

Updated 6.21.2024

Comments from Residents Regarding the CM's Zoom Letter and the City Attorney's Position:

The city manager wrote in the Indy and says he paraphrased the city attorney:

*But, if the city and community want to continue to have the city celebrate things like LGBTQ+ Pride month or Juneteenth, then someone making hateful speech might have a case that their hateful speech IS related to City business ...*

That seems very offensive! Seems to imply that if you guys want Zoom, we first have to get rid of pride month and Juneteenth.

Who is this city attorney? I think grossly incompetent

Thanks,

JP (JP is a retired attorney)

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At the bottom is an excerpt from the Santa Margarita Water District's notice for its June 18, 2024 BOD meeting.

Full disclosure, I am an independent (out-sourced) consultant to them going into my 13th year working for the District, the largest in SOC.

SMWD is represented by the same law firm as us: Best, Best & Krieger (BBK).

Since lockdown was officially terminated by the Governor, many public agencies, not just SMWD, have found a workaround: By declaring teleconference participation a "**convenience**," the virtual component is **NOT** considered a legal requirement.

I think this both removes and inures (shelters) any Brown Act and/or 1st Amendment challenges.

SMWD doesn't require formal registration, potential candidates availing themselves, providing proof of name and address in advance to speaking, but I'm wondering if they could?

And why couldn't we?

R

Even though I am also a lawyer, from a non-legal perspective it seems highly inappropriate, insensitive, illogical (and incredibly incompetent) for a city attorney (and a city manager paraphrasing) to blame the zoom issue on pride month and Juneteenth. Why not choose to highlight another holiday that the city recognizes? Like Memorial Day, for example, or July 4th, perhaps a zoom bomber is going to disparage the young soldiers who stormed Normandy and perished (i.e., like the orange guy and his followers that spew hate)?

I am afraid this whole thing can spiral out of control, it reflects poorly (to say the least) on the city attorney and city manager.

Thanks,

JP

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Speech is protected but subject to regulation. There was a crazy guy about 15 years ago who would use f-word in public comments and was paranoid and delusional but talking about matters before council. The council let him have his say. But I thought he went too far and sometimes should have been ruled out of order. Same with Blake People should be able to say what they want if willing to assert it is related to matter under discussion. But if not and/or it prevents a normal range of discussion to any reasonable person attending meeting on business of council it is a subjective not objective standard of disruption. If it disrupts it can be cut off. If they want to go to court and argue it was protected speech that could not be regulated let them do it. But if by a community standard it is both not on topic and/or shocking to the conscience of the public rule it out of order, do not end meeting. Whether on topic or not.

But that is me. CA needs to advise of liability in dollars if court finds unconstitutional denial of protect speech. Here is Brown Act:

HH

**54957.9.**

*In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.*

*(Amended by Stats. 1981, Ch. 968, Sec. 34.)*

### **54957.95.**

*(a) (1) In addition to authority exercised pursuant to Sections 54954.3 and 54957.9, the presiding member of the legislative body conducting a meeting or their designee may remove, or cause the removal of, an individual for disrupting the meeting.*

*(2) Prior to removing an individual, the presiding member or their designee shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding member or their designee may then remove the individual if they do not promptly cease their disruptive behavior. This paragraph does not apply to any behavior described in subparagraph (B) of paragraph (1) of subdivision (b).*

*(b) As used in this section:*

*(1) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following:*

*(A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law.*

*(B) Engaging in behavior that constitutes use of force or a true threat of force.*

*(2) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.*

*(Added by Stats. 2022, Ch. 171, Sec. 2. (SB 1100) Effective January 1, 2023.*

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*Sec 54953.3*

*A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.*

*If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.*

Section 54953.3 popped into my mind when I read your comments. Not saying this applies, controls or is entirely relevant, but there is the implication of public policy tending toward openness and inclusion, non-discrimination based on content, obviously, so as you and the rest of us know quite well restrictions are going to be scrutinized.

