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# **Dealing With Disruptions at Public Meetings: Legal and Practical Considerations**

White Paper Published by  
Public Law Group®

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## **Introduction**

The Ralph M. Brown Act as well as court decisions applying broader constitutional principles recognize the general right of the public to attend – and, to some extent, participate in – meetings of legislative bodies. Those meetings frequently involve controversial, divisive and highly-charged issues that can result in disruptions by members of the public and, at times, by members of the legislative body itself. This paper provides an overview of the legal principles that come into play when dealing with such disruptions, and practical considerations for resolving disruptions at public meetings.

## **The Legal Framework**

A local legislative body seeking to address a disruption in its meetings must do so consistent with governing law, including the Brown Act, other state statutory provisions, and First Amendment considerations developed by federal and state courts. A legislative body seeking to prevent or deal with disruptions must do so with these legal considerations in mind, and in close consultation with its city attorney and city manager.

## **The Brown Act**

The primary body of law governing the conduct of meetings of legislative bodies and other local legislative bodies in California is the Ralph M. Brown Act.<sup>1</sup> This discussion focuses on those provisions of the Brown Act that address participation by members in meetings of legislative bodies, and the authority of those bodies to address behavior that disrupts the ability of the body to conduct the public's business. For a more comprehensive guide to the Brown Act, refer to *Open & Public IV: A Guide to the Ralph M. Brown Act*, published by the League of California Cities.<sup>2</sup>

The Brown Act seeks to strike a balance between the right of the public to participate in meetings of their legislative bodies with the need for those bodies to conduct the public's business effectively and productively. Of course, the extent to which the Brown Act strikes the proper balance is a matter for debate.

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<sup>1</sup> Cal. Gov't Code § 54950 *et seq.*

<sup>2</sup> This excellent publication is available at <http://www.cacities.org/UploadedFiles/LeagueInternet/86/86f75625-b7df-4fc8-ab60-de577631ef1e.pdf>. The Attorney General's 2003 guide to the Brown Act, although now somewhat out of date, is another valuable source of information about this statutory scheme. That publication is available at [http://caag.state.ca.us/publications/2003\\_Main\\_BrownAct.pdf](http://caag.state.ca.us/publications/2003_Main_BrownAct.pdf).

The Brown Act generally requires the public’s business to be conducted in open and public meetings, and that the public be provided prior notice of the matters that will be considered at the meeting.<sup>3</sup> The Brown Act also recognizes the right of the public to participate in meetings by providing comment on items on the agenda, and on matters not on the agenda but within the subject matter jurisdiction of the body.<sup>4</sup> Moreover, individuals, as well as members of the news media, may record public meetings.<sup>5</sup>

The Brown Act specifically provides that a legislative body may not “prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.”<sup>6</sup> Federal courts, employing a First Amendment analysis, have similarly invalidated rules aimed at shielding public employees and officials from public criticism at meetings.<sup>7</sup>

The Brown Act authorizes legislative bodies to adopt reasonable regulations on public participation.<sup>8</sup> This authority includes adopting regulations on public testimony. Such regulations must be enforced fairly and without regard to the viewpoint of the speaker. Similarly, the body may regulate the recording or broadcast of the meeting upon making a finding that the noise, illumination, or obstruction of view from the recording would constitute a persistent disruption of the proceedings.<sup>9</sup>

Significantly, the Brown Act also expressly authorizes the legislative body to remove from a meeting those persons who willfully interrupt the proceedings. If order still cannot be restored, the legislative body may order that the room be cleared. The legislative body must allow members of the

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<sup>3</sup> Cal. Gov’t Code §§ 54953, 54954.

<sup>4</sup> Cal. Gov’t Code § 54954.3. The right of members of the public to address matters not on the agenda but within the jurisdiction of the legislative body does not extend to special meetings unless the body itself grants that right through its rules of order.

<sup>5</sup> Government Code § 54953.5

<sup>6</sup> Cal. Gov’t Code § 54954.3(c).

<sup>7</sup> See, e.g., *Griffin v. Bryant*, 30 F. Supp. 3d 1139, 1185-1200 (D.N.M. 2014) (finding that Village rule forbidding speakers from making “any negative mention of any Village personnel, staff, or the Governing Body” during public input portion of meetings violated First Amendment).

<sup>8</sup> Cal. Gov’t Code § 54954.3(b).

