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ROLL THE TAPE!

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In early 1999 Burbank's city council faced up to what some viewed as a problem, and others as an opportunity. A familiar activist and gadfly stumbled on an idea for making presentations to the council during oral communications, the time during council meetings when the public has access to a microphone and a chance to speak directly to the council. The man realized he could use the video system already installed throughout the council chamber, a system also connected to the city's cablecast of council meetings, as a potent aid to his comments.

The system was installed in its first iteration in 1987, and city officials and staff have frequently used it to play videos touting city programs; to present a staff report, or even to show off holiday lights erected by winners of the city's annual home decorating contest.

Alas, when that speaker first demanded an opportunity to play his tape for the council, there was no policy in place. No city official was quite sure whether they should allow such tapes, and what restrictions there should be, if any.

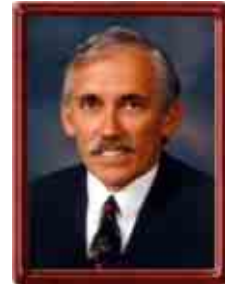
Discussion of setting a policy for allowing the public to play tapes came to the council in March, 1999. I supported the idea. What better way for a citizen to hold an elected official to a promise made previously than to play a tape of the council member making the promise? How could one better document a grid-locked intersection, a blighted property and many other complaints, than to play a video recording of the situation?

Of course, from the beginning we could foresee problems. What if someone tried to play an excerpt from a pornographic film during a council meeting? Should time limits imposed on speakers apply to video tapes? Also, I wrote years ago that, rather than addressing the council, I was certain we'd one day see political candidates or their backers playing commercials for campaigns, looking for free access to the city-wide TV audience.

Few of the concerns were alleviated, no more than they can be when worrying whether a speaker will say or do something "inappropriate" while talking. On March 2, 1999 the council established a policy letting citizens use all or part of their public comment time to present videos. It was agreed tape content did not

need city approval, playing time would be deducted from the given speaker's time at the public podium, and so forth.

The city attorney recommended against allowing tapes. Ironically, the only council member to vote against tapes was Bob Kramer, then and since touted by many as the city's premier advocate of giving the public more rights.



*Former councilman Bob Kramer.
The only vote against videos.*

Abuses weren't rare, but I also remember instances wherein the newly-welcomed tapes served exactly as hoped. For example, in response to a council request, city staff produced what was offered as a comprehensive report on a controversial topic. But several council critics complained the final product conveniently ignored a vital facet of the issue. Staffers answered by explaining the facet was ignored because there was no specific council direction to address it – a claim supported by one council member, and undisputed by the others.

When the final report was discussed at a council meeting, critics were able to play for the public and officials a video of the initial council session, one proving the council gave staff the very direction officials later denied was given. Bravo! Hooray for videotape!

As with literal free speech, there are also drawbacks to the video policy. For example, one woman soon became notorious for often limiting her own words during the public comment period to shouting "roll the tape!" a cue for the city's crew to play her video, usually crudely edited excerpts from previous meetings. She's ominously promised tapes will document huge contradictions and lies by officials, though the tapes typically go on to prove only that she grossly misstated or misunderstood what happened.

Still, legitimate opportunities present themselves, and the ability to use video tapes during public comment periods has served the public good.



A candidate addresses the city council.

The next quasi-crisis of confidence in videos was born of a series of arguable abuses in 2001. Howard Rothenbach, then a presumed council candidate who'd been addressing meetings every week, was unable to attend a session. He sent his brother with a video of his comments. The brother introduced himself, and the rest of his podium time went to playing Howard's speech tape. This began a spate of speakers whose only words were to introduce a tape of someone else speaking.

During roughly the same period, the city underwent a municipal election to consider a ballot measure related to the local airport. Measure proponents used

the public comment period to play videos of residents posed next to a campaign sign for the measure while urging voter support.

Because the taped remarks also revealed the speakers often knew virtually nothing about the airport issue, their impact is debatable. But it was the city's first experience with the practice I'd predicted; campaign commercials broadcast city-wide during council meetings under the guise of comment to the council.

That round of abuses led some council members to call for a new discussion of the video policy in early 2002. But a lack of leadership and better ideas saw the discussion put on agendas and then postponed, and ultimately dropped.

During the special municipal election of 2006, previous efforts to portray campaigning at council meetings as public comment related to business being discussed at the meeting vanished, and a commercial produced by the council campaign of David Gordon was played during public comment periods.

That episode in particular now has some council members and others saying it's time to look again at the policy allowing videos during the public comment period.

