Orinda City Council engaged in a thoughtful discussion with members of the public and the city attorney on how to craft its rules to encourage good communication between the council and those whom they represent in a sensitive and respectful manner. From time to time, city staff and the council review the manual for any updates that may be necessary.

Although such updates are usually handled as a consent item, this year staff felt the changes were significant enough to merit inclusion on the agenda. The staff report was presented by city clerk Sheri Smith. The proposed changes to the manual were intended to add language pertaining to teleconferenced meetings, add clarifying language to the wording dealing with the public forum, and to add and amend language on maintaining civility and avoiding disruptive conduct during meetings, as well as some general clean-up language throughout the document, which was last updated in March of last year.

Comments on the proposed changes began during the public forum, when Charles Porges attempted to comment on many of the sections proposed to be changed. He was unable to complete his comments in the three minutes allotted, and was invited to submit the remainder of his comments in writing. A short recess allowed him to do so, and when the item on the agenda was reached, Vice Mayor Inga Miller responded to most of his points, with additional comments from the rest of the city council.

When the actual matter came up on the agenda, Nick Waranoff offered public comment, suggesting that new proposed language about civility was unconstitutional, and that if the council chose to impose a requirement of civility, he would "talk to [his] friends at the American Civil Liberties Union, for whom [he] once worked, and would ask them to bring an injunction to strike that." His second point was an objection to the lack of a requirement that staff bring multiple options to the city council, as opposed to one recommendation. "I would ask that there be something there that staff members not usurp the role of the council, and should present a balanced presentation of the pros and cons of each issue." He added that council members are elected and all reside within Orinda.

Miller opened her comments by noting that she appreciated the fact that this matter was put on the agenda rather than on the consent calendar. She added that the discussion was a really interesting exercise and an intellectual one. Many of the comments dealt with timing, how long speakers are permitted to speak, when things are posted in relation to the agenda, and whether there should be a back-and-forth dialog between commenters and the city council.

City attorney Osa Wolff was present at the meeting and responded to questions about why she had suggested certain changes to the rules. Council Member Nick Kosla suggested that requiring speakers to offer suggested solutions was "kindergarten language," and Wolff agreed and withdrew the proposed language. Kosla related that he had once seen a member of the public die at the lectern during a planning commission meeting, adding that the experience can be stressful and some speakers may be looking to the council to come up with solutions, a function for which they are elected.

There was extensive dialogue of the new, proposed language dealing with civility. Wolff explained that her intention was to encourage, not mandate, communication in a manner that is civil and not hostile or threatening. There was considerable discussion about constitutionally protected speech, and when speech or actions may cross the line and actually become disruptive of a meeting, preventing other speakers from being heard. It is at that point that such activity becomes prohibited, not because it is not constitutionally permitted but because it disrupts the continuance of the meeting itself. However, Wolff added that "Fortunately, you don't get a lot of that because the council is civil, staff is civil, and the public is civil."

There was also considerable discussion about how to encourage interaction with the city council, how to make the public feel welcome and comfortable engaging with the council, and yet how to be cautious that the council would not violate the provisions of the Brown Act, which governs public meetings in California. Council Member Amy Worth noted that if members of the public feel that they are in a hostile environment, that would reduce public comments.

Mayor Dennis Fay concluded the discussion by pointing out that the public has to realize that America is a representative democracy, not a pure democracy where every person gets to vote on every issue. The procedural rules adopted by the council are for the purpose of allowing democracy to flourish, he said. The city attorney said that she would revise the proposed changes to reflect the suggestions from the council and that the matter would then return on a consent calendar for adoption.

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