<sup>9</sup> Cal. Gov’t Code § 54953.6.

news media who have not participated in the disturbance to remain in the meeting room and observe the meeting. The legislative body may establish a process to permit individuals not responsible for the disturbance to reenter the meeting room.

### **Other Statutory Provisions**

Independently of the Brown Act, California Penal Code section 403 makes it a misdemeanor to willfully disturb or break up a lawful assembly or meeting unless the person has legal authority to do so. *McMahon v. Albany Unified School District*<sup>10</sup> discusses the application of this statute.

The plaintiff dumped bags of garbage on the floor during a school board meeting. He was arrested for violating Penal Code section 403, and sued for unlawful arrest.

The court concluded that the plaintiff's arrest was proper because he initially had been warned not to dump the trash, and the body was unable to proceed with the meeting because of plaintiff's conduct. As the court explained, unless the plaintiff was arrested, "[e]ither the meeting would have been further delayed at some point while McMahon picked up the garbage or other speakers would have had to stand near the trash in order to address the board and audience members would have been forced to peer over a mound of garbage in order to watch a public body perform its duty."<sup>11</sup> Accordingly, the court concluded, the trash dumping did not merely "disturb the sensibilities" of the board members. Rather, it actually impaired the ability of the body to effectively conduct its meeting.

Additionally, California Government Code section 36813 – which is not part of the Brown Act – authorizes a legislative body to address disruptions by members of the council. That provision states

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<sup>10</sup> 104 Cal. App 4th 1275 (2002).

<sup>11</sup> *Id.* at 1289.

that a legislative body “may punish a member or other person for disorderly behavior at a meeting.” In exercising this authority, the council must act within constitutional constraints.<sup>12</sup>

### **First Amendment Principles Governing Legislative Body Meetings**

The ability of a legislative body to address disruptions of its meetings within the constraints of the law would be difficult enough if the governing law consisted solely of these state code provisions. Courts, however, have concluded that a legislative body meeting is a *limited* public forum for purposes of First Amendment analysis, adding additional complexity to this area.<sup>13</sup>

As the Ninth Circuit has explained, “[c]itizens have an enormous [F]irst [A]mendment interest in directing speech about public issues to those who govern their city.”<sup>14</sup> Accordingly, the provisions of the Brown Act and Penal Code section 403 authorizing the legislative body to address disruptions must be implemented consistent with First Amendment principles.

In *White v. City of Norwalk*, the Ninth Circuit Court upheld a city ordinance that authorized the legislative body to order removed individuals who uttered “personal, impertinent, slanderous or profane” remarks if the remarks “disrupted, disturbed, or otherwise impeded” the conduct of the meetings. The court stated that the presiding officer should not rule speech out of order “simply because he disagrees with it, or because it employs words he does not like.”<sup>15</sup> The court explained, however, that under the challenged ordinance, “[s]peakers are subject to restriction only when their speech ‘disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting.’ So limited, we cannot say that the ordinance on its face is substantially and fatally overbroad.”<sup>16</sup> More specifically, the court explained:

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<sup>12</sup> See *Nevens v. City of Chino*, 233 Cal. App. 2d 775, 778 (1965) (in invalidating prohibition on tape recording legislative body meetings, court explained that rules adopted under section 36813 cannot be “too arbitrary and capricious, too restrictive and unreasonable.”).

<sup>13</sup> *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

A speaker may disrupt a Council meeting by speaking too long, by being unduly repetitious, or by extended discussion of irrelevancies. The meeting is disrupted because the Council is prevented from accomplishing its business in a reasonably efficient manner. Indeed, such conduct may interfere with the rights of other speakers.

Of course the point at which speech becomes unduly repetitious or largely irrelevant is not mathematically determinable. The role of a moderator involves a great deal of discretion. Undoubtedly, abuses can occur, as when a moderator rules speech out of order simply because he disagrees with it, or because it employs words he does not like. But no such abuses are written into Norwalk's ordinance, as the City and we interpret it. Speakers are subject to restriction only when their speech "disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting." So limited, we cannot say that the ordinance on its face is substantially and fatally overbroad.<sup>17</sup>

