



COUNTY OF SAN DIEGO
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CLERK OF THE BOARD
OF SUPERVISORS

COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: November 10, 2021

01

TO: Board of Supervisors

SUBJECT

ADOPTING CHANGES TO THE BOARD OF SUPERVISORS RULES OF PROCEDURE TO PROTECT FREEDOM OF SPEECH AND PROMOTE EQUITABLE PUBLIC ENGAGEMENT (DISTRICTS: ALL)

OVERVIEW

Public discourse, dissent and critical debate are vital components of a healthy democratic institution. However, the rise in disruptive activity and the creation of a hostile and unhealthy environment at recent Board of Supervisors meetings requires the Board to consider changes to the Rules of Procedure to protect freedom of speech, and to promote equitable public meetings, along with not allowing a hostile workplace for our employees.

At the November 2, 2021 Board meeting, racist remarks were hurled at County staff. This language is intolerable and is not an isolated incident. There have been increases in regular meeting disruptions that have impacted the free speech rights of others and disputed the functioning of county government. Disruptive conduct and harassment in the Board Chamber have compromised the ability of all members of the public to engage with the Board through the public comment process. The abuse of the current Rules of Procedure needs to stop.

Today's action recommends that the Board approves amendments to the Rules of Procedure. The proposed changes to the Rules of Procedure are focused on ensuring that the Board's business is conducted in an orderly fashion and that all have an equal opportunity to observe and participate in the proceedings. The proposed changes also include the attachment of the Code of Civil Discourse of the National Conflict Resolution Center to the Rules of Procedure as an aspirational goal for public debate. These changes will become effective immediately.

RECOMMENDATION(S)

CHAIR NATHAN FLETCHER AND VICE CHAIR NORA VARGAS

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PROCEDURE TO PROTECT FREEDOM OF SPEECH AND PROMOTE
EQUITABLE PUBLIC ENGAGEMENT**

Approve amendments to the Board of Supervisors Rules of Procedure and adopt a Resolution entitled: RESOLUTION AMENDING THE RULES OF PROCEDURE OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS

EQUITY IMPACT STATEMENT

As publicly elected officials, our number one duty is to serve the people of San Diego. In establishing the Framework for the Future for San Diego County, we prioritized transparency and accessibility to improve public understanding of how the County operates and participation in shaping future priorities. These efforts towards accessibility are particularly important to reach those communities that have been previously disconnected from the County civic process. It is anticipated that through these changes to the Rules of Procedure we will ensure that the diverse voices of our community can be heard in an equitable manner, and as such, can provide input that is vital to a healthy democratic institution. Harassment and hostility toward members of the public and our county employees undermines our efforts to create an inclusive and equitable County government.

FISCAL IMPACT

There is no fiscal impact associated with this item.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

The Board of Supervisors has adopted the “Rules of Procedure” which define meeting protocol, public access, and public participation at Board of Supervisors meetings, among other aspects. The Rules were first adopted in 1970.

Over time, these Rules of Procedure have been amended to recognize changes in technology and other new processes. During the COVID-19 pandemic, virtual public participation became the primary method for public engagement and discussion. These modifications have always been executed with the goal of promoting free speech and public participation.

However, in recent months, free speech has been increasingly stifled at meetings of the Board of Supervisors. Free speech means the ability for all members of the public to express their beliefs. The speech of some has suppressed the speech for all.

Today’s actions are intended to make modifications to the Rules of Procedure that are content- and viewpoint-neutral and which will serve the compelling government interest of furthering the ability of all citizens to engage with the Board of Supervisors. These changes will facilitate good governance, ensure equitable public engagement, and promote free speech. The increasing misuse

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of the public comment portions of board meetings by some individuals and groups is threatening our democracy.

The misuse of public comment potentially creates a hostile and harassing environment for county staff. At the November 2, 2021 Board meeting, a member of the public used their public comment period to share racist and hate speech. However, and unfortunately, this was not an isolated incident. There have been multiple incidents where members of the public uttered racist comments and personal attacks aimed at County staff. Members of the public have attempted to harass many more County staff, including providing disparaging and insulting remarks to County staff facilitating the meeting. While we will not curtail the content of the public's comments, we will act to protect our employees from a hostile and harassing environment.

The impact has chilled public participation due to intimidation and harassment. Some individuals wishing to express their public comment on policy before the Board are no longer willing to attend in person because of the intimidation and harassment experienced when participating in person. While the Board encourages public participation in the meetings, the effect of this intimidation and harassment actually stifles free speech and public engagement, to the detriment of governing and our democracy. Members of the public have taken to directly insulting other members of the public during their testimony. It is our responsibility to promote decency and decorum while within the Board Chamber.

The misuse of public comment has also impeded the proper functioning of government through delays and disruptions of the Board meetings. The Chair has had to repeatedly ask members of the public to refrain from clapping, cheering, booing, providing public comment out of turn, and the like. Sheriff Deputies have had to remove members of the public from the Board Chamber on multiple occasions after they were warned about their disruptive behavior. At times, the disruption has been so severe that the Chair has needed to excuse all members of the public from the Board Chamber in order to restore order and decorum to the meeting. On one occasion, due to continued meeting disruptions, all members of the public were excused and called in one by one. These delays and disturbances interrupt the ability of the County government to function.

We believe that our County government works better when all individuals have an opportunity to provide public comment. As a Board, we welcome criticism and opposition. However, we will not tolerate harassment and racist attacks aimed at our County employees. We believe that these slight modifications to the Rules of Procedure will enable continued public comment and free speech, while also promoting equitable public engagement. These minor modifications to the public comment process and agenda order will address the misuse of the public comment process.

To that end, we are proposing several content-neutral changes to the Rules of Procedure. New parameters will be set around group presentations, including the types of Board agenda items on which they are appropriate and a maximum time period of four minutes will be established for individual members of each group within the ten-minute maximum, ensuring more equitable participation by all group members. To better facilitate public comment on items in which there is substantial interest, public comment may be limited to one minute per individual if there are more

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than ten individuals wishing to comment. The Brown Act allows the management of these time limits under Government Code Sec. 54954.3, and similar procedural rules have been adopted in many California governing bodies. The Chair will be provided with additional tools to stop conduct that disrupts the orderly conduct of a meeting, ensuring our meetings are able to proceed swiftly. As is commonplace in many jurisdictions, a consent calendar will be developed for routine or administrative items for which debate is not anticipated. Members of the public will be asked to bring their own technology to provide presentations, eliminating potential technical issues caused by the County, or must make arrangements no later than twenty-four hours prior to the Board meeting. The County will also be adopting more stringent positions against harassment and abuse. These changes are articulated in greater detail as "Exhibit A."

Today's action recommends that the Board approves amendments to the Rules of Procedure. The proposed changes to the Rules of Procedure are focused on ensuring that the Board's business is conducted in an orderly fashion and that all have an equal opportunity to observe and participate in the proceedings. The proposed changes also include the attachment of the Code of Civil Discourse of the National Conflict Resolution Center to the Rules of Procedure as an aspirational goal for public debate. These changes will become effective immediately.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed action to amend the Rules of Procedure supports the Operational Excellence Strategic Initiative in the County of San Diego's 2021-26 Strategic Plan by ensuring that free speech is protected and that equitable public engagement is promoted.

Respectfully submitted,



CHAIR NATHAN FLETCHER
Supervisor, Fourth District



VICE CHAIR NORA VARGAS
Supervisor, First District

ATTACHMENT(S)

1. RESOLUTION
2. EXHIBIT A. AMENDED BOARD OF SUPERVISORS RULES OF PROCEDURE (TRACK CHANGES)