

ERIC ANDRIST
12155 MORRISON STREET
VALLEY VILLAGE CA 91607
818-769-5010 • andrित्रizzo@aol.com

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Neighborhood Council Valley Village
PO Box 4703
Valley Village, CA 91617

Dear NCVV,

My name is Eric Andrist and I am running for a position on the Council. I attended both last month's and tonight's meeting, and have become concerned about a certain violation of the Brown Act and Robert's Rules of Order. As per the NCVV Bylaws approved May 16, 2018 (the date is wrong on the bylaws, by the way), Article XI "Grievance Process," please consider this my formal grievance in writing, which you are to submit to an ad hoc grievance panel.

RE: PUBLIC COMMENT

During last month's meeting, President Tony Braswell repeatedly announced that anyone who wished to participate in public comment "needed" to fill out a public comment card. And indeed, each time public comment came up, he moved on after dealing with those who *had* filled out cards without asking if there was any further public comment, as is required.

Requiring stakeholders to fill out a public comment card is not allowed for in the Brown Act. You can *ask* people to fill one out, but you **cannot require it**. It also appears right in a document on the empowerla.org website, titled "The Brown Act and Neighborhood Councils" from the Office of the City Attorney Neighborhood Council Advice Division. Here is a link to the document and I'm attaching it to this letter as well:

<http://empowerla.org/wp-content/uploads/2012/04/Brown-Act-Quick-Hits.pdf>

On the second page under "Rights of the Public" it clearly states,

"No sign-in requirement. (Although speaker cards may be used—no one may be required to fill it out to speak or attend.)"

Requiring someone to fill out a speaker card is not good for at least two reasons. One, it prevents someone who wants to comment anonymously, as would be their legal right, to do so. And two, if a stakeholder hears something at the very last moment that triggers something that they want to say before the vote, they'd have to run over, fill out a speaker card and run it up to the panel, which very easily could have already moved on to the next agenda item in the

meantime. So some people might choose to not speak, rather than missing their chance.

Right after the meeting last month, I came home and did my research and emailed the information to NCVV at the email address info@myvalleyvillage.com. **There was no response**, which is customary as I've had a number of emails not responded to over the years when I've tried contacting the council. That's one of the reasons I've rarely come to any meetings and why I wanted to run for a position...to make sure that the citizens of Valley Village are heard and responded to properly.

So at tonight's meeting, I noticed Tony Braswell basically ignoring the public, again, **during each and every agenda item**. The commonplace procedure when dealing with each agenda item is to have the presentation, have panel discussion and questions and then open it up for public comment BEFORE it goes to a vote. The council cannot make an informed vote if it hasn't listened to the concerns of the stakeholders. Tony Braswell, was not doing that. He wasn't even looking up at the people in the audience, he was talking only to the panel members.

In the very same document mentioned above it states:

*"Members of the public may comment **on each agenda item** which opportunity **must be offered before** decision/recommendations are made regarding that item..." (emphasis mine) and then it cites *Chaffee v San Francisco Public Library Commission (2005) 134 Cal. App 4th 109*.*

I already felt slighted since my email from last month's meeting was ignored, so when I saw it happening again, it was clear to me that Tony Braswell was not concerned with following the law, and just chose to manipulate the meeting as he saw fit.

During the course of the meeting, there were at least 2 agenda items that I wanted to comment on, but Tony Braswell ignored the public comment option and went straight to a vote. I sat with my hand up for a good 10 minutes (and people sitting near me can verify that), without him ever looking up to acknowledge me. It appeared to him that the meeting was only being conducted between him and the panel members and the stakeholders were just there to listen. He appears to have a great sense of superiority in his position.

When we got to the last item on the agenda, which should have been, ironically, *public comment*, Tony Braswell again was going to ignore it and move to adjourn the meeting, even though I had my hand up...again. Finally another council member saw me and pointed me out.

I brought up that I had sent an email after the last meeting and that no one had responded. Tony Braswell said that was his fault. It's seems to be his fault a lot because during the course of the meeting, several council members said they didn't receive important emails from him, including emails sending out prior meeting's minutes for them to peruse to be voted on. He clearly seems to have a problem with communications even with the other council members. Because they didn't get his emails, they were unable to approve the minutes from the last two meetings.

I proceeded to explain how the Brown Act states that it can't be required for stakeholders to fill out a speaker card and his excuse was something to the effect that they like to run the meetings loosely. I then asked if they were required to run the meetings by the Brown Act and he said that it was unfair of me to ask since he announces it at the beginning of each meeting. Well, what's the point of announcing it, if you're not going to follow the rules?

I then proceeded to explain how he didn't allow for public comment on each agenda item and that seemed to really rile him. He basically dismissed me at that point, thanked me for my comment and moved on.

That's not the way to treat stakeholders.