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<sup>17</sup> *Ibid.*; see also *Steinburg v. Chesterfield County Planning Comm'n*, 527 F.3d 377, 384-385(4th Cir. 2008) (rejecting First Amendment challenge to removal of individual for failing to address matters relevant to the subject of the meeting); *Rowe v. City of Cocoa*, 358 F.3d 800, 803 (11th Cir. 2004) ("As a limited public forum, a legislative body meeting is not open for endless public commentary speech but instead is simply a limited platform to discuss the topic at hand"); *Eichenlaub v. Township of Indiana*, 385 F.3d 274, 281 (3d Cir. 2004) (body may remove a "repetitive and truculent" speaker in order to prevent 'badgering' and 'constant interruptions.');" *Galena v. Leone*, 199 F.3d 186 (3d Cir. 2001) (member of the public who continues to interrupt meeting by making "objections" may be removed from meeting); *Jones v. Heyman*, 888 F.2d 1328, 1329 (11th Cir. 1989) (presiding officer may require that speakers adhere to the agenda); *Scroggins v. City of Topeka, Kansas*, 2 F. Supp. 2d 1362 (D. Kan. 1998) (upholding a viewpoint neutral legislative body rule prohibiting personal attacks); but cf. *Richard v. City of Pasadena*, 889 F. Supp. 384 (C.D. Cal. 1995) (invalidating rule requiring members of the legislative body "[t]o perform responsibilities in a manner that is efficient, courteous, responsive and impartial" on the ground that it was unconstitutionally vague and did not require that the regulated conduct be disruptive); see generally Paul D. Wilson and Jennifer K. Alcaez, *But It's My Turn to Speak! When Can Unruly Speakers at Public Hearings Be Forced to Leave or Be Quiet*, 41 Urb.Law 579 (2009).



In *Norse v. City of Santa Cruz*,<sup>18</sup> the Ninth Circuit explained that legislative bodies may “regulate not only the time, place, and manner of speech in a limited public forum, but also the content of speech – as long as content-based regulations are viewpoint neutral and enforced that way.”<sup>19</sup> Indeed, the legislative body may “close an open meeting by declaring that the public has no First Amendment right whatsoever once the public comment period has closed.”<sup>20</sup>

The *Norse* court emphasized, however, that legislative bodies may not “extinguish all First Amendment rights” at a public meeting.<sup>21</sup> For example, a member of the public may not be ordered removed from the meeting merely for making an inflammatory gesture, such as a “Nazi salute,” unless this conduct was itself *actually* disruptive.<sup>22</sup> The *Norse* court emphasized that legislative bodies are not free to define “disruption” in whatever manner they choose. Rather, the court emphasized that “[a]ctual disruption means actual disruption. It does not mean constructive disruption, technical disruption, virtual disruption, *nunc pro tunc*<sup>23</sup> disruption, or imaginary disruption.”<sup>24</sup>

The Ninth Circuit recently emphasized the requirement that both the city rules of order regulating conduct at public meetings – and the actual application of those rules – be limited to conduct that is *actually* disruptive, at least to the extent that the person is to be removed from the meeting for the conduct.<sup>25</sup> Because the challenged ordinance regulating “insolent” conduct during a meeting could not be narrowly construed to apply only when the “insolent” conduct actually disrupted the meeting, the court invalidated that provision of the ordinance.<sup>26</sup>

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<sup>18</sup> 629 F.3d 966 (9<sup>th</sup> Cir. 2010).

<sup>19</sup> *Id.* at 975.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Id.* at 975-976.

<sup>22</sup> *Id.* at 976; see also *Leonard v. Robinson*, 477 F.3d 347, 352 (6<sup>th</sup> Cir. 2007) (single utterance of obscenity did not constitute disruption sufficient to justify individual’s removal from meeting).

<sup>23</sup> In other words, “disruption” that is determined retroactively.

<sup>24</sup> 629 F.3d at 976.

<sup>25</sup> *Acosta v. City of Costa Mesa*, 694 F.3d 960, 971-972 (9<sup>th</sup> Cir. 2012).

<sup>26</sup> *Ibid.* The court, however, severed that provision from the ordinance to save it from complete invalidation. *Id.* at 977-978.

