

Orinda City Council meeting, Tuesday, August 20, 2013 Transcript (unofficial)

*Let's keep Orinda, Orinda . . .
and let us make our own decisions*

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Transcript of meeting audio recording

Audio at:

<https://cityoforinda.app.box.com/citycouncilmeetings/1/1084869228/9920494036/1>

4:15

Mayor Amy Worth:

So, I have five speakers for the Public Forum. The first speaker is Chris Engl and he'll be followed by Herb Brown.

4:26

Chris Engl:

Thank you, Mayor Worth. Thank you, City Council.

My comment is about the tone and approach that the Council and staff have taken recently. It's becoming a most troubling concern to Orinda Watch.

Several months ago we would have never imagined the Council and staff would ignore the voices of more than a thousand residents. For many weeks, Council and staff only responded to citizen concerns with innuendo in newsletters sent to the City's email list of City residents, and through articles sourced through local journalists.

5:02

Informed public debate cannot occur when the only public input allowed is a three comment on an agenda item at a Council meeting, and it especially cannot occur when the City persists in offering what I would term infomercial presentations by staff and individual Council members on issues of pressing concern to the City of Orinda.

Along these lines, I'd like to share with you an email received through a Public Records Act request. This email relates to the attitude of City staff towards Orinda residents.

5:31

The City's Planning Director called a Housing and Community Development official, which is a state agency, on Monday August 5th, 2013, to discuss Orinda Watch's concerns about the Housing Element—and I do have a copy of this email here with me.

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According to this email sent that day—a separate email sent that day by that HCD official to her management—Planning Director Ursu described Orinda Watch's concerns as arising from quote unquote “paranoia,” and from a lack of understanding of the Housing Element process.

6:00

I have a question. Why does staff approach the residents of this City in such an adversarial manner? And why does staff marginalize and belittle Orinda residents rather than consider the concerns that the residents are raising?

Mr. Ursu also told the HCD official that City staff planned to use the August 20th Council meeting tonight, and I am paraphrasing, but not by very much, that he would offer an infomercial presentation to the public that stridently defended staff actions. It was a much longer bit so I have to paraphrase.

6:32

Why does the staff attempt to manipulate the residents in this fashion?

An HCD official—and this is most troubling for me personally—also quotes Planning Director Ursu saying that Orinda Watch has threatened the City with litigation.

Never once, ever, has the leadership of this group ever, ever, ever, threatened the City with litigation. I'm personally appalled at this tactic. This group has honor, integrity, and truth in its reporting, and I challenge anyone to find one, two factual mistakes, misstatements on our website, or in our letters.

7:05

With such a, what I would consider such a bold-faced lie from City staff, the audience should now be prepared to look for many half truths and misstatements in tonight's staff reports as they come from the Planning Director.

I mean, what was the purpose of such a misstatement to the HCD?

Thank you.

7:22

Mayor Amy Worth: [over loud applause, cheers]

Thank you for your comments.

I'm going to go through specifically the procedures in a minute for this next agenda item, but one of those includes we do not provide in our meeting for clapping or cheering or booing.

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So, I know we all care deeply about these issues, but we will request that each of us follow the procedures that are outlined in the City Policies and Procedures for conducting City Council meetings.

7:56

Ok, Herb Brown, thank you, Herb, and you'll be followed by Heidi.

8:01:

Herb Brown:

Thank you. Thank you members of the Council.

I have spoken on this subject in the past, but I love an audience and there's more people here there were here last time, so I thought I would try it again. And the subject I'm addressing is the procedure you use in allowing any testimony, especially on large items like we're coming up with over the next series of weeks and months, and what we'll have on the agenda later this evening.

8:31

And by cutting things up in three minute segments, rather than allowing someone to yield their time to a speaker so that a coherent, meaningful discussion could be had, an argument could be made, is something I don't understand.

That's all you have to ask yourself is if you were on trial for murder, would you like your attorney or groups of attorneys to make the closing argument in three minute segments?

You know, my old civil procedure teacher—and civil procedure was not an item in great favor in law school—you got it your first semester, you were a budding new attorney, you wanted contracts, you wanted torts, that's where the law is, not this civil procedure.

9:18

He reminded that class at one point in time, "you make the substantive law wherever you want to make it, however you want to make it. I make the procedure—I'll win every time."

The procedure you're making and enforcing in items of this nature are meant to really take away the influence of any contravailing theory or stand, and I don't know why you're doing it.

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There is no rational reason. It will be a better use of time, it will be a more cogent argument, it will be better presented, if people can yield their time. I just don't see—if the Senate of the United States can say, "and the great Senator of Montana yields his three minutes to Mr. Steve Glazer," why can't that happen in this forum?

It's just not right. The only purpose—and I think some of you know that what I do sometimes is I do arbitrations and mediations—and really, I tried to figure out what purpose could be served by your stand on this subject other than trying to defuse any rational argument against the agenda you've already decided you're going to enact.

Thank you.

10:41

Mayor Amy Worth: [over applause]
Thank you for your comments.

Our next speaker is Heidi, and Heidi will be followed by Chris Kniel.

10:50

Heidi:
Hi.

I agree with everything stated about changing the process for public comment.

At a Council meeting some months ago, I yielded—tried to yield—my time to another speaker, only to be denied that yield because it was, quote, "against procedural policy" unquote.