Perhaps CA should explore parliamentary discretion, just rule them out of order for non-germane comments and shut off the microphone. That's what the School Board does at 3 minutes, no exceptions, even for me, if you can believe it!

So you cut them off and at most it is Brown Act non-compliant, not a misdemeanor under Sec. 54959. Remedy is order to cure, unless intent to discriminate to prevent information from being public. This is just a stream of consciousness not legal advice.

A body has to sustain decorum, not to discriminate based on content but good order and civility. If narrative is equivalent to profanity it can be regulated. If they shout fire we don't call it free speech.

Here I am a total 1st Amendment fanatic and I just think if it is not about content but civility they can go to court if ruled out of order. Risk of a judgment for damages or just order to cure? That is where the CA earns her freight, not telling

us we have to endure verbal abuse that is uncivil whether we agree with the content or not.

Again, not legal advice or a proposal, just volleying a few thoughts and hoping CA could spike the ball not set it up for the other team. H.

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Perhaps Megan is missing the boat here but it may be for a different reason than Joe asserts.

My understanding of the case law on this issue is not complete. (I am still looking at it and am not in a position to conduct a definitive search of it.) Nevertheless, based on what I have read so far, one basis for the City to control what we would easily agree are highly offensive public comments at Council meetings is to limit such comments by ordinance to those addressing matters within Council's jurisdiction. Thus, for example, a general rant about how some ethnic minority is ruining the nation could be ruled out of order on the ground it does not address any issue within Council's jurisdiction.

However, when Council has elected to address some issue, say gay rights or the Gaza conflict, in some manner, for example by issuing a proclamation or resolution or designating a certain day of the year to honor a group, that might prevent Council from barring public comment on the subject on jurisdictional ground. I do not know if there is much case law on that particular issue that would provide more specific guidance.

However, under existing court decisions, as I understand them, the City has some power to regulate "disruptive" public comments at Council meetings, whether or not they address subjects within Council's jurisdiction. The next question is what kind of public comments are sufficiently disruptive to justify prohibiting them. Do they include, for example, *any* comment that disparages a class of persons protected under law (such as racial and religious minorities), which I believe was the problem with the recent Council meeting that was prematurely adjourned. I am still trying to figure out where the line can be drawn on disruptive public comments without violating the First Amendment.

I believe that Megan’s legal point, as reported by David Kiff, is incorrect.

Whether a statement during the general public comment period at Council meetings is “out of line” is not determined by whether the City has taken any specific action, including celebrating LGBTQ+ Pride month or Juneteenth. Under the Brown Act (specifically Gov’t Code) Subsec. 54954.2(b)), the scope of permissible public comment that the City must permit is defined as “any item of interest to the public, before or during [Council’s] consideration of the item, that is within [Council’s] subject matter jurisdiction.”

That jurisdiction is neither expanded nor restricted by whether Council has chosen to exercise its jurisdiction to celebrate Juneteenth; it is defined by state law. So if a speaker chooses, for example, to unleash a string of racist remarks during a public comment period, it is irrelevant whether Council has or has not chosen to celebrate Juneteenth. Even if the City had not, a speaker looking for a way to bring a racist comment within the City’s jurisdiction and thus within the Brown Act’s authorization, like the speakers on Feb. 13, could just as easily tie it to Juneteenth (or a host of other topics) as subjects that Council could act upon. That is enough to meet the standard set by the Brown Act.

So whether the City has chosen a particular time period to recognize a particular person, group, event or other subject is of no moment to whether a public comment is within the City’s jurisdiction. If the City had jurisdiction to do so, it’s irrelevant whether it exercised it.

That does not mean the City lacks any means by which it can control this kind of disruption. For one thing, the presiding officer can start by interrupting the speaker to ask, “what particular item of public interest within Council’s jurisdiction are you addressing”? If the speaker does not give a satisfactory answer, she can be cut off then and there. There are other tools at Council’s disposal as well, including:

—require that each Zoom speaker fill out a registration card that includes the speaker’s name, address, other contact information and category (resident, property owner, etc.) or have a one-time registration process for all Zoom comments by an individual;

—limit Zoom speakers to City residents, property owners and those either representing or employed by businesses or other entities lawfully operating within the City. Everyone else is still free to comment in person or in writing. It appears that the Feb. 13 disrupters were not locals.