In applying rules prohibiting disruptions of meetings, the requirement of viewpoint neutrality is critically important. Courts have invalidated orders that individuals be removed from meetings after finding that the actions were based on the viewpoints of the speakers, or that the speech at issue offended the sensibilities of the public officials.<sup>27</sup>

California courts have also applied First Amendment principles to limit the circumstances in which a body may order a member of the public removed from a meeting for behavior the body deems to be disruptive. *In re Kay*<sup>28</sup> involved the scope of California Penal Code section 403. The court recognized that the orderly conduct of public meetings protects the right to free speech because “[f]reedom of everyone to talk at once can destroy the right of anyone effectively to talk at all.”<sup>29</sup> The court concluded, however, that Penal Code section 403 does not “grant to the police a ‘roving commission’ to enforce Robert’s Rules of Order.”<sup>30</sup>

Accordingly, the court concluded that Penal Code section 403 must be limited to those situations where “a member of the public substantially impairs the conduct of the meeting by intentionally committing acts in violation of implicit customs or usages or of explicit rules for governance of the meeting, of which he knew, or as a reasonable man should have known.”<sup>31</sup> The court expressly cautioned that, “[i]f any audience participation is permitted the rules regulating who may speak cannot be used to silence a participant merely because his views happen to be unpopular with the audience or with the government sponsors of the meeting.”<sup>32</sup>

Again, a common theme among all of these cases is that legislative bodies, in seeking to address disruptions, must do so in a consistent, viewpoint neutral manner.

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<sup>27</sup> *Norse v. City of Santa Cruz*, *supra*, 629 F.3d at 976; *Monteiro v. City of Elizabeth*, 436 F.3d 397 (3d Cir. 2006); *Musso v. Hourigan*, 836 F.2d 736, 739 (2d Cir. 1988); see also *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266, 270-71 (9th Cir. 1995) (“[L]imitations on speech at meetings must be reasonable and viewpoint neutral . . . .”)

<sup>28</sup> 1 Cal. 3d 930 (1970)

<sup>29</sup> *Id.* at 941.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Id.* at 943.

<sup>32</sup> *Id.* at 943, fn.10.

## **General Considerations for Addressing Disruptive Conduct**

With these legal principles in mind, and before discussing specific disruptive situations, we will provide some possible steps that can be taken to prevent or reduce the degree of disruption at public meetings, based on our experience.

**1. Adopt Rules of Order That Clarify the Types of Behavior Deemed Disruptive.** Having specific rules that identify the types of conduct deemed disruptive, rather than having this issue addressed through *ad hoc* rulings, is a critical first step. In adopting your rules – with the advice of your city attorney – look to rules that have been upheld by courts, such as those challenged in *White v. City of Norwalk*. Consistent with the *Norwalk* and *Norse* cases, those rules should make clear that they prohibit only behavior that *actually* disrupts the meeting, and that they will be applied in a viewpoint neutral manner.

**2. If a Highly Charged Issue Is on the Agenda, Encourage the Presiding Officer to Explain These Rules to the Public, and How They Will Be Applied.** We think that this practice serves multiple purposes. First, it reminds the presiding officer and other council members of how disruptions must be handled, and that the rules must be applied in an even-handed manner. Second, it lets the audience know at the outset that the legislative body has adopted rules prohibiting disruptions, and what the consequences will be if someone chooses to engage in conduct that actually disrupts the meeting. Third, should someone be removed from the meeting, and later challenge the removal in court, it will assist in the defense of the action.

**3. Meet With Your City Attorney, City Manager, and If Appropriate, a Police Department Representative, Before the Meeting to Ensure That Everyone Is on the Same Page About How Disruptions Will Be Handled.** In many cities, a police officer serves as the sergeant-at-arms responsible for carrying out the directives of the presiding officer, or legislative body. In addition, to the extent that a member of the audience engages in conduct that violates Penal Code section 403, police officers may be involved in arresting an individual for violating that section.

We have found that it is very helpful to meet with the city attorney, city manager and police chief or designee, to ensure that everyone has the same understanding and expectations about the circumstances and process that would lead to a member of the audience being removed, and perhaps cited for violating Penal Code section 403. For example, everyone should be on the same page about the need for the challenged conduct to be actually disruptive, that actions to address such conduct be done even-handedly without reference to the viewpoint of the member of the public, and the interaction between the presiding officer and police officer or other sergeant-at-arms.

**4. Provide at Least One Warning Before Ordering a Disruptive Individual from the Meeting Room.** Given the rights of the public under the Brown Act and First Amendment, it is our view that, except in the most extreme cases, the presiding officer should, if at all possible, clearly warn the individual that his or her conduct is actually disrupting the meeting, and request that it cease, before taking action to have the individual removed from the meeting room.

