

THE SILVERSTEIN LAW FIRM

A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

DAN@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

September 25, 2018

VIA U.S. MAIL AND E-MAIL

Holly Wolcott, City Clerk
City of Los Angeles
200 N. Spring Street, Rm. 395
Los Angeles, CA 90012

Hon. Herb Wesson, President
Los Angeles City Council
200 N. Spring Street, Rm. 430
Los Angeles, CA 90012

Re: Objection to Violations of the Brown Act in Connection with
Proposed City Hall Exclusion Policy, CF 16-1104-S1
Item No. 19 on Meeting Agenda for September 25, 2018

Dear Ms. Wolcott and President Wesson:

This office represents or has been contacted by persons and/or organizations directly impacted by the City of Los Angeles/City Council proposed amendments to City Council Rules Rule 7 and 63.

We are informed that the City will begin consideration of the proposed amendments at its September 25, 2018 meeting. City Council Rule 77 mandates that the City Council not vote on the matter until the proposed amendments are presented to the City Council at its first consideration of the proposed rule amendments and the matter is held over for one week.

The proposed rule amendments appear to be a response to the federal court ruling in Walsh v. Bryant Enge et al. (Case No. 3:15-cv-01666-SI). In that case the federal trial court invalidated a City of Portland, Oregon ordinance that purported to authorize City officials to ban individuals from City Hall and its meetings for a potentially indefinitely period of time. The Court, applying principles of First Amendment law found the rule in the ordinance was unconstitutional on its face and as applied to the Plaintiff, Mr. Walsh.

The trial court observed:

“Maintaining decorum does not, however, require prolonged and prospective exclusions from a forum intended for public discourse and debate. The Ninth Circuit has emphasized that

Holly Wolcott, City Clerk
Hon. Herb Wesson, Council President
September 25, 2018
Page 2 of 3

in a city council meeting, the council may exclude individuals for actual disruption, but the council may not exclude people for ‘constructive disruption, technical disruption, virtual disruption, *nunc pro tunc* disruption, or imaginary disruption. The City cannot define disruption so as to include non-disruption. . . .’ [Citation omit.] According to the Ninth Circuit, ‘Actual disruption means actual disruption.’ [Citation omit.] Defendants have not pointed to any appellate court decision, nor was the Court able to locate any such decision, allowing an incident, or even several incidents, of actual disruption to justify the prospective exclusion of an individual from future public meetings. Defendants have a simple alternative to the prospective exclusion ordinance. They can order any disruptive individual to leave the meeting that he or she is disrupting for the duration of that meeting.” Walsh v. Bryant Enge (December 31, 2015), p.24.

We presume that the City Council has been planning for some time to enact this prospective restraint of speech for the purpose of punishing certain individuals who speak out with critical words for the City and its officials. Many of these individuals use a highly theatrical approach to their criticism of City officials, including the use of profanity. As this Council knows, the mere use of profanity at a public meeting is not considered to be a disruption.

The proposed rules have no discernible objective standard for the meaning of a disruption. Although the proposed rules appear to be targeted to certain frequent individual speakers at City Council meetings, an attack on the speaking rights of those individuals places in danger the speaking rights of all who would dare criticize the City or its officials. Additionally, the proposed rules provide no administrative remedy to appeal the determination of a chair of a committee or the City Council.

In short, the proposed rule amendments violate the First Amendment and California Constitution. The single letter in the Council file, purporting to document one person offended by a single individual is no legitimate basis – particularly since there is no evidence that any frequent speaker at City Council meetings has ever demonstrated an

Holly Wolcott, City Clerk
Hon. Herb Wesson, Council President
September 25, 2018
Page 3 of 3

immediate breach of safety or physical threat.¹ Discomfort with the use of profanity is no legitimate basis to infer or imagine a threat to anyone's personal safety.

Finally, the City's effort to exclude persons who momentarily disrupt a City meeting, perhaps in exercise of their free speech rights, for weeks at time is unconstitutional because the listeners in the room, the Council members, and the tens of thousands of persons watching on the municipal cable channel are completely deprived of the receipt of information needed to further the public discussion goals of the limited public forum of a City Council meeting.

For the foregoing reasons, the proposed rule amendments must be rejected by the City Council.

Very truly yours,

s/Daniel Wright

DANIEL WRIGHT
FOR
THE SILVERSTEIN LAW FIRM

DEW/vl

¹ Furthermore, it appears the one item in the record related to one person's discomfort at a meeting was solicited by Mr. Wesson. Such a solicited letter is not credible evidence of any sincere fear of harm from public speakers who engage in certain theatrics some Council members dislike.