11:11

This happened in spite of receiving verification by a presently sitting Council member, a couple of days previous to that Council meeting, that there was no prohibition against my yielding of time to another speaker.

And, in spite of the fact that at the occurrence of being denied, nothing could be cited in the Orinda Policy Procedure Manual prohibiting citizens' concession of time to other speakers.

I did not invent such a process. It is an accepted form for public input in Council meetings across the Bay Area. It is the process used in congressional hearings.

12:00

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If the Council is not merely going to pay lip service to what it terms “public input,” then I want to know what possible objection the Council finds in such a process?

It is more efficient, less time consuming, and the Council and public gain a better grasp of both sides of any issue. It brings coherency and fairness to the concept of public participation that is now so sadly lacking in how the Council conducts these public meetings.

So, I repeat the question. What objections does this Council have with respect to such a process?

Thank you.

12:43

Mayor Amy Worth:

Thank you for your comments. The next speaker is Chris Kniel, and he will be followed by our final public forum speaker Ann O’Connell-Nye.

12:54

Chris Kniel:

Good evening, Council members.

Chris Kniel, here. Long term resident, tax payer, and contributor to our semi-rural community.

I have a general request regarding Council protocols affecting public input for major issues. Presently these Council protocols do not provide for an equal opportunity for public perspectives that differ from the staff perspectives.

My perception as to how the City Council is supposed to operate is one of judge and jury—to listen to and be open to different sides of an issue, and not to necessarily agree with the staff’s version of the issue.

13:33

If this is generally a correct perspective, then I suggest the current protocols for complex issues are unfair, biased, towards the staff position.

If, for example, staff provides a fifteen to twenty minute presentation, why is the public not afforded the same opportunity? But the public is knowledgeable, has researched the subject extensively, and believes the staff presentation is false, or misleading. Shouldn’t the public be permitted equal opportunity?

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At present, members of the public are allowed only three minutes to express their individual viewpoints, as others have mentioned.

It isn't possible to present a cogent response for a complex issue in this limited time frame. We all know that.

This is a huge disadvantage, and it seems to violate the common sense rules of due process. Both the staff's version of the complex issue, and the public's version, should be given equal time, means, and method, in front of the judge and jury.

14:37

It works this way on the Planning Commission. So, this is not radical thinking.

If the Council finds it is unable to determine when a resident or a representative for a group should be given this equal opportunity, then as others have mentioned, at least the Council should develop an organized procedure whereby members of the public can assign or allocate their time to a person or group so a cogent and comprehensive response can be provided to both the Council and those in attendance.

15:07

Wouldn't this approach better serve the residents of Orinda?

Hopefully the Council sees the reasonableness and fairness in these comments, and will act accordingly.

Thank you.

15:22

Mayor Amy Worth:

Thank you for your comments, and, again, our final speaker is Ann O'Connell-Nye.

15:31

Ann O'Connell-Nye:

My name is Ann O'Connell-Nye. I'm an independent Orinda resident, and the word that I will use most in this public forum statement is "sad."

After all these years, it has come to this. Sad, that members of this City Council appointed a well-known developer to chair a Downtown Plan. The same man who lost a California Supreme Court case when he tried to tear down the Orinda Theater and build a mega-structure on that block.

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Sad, that it took eight years for residents to battle this developer, known for only being interested in offices, condos, etcetera, for Orinda.

16:17

We would not have our park, community center, or library today, with this person.

Happy, that Orinda finally voted for local control and incorporation about 25 years ago, because of this case.

Sad, today, knowing we residents, once again, have little or no local control, because of our City Council, City Manager, and Planning Director.

Sad, that many of us heard about the Downtown Plan. I went to the Planning Director, a person I thought I knew, and asked what was going on? Surely, we as a City would not proceed with greatly increasing the height and density, and his reply was a definite one: "Why, yes, of course we're going to do this."

17:05

Sad, that many of us in the community had to start expressing some concerns about these plans. Groups were formed to start questioning what was going on.

Sad, when the City Council and its officials started treating anyone who questioned these tactics with total disdain.

Sad, that when hundreds of residents showed up at Planning Commission meetings, the City Council canceled further discussion of the matter, and along with the Planning Commission. The chair of the Downtown Plan was the then-Mayor, who was soundly voted out of office.

17:42

However, the current mayor co-chaired these task force Downtown Plan meetings with him. No minutes, just reams of recommendations.

Sad, that community comments were just listed in the Downtown documentation, but didn't appear to bring about changes in the approach, and then the City Council and its officials said they would step back on the issue.

Sad, when they wasted everyone's time for years with setting up contrived meetings with consultants in city offices, where they continued to take control. Not true town hall meetings.

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Sad that when the main thing thing residents wanted was local control, through a vote by the residents to vote on the direction of our city, when I asked the Planning Director, why the City is so against a public—

18:36

Mayor Amy Worth:

--Ann

Ann O'Connell-Nye:

--I'm just about finished—public referendum by citizens, and his reply to me was, “we don't have mob rule here in Orinda.” When is democracy mob rule?

Thank you very much.

18:49

Mayor Amy Worth: [over applause]

Thank you, Ann. Thank you for your comments.

I'd now like to move to our next agenda item, which is the consent calendar.

19:00