**5. Organize the Agenda in the Manner Most Likely to Ensure That The Critical Business of the Council Can Be Completed Even If Disruptions Are Anticipated With Respect to a Particular Agenda Item.** This is a practical, rather than legal consideration, and must be assessed on a case-by-case basis. If there are important, but not controversial, matters on the same agenda as a highly charged item, it may be best to have the council address those matters early in the meeting, before tensions rise, nerves fray, and the decision-making process becomes impaired.

**6. Remain Calm and Focused, and Provide an Example Through Your Own Demeanor.** Again, this is a practical consideration, but an important one. It has been our experience that the public feeds off of rancor and discord among council members. There are certainly limits as to what a legislative body can do when tempers flare, but addressing the situation in a calm and assured manner may help the situation.

## **Dealing With Specific Types of Disruptive Conduct by Member of the Public**

We cannot, of course, address every type of disruption that might occur during a public meeting. We can, however, discuss the types of disruption that we have seen arise with some frequency and offer some suggestions on how to address them.

### **1. A Speaker Refuses to Leave the Microphone After His or Her Speaking Time Has Expired.**

In our experience, this is one of the most common types of “disruptions” that can occur during a council meeting. The Ninth Circuit has identified this type of conduct as one that can result in an actual disruption, and one that is within the discretion of the presiding officer to address.<sup>33</sup> Nonetheless, this is the quintessential example of a situation where at least one warning should be issued before any effort is made to remove the speaker for disrupting the meeting. We have found that it can be effective to provide to the city clerk – who is likely to be viewed as more impartial than an elected presiding officer – the ability to turn off the microphone (if one is used) once the person has been warned that his or her speaking time has expired.

This is a situation where enforcing the rule in an even-handed manner is extremely important. If the audience senses that the presiding officer is not enforcing the time limits against speakers on one side of an issue, the ability to enforce the time limits can be undermined, and it can lead to unruly behavior by others in the audience.

**2. Speakers Insist on Addressing Matters Clearly Not Relevant to the Agenda Item.** This type of “disturbance” can be a difficult one to properly assess and police. It can arise in a variety of different ways.

First, a speaker may use his time to comment on something that is indisputably irrelevant to the specific agenda item. For example, in connection with an item to declare June as City Attorney Month, a speaker uses his time to talk about the need to fix potholes on Main Street.

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<sup>33</sup> *White v. City of Norwalk, supra*, 900 F.2d at 1425.

Second, a speaker may seek to speak during general public comment about a specific item on that agenda but that the council has not yet reached and that will have its own time set aside for public comment.

Third, a speaker may attempt to discuss a subject that is not on the agenda, nor within the subject matter jurisdiction of the legislative body, such as using his time to advertise for sale of his used Subaru.

Again, the approach to be used depends on the extent of the problem caused by this practice. If there are thirty items on the agenda and it becomes apparent that the individual is committed to speaking about the same clearly irrelevant subject on each of those items, then after providing clear warnings to the individual, having him or her removed may be appropriate. In more isolated cases, we believe that the more practical solution is to encourage the person to address the agenda item, and leave it at that. Apart from the fact that it is unlikely that a single isolated instance will rise to the level of an actual disruption, it is likely to take more time to remedy the problem than it would be hear the person out.

**3. Verbal Disruptions from the Audience.** A council's consideration of a particularly controversial matter can lead to heated emotions on both sides of the issue. At times, these emotions can manifest themselves in the form of outbursts from the audience, either while individuals are providing public comment, or during the council's deliberation of the issue.

Addressing this type of disruption depends on how widespread, noisy and continuous the outbursts become. If individual members of the audience causing the actual disturbance can be identified – and if warnings are not effective in quieting the outbursts – those specific individuals may be removed.

If, on the other hand, the outbursts come from a significant portion of the audience, removing individuals is unlikely to be effective, and may even exacerbate the problem with the remaining audience members. Instead, following warnings, the more practical and effective approach would be to call a brief recess. In addition to giving the crowd an opportunity to cool off, it also provides

council members with an opportunity to confer with the presiding officer, city manager and police representative about next steps in the event further outbursts continue to disturb the meeting.

And that brings us to the “nuclear” option: ordering that the room be cleared. We have never seen this option exercised, and there are compelling reasons – legal, political and practical – for choosing not to resort to an option that could result in photos in the next day’s newspaper of police officers ushering folks out of a public meeting. We believe that almost any alternative is preferable – including threatening the use of the option, or continuing the matter to later in the meeting or to some future meeting.