Re: Oppose the ban on free speech

Dear Holly Wolcott,

I stand with Firearms Policy Coalition, Firearms Policy Foundation, the Calguns Foundation, and California Association of Federal Firearms Licensees in strong opposition to the proposed policy that unconstitutionally restricts the rights of people to speak, publish, and republish truthful, non-misleading information which is freely available in the public domain.

There can be no question that the proposed policy would impose a prior restraint on and criminally punish constitutionally-protected speech and information. For this and other reasons, I request your NO vote.

Sincerely,

Joe C. Brindle

jcb123456@yahoo.com

2256 Allesandro Street

Los Angeles, CA 90039

Constituent



Richard Williams <richard.williams@lacity.org>

Comment from the public: 16-1104-S1

Eric Preven <esp3800@aol.com>

Tue, Sep 25, 2018 at 9:22 AM

To: Richard Williams <richard.williams@lacity.org>

Cc: stefan.fable@lacity.org, Patrice Lattimore <patrice.lattimore@lacity.org>, paul.habib@lacity.org, matt.hale@lacity.org, curtis.earnest@lacity.org, john.popoch@lacity.org, chad.molnar@lacity.org, nicole.bernson@lacity.org

DO not Approve—

As a watchdog and writer, I have requested data to support the shifting of public hearings out of council chambers and into committee. Data about 'engagement' at city hall was cited by the clerk, but never provided.

At yesterday's budget and finance committee hearing, members of the public from CD2, CD9 and CD12 took exception to the proposed "out of view around the corner" hearing by LADBS without the 5 quorum in the room.

This protocol does not pass any 'fair public hearing' test.

The CD offices referenced above were notified, but CM Krekorian the chair of the committee personally addressed me and told me that I had no business advocating as a writer or member of the public against the 'out of view around the corner' LADBS hearing because I am not a lobbyist or lawyer, and I take no money.

The attempts to rule me as 'disruptive' were at once inaccurate (because at no time have I disrupted a meeting) and truthful.

I am working diligently to ensure that city residents are given a fair chance to speak up and expose LADBS malfeasance or harsh conditions. That necessarily means disrupting the 'lien' railway that has been put in place with no "due process".

The current system, of adding a 'faux' hearing at budget committee-adjacent lien application office does not pass muster.

It merely blocks an owner from speaking out on channel 35, at council, about the pernicious City attacks on stakeholders during a homeless crisis.

Eric Preven
CRD2
818-762-7719
818-645-2616 mobile

Also, City Clerk, please add this letter to each of the thirty items listed under bud fi number 4 on September 24, 2018.

Sent from my iPhone

On Sep 25, 2018, at 8:29 AM, Richard Williams <richard.williams@lacity.org> wrote:

Mr. Preven,
You are incorrect on Item No. 4m. It was "Submitted without Recommendation."

The "Received and Filed" and "Approved" liens will most likely appear on the Council agenda in 2 weeks (either Oct. 9 or 10). The "Submitted Without Recommendation" liens will be scheduled in 4 weeks (either Oct. 23 or 24). And all scheduling is subject to the approval of the Council President.

When these items appear on the Council agenda, they will NOT be open for public comment inasmuch as public comment was satisfied in Budget and Finance Committee with a quorum of 5 members.

--

Richard Williams
Council and Public Services
Office of the City Clerk

City of Los Angeles
 (213) 978-1071 direct line
 (213) 978-1079 fax
richard.williams@lacity.org

Legislative Assistant to:

Los Angeles City Council's
 - Budget and Finance Committee
 - Rules, Elections, and Intergovernmental Relations Committee
 - Ad Hoc Committee on the 2028 Summer Olympics



On Mon, Sep 24, 2018 at 6:43 PM, Eric Preven <esp3800@aol.com> wrote:

Richard,
 Item 4 today consisted of a number of lettered items:
 This was what I noted. Do you agree?

- a CD2 Receive and file
- b CD3 Lien applied
- c CD4 No recommend
- d CD4 Lien
- e CD7 Lien
- f CD4 Lien
- g CD7 Lien
- h CD5 No recommend
- i CD6 Lien
- j CD7 No recommend
- k CD7 Lien
- l CD8 Lien
- m CD8 Lien
- n CD9 Receive and file
- o CD9 No recommend
- p CD9 No recommend
- q CD10 Lien
- r CD10 Lien
- s CD10 No recommend
- t CD10 Lien
- u CD11 Lien
- v CD11 Receive and file
- w CD11 No recommend
- x CD11 Lien
- y CD12 Receive and file
- z CD12 No recommend
- aa CD12 Lien
- ab CD13 Lien
- ac CD14 Lien
- ad CD15 Lien

When will these items appear on council's agenda and will such hearings be open for public comment?

Regards,

Eric Preven
 CRD2
 818-762-7719
 818-645-2616 mobile