—utilize existing state and federal laws that criminalize fraudulently obtaining access to Zoom calls (such as lying about one’s city of residence on a Zoom registration form) or intentionally exceeding authorized access, and refer apparent violators to law enforcement;

—enact an ordinance that prohibits public comments at Council meetings containing content that the courts have held does not enjoy constitutional protection, including speech that is obscene or contains “fighting words” or “true threats.” (“Hate speech” is not a category excluded from constitutional protection.) Courts also have recognized legislative bodies’ prerogative to bar speech that is repetitive or disruptive to the meeting. (Even without such an ordinance, I believe that on Feb. 13, Sue could have utilized existing laws to halt the Zoom bombing by invoking the “jurisdiction” requirement and cutting off Zoom speakers who appeared to be part of an organized effort to disrupt the meeting.);

—utilize existing criminal “disturb the peace” laws that prohibit disturbing or “breaking up” Council meetings;

—incorporate any and all of the above into a City ordinance (or ordinances) as necessary;

—issue prominent warnings of the legal consequences of violating these proscriptions.

This is just my first shot at a proposal to strengthen the City’s hand to avoid the kinds of disruption that occurred in February. I welcome other ideas, criticisms of mine and suggestions for changing them.

Best.

J

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Referring to the City Attorney’s statement:

This whole statement is inappropriate or perhaps was incorrectly stated. I am sure the city attorney would like to restate her comments and maybe now also the city manager!

Laguna and its residents will always celebrate all kinds of holidays, religious, environmental, etc. Hate speech should not be allowed to be construed to be related to city business in any way. Our legal advisors must work harder to figure out how to prevent hate speech 'bombings' from disrupting city council meetings. Other cities have, why not Laguna?

GW (not George Weiss)

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As a resident I do not want ZOOM bombing to restrict my access under ADA Title II. I am visually impaired and by restricting access via ZOOM the city is violating my rights to access meetings in a safe and standard process.

Your point to argue that restricting Zoom calls to locals is reasonable because it is not based on speaker's viewpoints is enforceable and may be foundation able and arguable in a court of law. Lastly I beg to differ that the CA's firm represents the most current technology and standard of practice in enabling freedom of speech and the Brown Act to residents in the United States.

My final point. Is our council willing to investigate its actions in this application and its performance and service behavior this past two years?

If not, why are we not petitioning for this?

Thank you.

T

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Good to hear from you. I don't disagree that Megan's firm doesn't necessarily represent the standard of practice on those subjects. What they do have is the expensive legal research tools that I no longer have access to since I have retired. Would I prefer to be able to choose a top freedom of information firm myself to do that research? Yes. Alas I do not think that is my prerogative.



Re you closing question, I regret to say I doubt it. As I see it, the Council majority has been neither forthcoming nor self-aware on any host of subjects, including the freedom of information issues on which I'm most knowledgeable

J

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I agree with Roger and others that CA needs to be an advocate of free civil democracy not an apologist for inability to practice democracy with civility and good order. The most committed to free speech also recognize the need to regulate speech to protect it. It starts with it being a crime to yell "Fire!" in a crowded theatre and claim that as First Amendment free speech.

Calling it a courtesy that can be interrupted does not bridge the gap between being helpless and allowing free speech consistent with good order. If there is no choice other than letting anyone say whatever they want or not having zoom access, and/or allowing in-person incitement that cannot be regulated, then CA has to do more than quip that LBCC needs to be silent on any topic it does not wants speakers to have option of hate speech.

As James and others have noted, we need a clear legal determination, supported by statutory and decisional law, otherwise we are not being clever but mushy, and that gives those who want to intimidate and abuse others in the public commons control of our open public proceedings.

