



City Council Agenda Item

City Council Meeting Date: March 2, 2021

TO: Honorable Mayor and City Council Members

FROM: Jeff Malawy, City Attorney
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SUBJECT: Adoption of Resolution No. 6387(21) Updating Certain Public Comment Provisions in the City Council Handbook

Recommendation:

Staff recommends the City Council adopt Resolution No. 6387(21) in order to update the public comment provisions in the City Council Handbook (Handbook) (Attachment 1).

Background:

In approximately 2017-2018 the American Civil Liberties Union (ACLU) sued Orange County for violation of the First Amendment of the U.S. Constitution, which guarantees Americans' right to free speech. Among several allegations, the one the court found had merit was the ACLU's challenge to language contained within the Orange County Board of Supervisors' Rules which required public comments be directed to the Board as a whole, and prohibited the public from questioning board members without first obtaining the permission of the Chair. Orange County repealed those rules and paid the ACLU \$75,000 in attorney's fees to settle the lawsuit, and incurred their own attorney's fees of approximately \$200,000.¹

The City Council adopted the Handbook on January 6, 1987, and has since updated and amended the Handbook from time to time as needed. The last amendment was adopted December 19, 2017.

Discussion:

Staff has determined Section B4.9 of the Handbook contains similar language to Orange County's rules:

¹ "OC Residents Can Now Address Their County Supervisors By Name in Public and Even Question Them", Voice of OC (<https://voiceofoc.org/2021/02/oc-residents-can-now-address-their-county-supervisors-by-name-in-public-and-even-question-them/>)

All remarks and questions should be addressed to the Council as a whole and not to any specific Council Member, staff, the audience, or the media. No question should be asked a Council Member or staff member without first obtaining permission from the Presiding Officer.

It would be prudent at this time for the Handbook to be updated to delete the above two sentences. Attached is a marked up copy of the single page from the Handbook that will be amended with the adoption of Resolution No. 6387(21). In addition, the title page is updated to reflect the current City Council Members. Attached to Resolution No. 6387(21) as Exhibit A is the entire updated Handbook.

Fiscal Impact:

There is no fiscal impact for updating the Handbook as publishing fees are already included within the budget. There could be a negative fiscal impact for not updating the Handbook.

Conclusion:

Adoption of Resolution No. 6387(21) will provide a needed update to the City Council Handbook.

Respectfully submitted,



Jeff Malawy, City Attorney

- Attachments: 1) Resolution No. 6387(21)
2) Marked up change to City Council Handbook