Using council meetings as campaign platforms has long been regarded as an unethical practice. Over the years it has also been common to see presumed candidates start turning up to speak during oral communications periods, and that, too, has been long and widely perceived as a cynical ploy.



David Gordon appears in a TV forum, not enough for those who played his commercial at meetings.

During the early and middle 1990s, players like Carolyn Berlin, Michael Scandiffio and even Gordon railed against the council majority then in power for the members' thinly-disguised efforts during televised council meetings to sway voters to oppose growth-related ballot measures, and to fight off efforts to recall two council members.

I, too, objected to the practice, which often saw one of the council majority's members clumsily citing some point or issue mentioned, then coyly extrapolating that it somehow demonstrated why voters should oppose the measures or recalls. That council and subsequent panels also earned public contempt for encouraging public speakers who urged support for the election-related priorities of those wielding the gavel.

Public pressure and criticism eventually compelled council members to knock it off, and convinced those speakers with an election-related agenda to at least better disguise their motives. Officials and public speakers who sought to use council meetings to appeal for votes were forced to mend their ways. Some

antics continued, but abusers had the good grace to at least deny it when they were called out for electioneering at meetings.

To my knowledge, there are no claims that electioneering seen at council meetings is illegal. I suppose one could argue that a mayor allowing a campaign commercial to be played constitutes a gift of public funds or assets to the candidate. For now, the argument feels as feeble as arguing such tapes are valid public comment at council meetings.

But loud swearing in a family setting, belching in a crowd, and taking a cell phone call in the audience during a play are also perfectly legal, and yet are discouraged by society's mores. Like those standards, using a public session set aside to conduct the city's business to promote a candidate, or to shill for votes on a ballot measure, are legal pursuits commonly regarded as unscrupulous and dishonorable.

Especially ironic in today's electioneering abuses is that they are exclusive to the very faction that objected so strenuously to the same antics in the past. Today's practitioners and beneficiaries include some who were most strident a decade ago in condemning virtually identical tactics.

Save for diametrically opposed ideologies, there's only one substantive difference between the crowd abusing the system back then and today's perpetrators. In the 1990's the transgressors at least recognized what they were doing was improper, and so gave principled critics the satisfaction of denying they were doing what we knew they were doing.

Today's council meeting campaigners imply that, by virtue of their ideology, different rules apply. They proudly go far beyond the excesses for which they once ridiculed and roasted their opposition. They not only support candidate endorsements and denouncements during public comments, their toadies are playing videos with full-blown commercials for or against candidates and measures.



Carolyn Berlin speaks to the council during Oral Communications.

I recall the outrage Carolyn Berlin, her husband Phil, Michael Scandiffio and others expressed when then-councilman Bob Bowne used council meetings to urge voters to reject a growth-related ballot measure. The mind reels at imagining their fury if, during a council meeting back then, Bowne had allowed a like-minded pal to roll a commercial lambasting the measure. It seems fair to speculate they certainly would not have stood by silently, to say nothing of defending the practice as the noble acts of active citizens.

Despite ample evidence the current policy allowing videos is abused, and the likelihood new forms of abuse will be realized and exploited, I still oppose banning tapes. Prohibiting tapes would rob citizens of an important tool for confronting councils, and restricting their use in advance based on content is, on its face, an impermissible restriction on free speech.

It's tempting to try and craft rules to quash abuses, but I can't conceive of restrictions that wouldn't ultimately cost citizens more freedom than they're worth. Even urging a Mayor or other officials to stop some tapes and allow others forces us to acknowledge that some future Mayor may be every bit the hypocrite some of today's abusers are. Indeed, some of those abusers may well end up BEING that future mayor, and we already know they're comfortable with craven hypocrisy. Setting the precedent now will only serve them later.

We can't keep oafs from joyously farting in an elevator, from picking their noses in public, or compel them to flush public toilets, at least not without imposing draconian rules on many who don't need rules to know how to behave. By the same token, for those now campaigning from the public podium, we can only hope the good manners and propriety of others will eventually shame them into recognizing their hypocrisy and behaving better. (I confess I cynically expect that, like their scatological affiliates in oafish behavior, they'll instead continue to regard the rest of us as prigs and suckers, and continue as they have.)



Are council meeting campaigners City Hall's Blutos?

Ultimately, punishing those who can act with integrity by imposing limits aimed at those who do not would not make all of us any better off. When it comes to allowing video tapes used as part of the public comment periods at city council meetings, I believe the best policy is the imperfect one now in place.