Preferably in public since there is no clear basis for closed session (though that never stopped LBCC or LBUSD from unlawful closed sessions), CA needs to answer questions about whether LBCC can treat outsiders different than residents, or if someone can either set the city up for a lawsuit or a demand for cure under Brown Act followed by a Superior Court application for TRO/Injunction if speech shocking to the conscience is regulated.

Just a few thoughts, let's keep the discussion going, I am not the expert on this topic, but it interests me. H.

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Thanks for keeping up the inertia of outrage!

After some stimulating exchanges with HH, plus your most excellent transmission of our community's thoughts today, I did a little more research on the topic.

Once again, I did not focus on disruptive behavioral elements but the potential "*workaround*" re online being a "*convenience*," hence possibly no Brown Act/1st Amendment requisites/restrictions. I was looking for loopholes, ways to at least marginalize if not outright silence them.

My real feelings are that our other 4 Councilmembers, CM & CA, are and have their heads up their respective arses.....Growing up on the mean streets of the LA Harbor area, bullies often back down if you stand up to them...our leaders waved their white underwear on a stick, capitulated, surrendered without a fight. As a Marine, would not share a foxhole with them!

Even if there is a path forward that combines "*convenience*" and "*disruptive*," I think this one below would be problematic because my understanding of these "**Sunshine Laws**" (ours being The Brown Act circa 1953), restricting/limiting participation by the "*locals only*" parameters seem open to challenge.

I did interview the former GM of SMWD, Dan Ferons just now, the one who worked with Scott Smith of BBK too draft their "*convenience*" disclaimer—— sent him this JPEG without attribution, he thought it'd be a tough sell.

Jim's ideas are great btw, very well researched and thought out-----but it might be pretty tough to enforce/require:

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I am not aware of any language in the Brown Act barring Council from limiting public comments made via Zoom or similar platforms to locals so long as all members of the public are given the opportunity to comment at the meeting location. For what it is worth, it is my understanding that Francisco Negron, chief legal officer for the National School Boards Association, advises members that limiting speaking opportunities to locals does not violate the First Amendment either under existing case law.

That sounds right to me because generally speaking, public bodies may impose reasonable time, place, and manner restrictions on public comment periods without

running afoul of the First Amendment. Here I would argue that restricting Zoom calls to locals is reasonable because it is not based on speaker's viewpoints (which would be unconstitutional); it's a rational way to address Zoom bombing, which in the case of our Council's Feb. 13 incident, appeared to be by outsiders to the City; and it still leaves multiple avenues for anyone to make public comments to Council.

I would still like to have Megan's firm confirm that Negron and I are right on that (and if Megan disagrees with us, provide case citations supporting her position) since her firm has access to the most sophisticated legal research tools. Hopefully, Council will request that.

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Loved the comments, the facts really are so against what the city is doing to deny us our democracy and one of the best arguments is the fact of the whole Peter Blake ordeal hurling hurtful names and demonic rage at people in a public forum..that was allowed to continue over and over with smirks on Sue's face. Far worse then 1 phone call that simply could have been handled on the spot but instead was a drama that I found unbelievable..where was the leadership? This email below is from Peter quite recently when I made a small reference on his behavior in a LTE which was completely factual. I will take this as a threat! None of this behavior was ever addressed by Bob or Sue and continues...

From Peter Blake: You know how inclined I am to fight back and go down as low as my opponents. If I were you, I would ask yourself if you really want an adversarial relationship with me?

Consider this the last time your comments go unanswered.

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### **Comments From Social Media**

**AF** June 14, 2024 At 5:34 pm

My takeaway after reading this is your choice is not to test the ZOOM process at all. Inclusive communication thus is not a consideration. The decision reflects Council leadership's history over the past four years to not communicate with, or respond to its residents questions, and or concerns. We voters then need to realign

our Council with our voting power. If former mayor Bob Whalen runs again, lets start by not re electing

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*“To learn who rules over you, simply find out who you are not allowed to criticize.” Voltaire*

Oh, great, City Hall gets to decide what we should or shouldn't observe, defines “decorum” and “toxicity,” what's fitting. That's pretty Orwellian, isn't it?.