If the option is to be exercised, strict adherence to the statutory requirement – including allowing the press back in and determining whether others should be allowed in – should be strictly followed. You may also wish to consider allowing individuals back in one at a time to provide public comments, and broadcasting the audio of the meeting to an area where those who have been removed can listen, assuming the necessary technology to do so is available.

### **When It Is A Council Member Who Is Being Difficult**

Council meetings are difficult enough for a legislative body to regulate when it is members of the public that engage in belligerent and disruptive behavior. The issues in dealing with disruptive behavior are compounded when it is a member of the legislative body itself who is behaving badly or disrupting the meeting by refusing to comply with the mayor’s request for order, complying with the rules of order, or making *ad hominem* personal attacks or accusations involving other council members or staff.

In addition to the First Amendment rights that all citizens speaking at public meetings have, as discussed above, elected officials have First Amendment protection arising from holding public office. In *Carter v. Commission on Qualifications of Judicial Appointments*,<sup>34</sup> the court stated that “the right to hold public office, either by election or appointment, is one of the valuable rights of

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<sup>34</sup> 14 Cal. 2d 179 (1939).

citizenship.” Restrictions on the First Amendment rights of elected and appointed officials is likely subject to more stringent review than those of non-elected citizens.<sup>35</sup>

For example, in the case involving the refusal of the Georgia House of Representatives to seat Julian Bond because of his statements on the Vietnam draft, the United States Supreme Court stated that “the manifest function of the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy.”<sup>36</sup> In *Miller v. Town of Hull*,<sup>37</sup> the First Circuit Court of Appeals affirmed a 42 U.S.C section 1983 jury verdict, including punitive damages, against a town council that attempted to remove members of an appointed city redevelopment authority based on the authority’s exercise of First Amendment rights in supporting a subsidized housing project that the council opposed.

It follows that great caution must be exercised in determining that a council member or board member is being disruptive and should be removed from a public meeting. Absent clear behavior that is threatening to public safety or involves physical conduct that disrupts a meeting, a court is likely to find issues of fact precluding summary judgment and requiring an evidentiary showing of the constitutional basis for the exclusion.

In *Vacca v. Barletta*,<sup>38</sup> acting chair Barletta told Vacca, a member of the school board, that he would not continue with a “screaming debate” where Vacca was “aggressively challenging” the school superintendent. Barletta called a recess, and shortly after the meeting resumed, three police officers physically dragged the protesting Vacca from his seat, handcuffed him, and took him to the police station for the duration of the meeting. Good drama, but bad decision, as the summary judgment for Barletta was reversed by the First Circuit Court of Appeals based on disputed facts as to whether Vacca’s removal was content-neutral for disruption or for constitutionally-protected speech. It should be noted that the case does not say that Barletta acted on the advice of the board’s counsel, who perhaps was not present and didn’t have the chance to counsel his client.

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<sup>35</sup> *Huntley v. Public Util. Com.*, 69 Cal. 2d 67 (1968).

<sup>36</sup> *Bond v. Floyd*, 385 U.S. 116 (1966).

<sup>37</sup> 878 F.2d 523 (1st Cir. 1989).

<sup>38</sup> 933 F.2d 31 (1st Cir. 1991).



Practical Pointers:

- a. Be extremely cautious in considering the removal of a council member at a public meeting, as absent compelling evidence on a tape of the meeting it will be setting the council member up to claim he/she is being targeted for First Amendment expression, is likely to aggravate rather than calm the situation in the long term, and may result in a lawsuit against the agency claiming violation of federal constitutional rights.
- b. If a meeting becomes unruly or difficult, a recess is often a good way to provide a short respite from the arguing and accusations and to provide the opportunity for council members to cool down and hopefully return as adults to the podium.
- c. When a councilmember continues to return to points already made and wants to speak multiple times and at length on the same issues, the parliamentary procedure motion to “end debate and call the question” is an effective method to move the item along.

**Conclusion**

The key to addressing disruptions at legislative body meetings is to act transparently, consistently and without regard to the viewpoint of the speaker. Adopting specific rules governing this area, and discussing their operation with the city attorney and city manager when a potentially charged issue is coming before the council, helps to accomplish that goal.



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