Another stakeholder and council candidate, Judith Garvin Bickel, also raised her hand to speak on an agenda item and was overlooked. As I was leaving the meeting, she told me she agreed with me and felt that Tony Braswell had dismissed me when I brought the topic up. We discussed our common belief that there seems to be lots of communication problems with the council.

If Tony Braswell feels that he's above the law, and can run the meetings as he sees fit, he needs to be removed from the council. At the very least, he needs to acknowledge being wrong about these topics and apologize for dismissing me publicly and ignoring my correspondence. I came back after the meeting to discuss it with him and to tell him I didn't appreciate being dismissed and he basically wasn't going to hear it. Then Steven Stokes, which turns out to be Braswell's neighbor, came up and invaded our conversation and started berating me as well, telling me I was rude.

Well, please inform Steven Stokes that it's the public's right at a public meeting to hold their elected officials accountable, whether they like it or not. Tony Braswell was out of line two separate times when he was brought information about violating the Brown Act. That's not professional and it's against the law.

The courts have found that policies that prohibited the public from being critical at public meetings, were unconstitutional. (*Leventhal v Vista Unified School Dist (1997) 973 F.Supp. 951; Baca v Moreno Valley Unified School Dist. (1996) 936F.Supp. 719.*)

So while Steven Stokes may not have liked my rudeness, and I don't feel I was rude to begin with, it would be my right to be so.

RE:RESIDENCY

I also want to question Tony Braswell running as a homeowner in the next election when he has always run as a renter in the past. Has he since purchased a home in Valley Village? He certainly may have, I'm just curious. It seems like some of these board members who have been around

for a long time look for ways to make sure they keep a seat on the council by swapping positions in the election. If Tony Braswell has indeed purchased a home, I congratulate him on becoming a new homeowner in Valley Village.

I'm bringing this to the ad hoc committee to consider and handle, but should they choose not to, I will pursue further action. These meetings are meant to be for the stakeholders and our community, NOT to cater to Tony Braswell's whims and ego.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Andrist". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eric Andrist

enclosure

The Brown Act and Neighborhood Councils

-Quick Hits-

Office of the City Attorney Neighborhood Council Advice Division

Meeting. Any congregation of a majority of members (or the number that constitutes a quorum), to hear, discuss, or deliberate upon any matter within the NC's jurisdiction.

Must be open to the public.

Must be conducted at an ADA accessible facility

Agendas of regular meetings must be posted (and allowed to be viewed) 72 hours in advance/special meeting agendas must be posted 24 hours and delivered to board members; Agendas must include mandatory ADA language

NC board members may only discuss items that are listed on the agenda

Exceptions: May discuss and direct that future items be put on the agenda; May *briefly* discuss own activities or *briefly* respond to comments made or questions asked during general public comment portion of meeting.

No secret ballots/anonymous voting by board or committee.

- ▶ No closed meetings or "executive sessions." **Limited exceptions:** a) pending litigation against the NC or; b) personnel exception only involving city employee.¹

What isn't a meeting. Individual contacts or conversations with a board member/a majority attending; purely social or ceremonial events; other public meetings, conferences advertised to the public.²

No serial meetings. A series of separate communications (usually non-public), each of which involves less than a majority of the legislative body, but which taken as a whole, ultimately involves a majority (or the least number of board/committee members that can take action) of that legislative body. **Rule:** May not use direct communication, personal intermediaries, or technological devices (phone, fax, e-mail) by a majority to develop a collective concurrence as to action to be taken.

These exceptions shall not be invoked before conferring with the Office of the City Attorney.

² A majority of members at public events may not discuss among themselves business of a specific matter under the NC's jurisdiction.

Standing committee meetings are subject to the Act/ Ad hoc Committee meetings are not if committee is comprised *solely* of less than a majority of the NC board members.

Location of Meetings

Meetings (including retreats) must be held within the boundaries of the Neighborhood Council, unless an exception under the Act can be met.

Teleconferencing allowed under carefully defined conditions and the meeting notice must identify all teleconference locations and each location must be fully accessible to members of the public.

Accessible to the public under the Americans With Disabilities Act.

Rights of the Public

Members of the public may comment on each agenda item which opportunity must be offered before decisions/recommendations are made regarding that item; NC has right to limit public testimony by time per individual, or total subject matter. *Chaffee v. San Francisco Public Library Commission* (2005) 134 Cal. App 4th 109.

Members of the public may make general public comments on items not specifically listed on the agenda but within the NC's jurisdiction.

Members of the public have a right to see materials that are distributed at meetings.

Members of the public may record (audio/video) meeting

No sign-in requirement. (Although speaker cards may be used- no one may be required to fill it out to speak or attend).

Remedies/Penalties

Civil Remedies. Individuals or the district attorney may file a civil lawsuit for injunctive, mandatory or declaratory relief or to void actions taken in violation.

Criminal Penalties. The district attorney may seek misdemeanor penalties against wilful violations. **Standard:** the member intended to deprive the public of information that the members knows (or has reason to know) the public is entitled to.