As our City kicks the can down the road like Kiff does here (he seems already infected by the BIG 4), by the time the dust has settled and holidays over, come New Years we will be closing in on a year of a “Zoom Gag Order.”

Q.: Why didn't the City Attorney tell our IT dude to just shut them down when they began their rants? Let them litigate, by doing so we would find out who they were and where they resided, been worth the legal defense IMO. Publish their names and legal addresses from their 1st amendment court challenge, i.e., call their bluff in the public square.

I bet they wouldn't file, that was the gambit our CA should have advised our Council to perform.

Q.: As one person suggested, can't we limit participation to those who must launch video to accompany their statements? No masks allowed as a rule too? Then we could use facial recognition apps. To make all of us suffer for one incident (although we did get some free porno when we first launched Zoom at the start of Covid) is a form of suppression.

Rules should be transparently discussed and codified as a priority RIGHT NOW. Violators sent to the cornfield, banished forever.

Participants agree to the terms and conditions in order to log on, and must create an account first too—these things CAN be traced if diligent.

That is NOT rocket science folks, these participants can be tracked and outed, using the public pillory via the stated terms and conditions.

Kiff looks like the same old same old from City Hall: Here is the new boss, same as the old boss.

And who in their right natural mind believes that Kiff just rified, was free-styling?

He only needs to count to 3, and if you believe that he didn't run it by or was advised on word-smithing by our Council (probably the Mayor), didn't run it past her/them for approval (it's also published in that other Laguna online), then I definitely have some swamp in Florida to sell you as high value lake/beach front property.

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RB June 16, 2024 At 4:58 pm

“Sticks and stones may break my bones but names will never hurt me”, this is what the calls remind me of..but instead we allow the hateful power to control us. I thought we were adults. No, we are following the agenda of sensitivity..and somebody's feelings might get hurt even when it is some nut not from our community calling names over the phone. Let's see, that lasted about 6 minutes and now we can't have zoom for months..It's just best that we cut the community off and inconvenience them by having to go without dinner and sit for hours with bad speakers and hard seats to make a comment. Great! So now as usual the city manager comes forward and agrees, Is this the way it is going to continue to go.. The city business and what it means for the taxpayers that pay it all just doesn't matter. I know of two CC members that definitely do not want to hear our voice with BIG things happening they want to buy the LCR and Coast Hwy, they want to put 72 affordable units in one small place and devalue a neighborhood with mass and automobiles all over the place, and then they are hoping to raise our taxes to pay for all these things. Let's see \$3 million for studies on the canyon which makes no sense at all and then we can add many millions in staff, liability and maintenance yearly, But what about your sewer issues? More band-aids? After all another \$80 million for that. No we have nothing to talk about right?

Just send a letter that no one responds too...Great, Just like Washington.

At the bottom is an excerpt from the Santa Margarita Water District's notice for its June 18, 2024 BOD meeting.

Full disclosure, I am an independent (out-sourced) consultant to them going into my 13th year working for the District, the largest in SOC.

SMWD is represented by the same law firm as us: Best, Best & Krieger (BBK).

Since lockdown was officially terminated by the Governor, many public agencies,

not just SMWD, have found a workaround: By declaring teleconference participation a “convenience,” the virtual component is NOT considered a legal requirement.

I think this both removes and inures (shelters) any Brown Act and/or 1st Amendment challenges.

SMWD doesn't require formal registration, potential candidates availing themselves, providing proof of name and address in advance to speaking, but I'm wondering if they could?

And why couldn't we?

As yet I have no knowledge of our City's leadership or legal counsel discussing let alone investigating such a signup and sign in.

If they have not, why not? This is one of THE largest and most prestigious law firms around. I praised their hiring, and if I've thought of this way to increase security, why haven't they?

Worser (thanks Keith Olbermann), I was online and both our Mayor, CM and CA looked like Bambi in the headlights of a MAC Truck on a country road at midnight: Scared out of their wits, panicked, no idea on how to react to the racist slurs spewed that night.

“This meeting will be held in person. As a convenience for the public, the meeting may also be accessed by Microsoft Teams and will be available by either computer or telephone audio as indicated below. Because this is an in-person meeting and the virtual component is not required, but rather is being offered as a convenience, if there are any technical issues during the meeting, this meeting will continue and will not be suspended.”

RB

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5. **AF** June 18, 2024 At 12:41 am

To be clear our city council, former and current Mayor's choice is not to test the ZOOM process and Inclusive communication. This is not about party affiliation it's about them not respecting and guaranteeing our rights to be heard by the first amendment, Brown Act, and personal respect.

I don't like to misuse words, or hear them if they are not fact, but I feel all, but 1 voice on the council is rigged. I think we can unite on our rights and realign the problem. Make it fair again. I want to start by voting Whalen out if he runs again. And let us consider petitioning to have Council investigate itself. I have had enough of this monopoly. Stop spending our money, bring order. Will you Join me?

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6. **CM** June 18, 2024 At 1:49 pm

It is so outrageous for our current CC Super Majority who willingly sat through former City Council Member Peter Blake's regular insults, disrespect, put downs, slander, taunts, and publicly abuse of fellow CC Members, Residents, and just about anyone with a divergent opinion from his own for two tumultuous years!

Our CC Super Majority is now so hypersensitive that We the citizens are to be excluded from conveying concerns via ZOOM at CC Council meetings. I sat in multiple CC Meetings and listened to Sue Kempf repeat "Now Peter, Peter, Peter, like she was reprimanding a 6 year old, trying (in vain) to contain her ungovernable advocator. Now, in Peter's place we have "Data Driven" Alex, (LOL) I have said this previously, just "Peter Blake Light." Alex regularly votes "against" the "data" that he promised to be "driven by" when he ran for CC.

This is a total laugh. (but, not funny) Our illustrious CC Super Majority tolerated so much more from their counterpart Peter Blake as he was angrily ranting in CC Sessions. How disingenuous to exclude Us Citizens when they allowed Blake to release regular multiple tirades, criticisms, and verbal attacks on, well, just about anyone and everyone without anything more than a wink and a nod from Sue Kempf and Bob Whalen.

My last communication from Peter Blake came in the form of an email sent from "The City of Laguna Beach." He said, "F \_\_\_ O\_\_ Loser" he did not bother to omit the "UCK or the "FF"

Unbelievable but true.

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7. **MA** June 18, 2024 At 3:17 pm

It is disappointing to hear that our City leaders have taken a position to not allow LB residents the same public communication zoom call-in option that many other cities do. Fact is, many cities who experienced uncomfortable similar engagements found ways to address the issue. They are not choosing to use isolated cases of unacceptable public outbursts as a reason to deny their own citizens to speak publicly to the City Council and their community because they cannot physically get to a meeting.

I find it interesting that residents and some council members spent four years of being verbally abused by personal and professional name-calling and intimidation at CC meetings/and Zoom by a Council member and also endured false public accusations by a former City Manager and our Mayors/MPT's did absolutely nothing to stop it. Why take such drastic measures now?

CM Kiff, it's appearing that you support the Council majority practice started in 2018 of shutting out residents voices. This is truly disappointing and no way to build community trust and support. Using the upcoming November election as a reason to withhold public communication because you are worried is also concerning. Listening to the public is required of public officials and they should not get to manipulate and control public feedback related to their service and performance. Especially during an election year.

I submitted the informational letter below to you and Council members listing some cities that respect their stakeholders and found ways to allow them to participate in their civic government via Zoom. NO response from any of you although you state here: "In the meantime, I know that all of us want to hear your voices—whether that be in person, via email or by letter—and we warmly invite you to participate in the city council meetings."

I ask that City leaders rethink the position announced here and resume the Zoom call-in option. It is simply not acceptable to all residents/voters of Laguna Beach. Thank you.

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Dear City Council:

Everyone gets that Zoom can be abused. Right here in Laguna Beach our City Council was blasted by Zoom bombers. They ranted on with hate speech for a few minutes before the situation was handled.



That can even happen at in-person meetings, so do we silence all public participation via Zoom because of a few bad apples? Of course not.

Actually, the problem is easier to fix with on-line tools than at in-person meetings: Here's a list of several California cities that have figured out the best-of-both-worlds, and welcomes on-line participation from residents.

Los Angeles  
San Diego  
Irvine  
Yorba Linda  
San Juan Capistrano  
Santa Monica  
Whittier  
National city  
Alameda  
Palos Verdes  
Del Mar  
Pasadena  
Union City  
Sonoma  
Mountain View  
Palm Springs

WHY can't OUR City figure this out and return this communication option to its residents?

By not allowing Zoom call-in public communication you are making it most difficult for all citizens to give input on important topics affecting our property investments, environmental and family quality of life issues impacting us. Also, many residents travel throughout the year, are working professionals, are seniors and/or students who cannot always attend regular meetings. This is unfair to all LB Stakeholders.

Please direct our legal counsel to contact the cities mentioned above to return this public civic communication option asap.

Thank you,  
MA

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8. **JP** June 19, 2024 At 12:26 am

Sorry, City Manager Kiff, but I am not buying your arguments against Zoom.

Especially not when so many other communities have returned to its use.

It is no secret that there are City Council majority members who loathe public comments and see them as an annoyance and waste of time. When in reality, public comments are the lifeblood of democracy. But not to these public officials, as they have evidenced absolutely no effort or desire to hear their constituents. Much easier for these officials to do whatever they want when residents do not have a say.

If other cities can let their residents speak out, so can ours. Anything less is a cheap, weak excuse to deny residents of their rights and silence the public.

Do the right thing. Bring back Zoom.

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City Attorney Megan Garibaldi has addressed questions about resuming remote public participation at council meetings. The city attorney stated concern for freedom of speech, indicating that if the city were to cut off an individual, the city could face legal action at the May 14<sup>th</sup> City Council meeting.

That change has already occurred. Why didn't our city attorney disclose this as many other cities in California have not only disclosed this but they have amended their municipal code to reflect it.

#### Legal protection

On August 22, 2022, Governor Newsom signed Senate Bill 1100 (S.B. 1100) into law adding California Government Code section 54957.95. Under this new section, a presiding member of a legislative body is authorized to remove, or cause the removal of, individuals who disrupt open meetings. The bill also identifies the

types of behaviors which may be characterized as “disrupting” under the statute without fearing legal action.

S.B. 1100 adds section 54957.95 to the California Government Code, which allows the presiding member of the legislative body or their designee to remove, or cause the removal of, individuals who disrupt public meetings. “Disrupting” is defined to mean engaging in behavior during a meeting of the legislative body that “actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, . . . [a] failure to comply with reasonable and lawful regulations adopted by the legislative body.” Cal. Gov’t Code § 54957.95(b)(1)(A). Before removal, the presiding member must warn the offending individual that “their behavior is disrupting the meeting and that the failure to cease their behavior may result in their removal.” Cal. Gov’t Code § 54957.95(a)(2). Warnings are not required if individuals are engaged in behavior that constitutes a use of force or a true threat of force.

### Technology

The city attorney also stated that there is no technological method to absolutely guarantee a zoom bomb call will not happen again. True, however there are steps that can be taken that will protect our city. Zoom has built-in tools that can help prevent Zoom bombings from occurring, and they are all remarkably easy to enable when creating a new meeting. These steps will not completely eliminate the possibility of Zoom bombing, but they ‘ensure the host has control over who is allowed to participate in their meeting.

### Process

Many predominate cities allow zoom public comments. City of LA, Irvine, Costa Mesa, and San Juan Capistrano are just a few. Many of these cities experienced Zoom bombing including City of San Diego, Sonoma, and Sunnyvale. Most of these cities have adopted a new process. Residents are asked to fill out a Speaker card and submit it before the meeting. Only those residents who have returned a Speaker card will be allowed to speak via zoom on an item or public comment.

If this city adopts the new technology and participation processes and is notified that the city need not fear legal action our city can join the dozens and dozens of cities in California who allow residents to safely comment via zoom.

New participation process will go a long way to protecting the city!

*Many cities allow residents to participate via zoom and calling in. Several of those cities*

*have been zoom boomed including the City of San Diego, Sonoma and Sunnyvale.*

*Allowing public comment is critical. Resuming zoom is important for our community. I*

*was interested to find out if other cities were allowing zoom participation. A significant*

*number of cities including City of LA, San Diego and Irvine allow zoom public speaking.*

*I have included a partial list below.*

*As I discovered, cities seem to either require registration mainly via speaker card for*

*both in person and online while others are using our former process. I did find two (Palm*

*Springs, Palos Verdes) that require a resident to register with the city. Residents register via an online form or create an account.*

*The majority of cities do require a resident to fill out a Speaker Card for both in person*

*and zoom participation. This is required for every meeting. The information requested*

*varies. Generally, name, phone, address, email, meeting, agenda item# or public*

comment or both. Some cities may use this for verification or/and a process.

Some

cities will email the meeting ID and a password to allow access to the waiting room. The

city clerk only allows the registered/speaker cards in the zoom waiting room to speak.

Many others still press 9 to raise their hand however only allow registered/speaker

cards to speak. A few get no advance information before a comment is made via zoom.

Should Laguna Beach require a resident to register for verification, the process should

be fairly easy for our city. Aside from the obvious people the city already knows, the list

of registered voters contains over 19,000 residents. That would be a good resource for

verification.

In terms of technology, after reading several articles there are ways the city can protect

itself. Zoom has easy to use built-in tools that can help prevent zoom bombings from

occurring. They will ensure the host has control over who is allow to speak.

These tools

along with a new solid process for public speaking will help to protect the city. I will

forward another email containing a critical legal element to ensure success.

This is a partial list of cities I verified were allowing zoom participation.

City of LA

City of San Diego

*Irvine*

*Yorba Linda*

*San Juan Capistrano*

*Santa Monica*

*Whittier*

*National city*

*Alameda*

*Palos Verdes*

*Del Mar*

*Pasadena*

*Union City*

*Sonoma*

*Mountain View*

*Palm Springs*

*Here are a few links to view policies, processes, and forms.*

*City of LA Meeting (primegov.com)*

*How to Join and Participate in City Council Meetings | City of San Diego  
Official Website*

*https://www.palmspringsca.gov/government/city-clerk/e-public-comment-for-  
city-council-*

*planning-commission*

*https://www.rpvca.gov/FormCenter/City-Service-Requests-3/Public-  
Participation-and-*

*Comment-Request-87*

*https://www.mountainview.gov/our-city/departments/city-clerks-office/how-to-  
watch-and-*

*submit-public-comments-to-virtual-meetings*

<https://costamesa.legistar.com/View.ashx?M=A&ID=1189331&GUID=E7FFFB60-CAB4->

[4FCE-BEFB-238D29C556A0](https://costamesa.legistar.com/View.ashx?M=A&ID=1189331&GUID=E7FFFB60-CAB4-4FCE-BEFB-238D29C556A0)

<https://www.palmdesert.gov/connect/city-council>

<https://sanjuancapistrano.org/Calendar.aspx?EID=970#:~:text=Persons%20wishing%20to%20pa>

[rticipate%20during,their%20time%20to%20speak.](https://sanjuancapistrano.org/Calendar.aspx?EID=970#:~:text=Persons%20wishing%20to%20participate%20during,their%20time%20to%20speak)

*\*note – some cities use Civicplus for residents to create an account*