

From: Arlene Tavani [mailto:Arlene@mpwmd.dst.ca.us]
Sent: Thursday, May 28, 2009 11:12 AM
To: Dave Laredo
Cc: Stephanie Pintar
Subject: Question About Public Access to Meetings Raised at Public Outreach Committee

David: At our last Public Outreach committee meeting, one director suggested that we allow the public to comment by telephone, or computer message during the Board meetings. If we were to invite comment, are there legal constraints? Can we limit the comment period to only during Oral Communications? Could we limit the number of comments, length of comment or length of the comment period? One suggestion was that we limit the comments to email only, so that we could eliminate any that contain profanity. We could enable submission of phone or email comments. I would like to report to the committee at their June meeting on your opinion of this proposal.

Arlene Tavani

From: Dave Laredo [dave@laredolaw.net]
Sent: Thursday, May 28, 2009 11:38 AM
To: Arlene Tavani
Subject: Public Access to Meetings

Arlene

There are no legal limits that address participation by the public by telephone or computer messages during Board meetings. The sole limitation is set by the Brown Act for remote participation of Board/Committee members. Those rules do not apply to remotely participating public members only.

Rules addressing such comment are limited to logic and to prevent discrimination. I am not sure what justification exists to limit such participation only to the comment period and not to other matters. I am hard pressed to see any significantly greater burden to the District. Also, the limit as to the number of comments, length of comment or length of the comment period would seem to arbitrarily benefit those who are allowed to speak remotely as compared to those who are excluded. The same limits should apply to remote participants as are applied to those who participate in person. In other words, the 3 minute standard should apply to all in equal fashion.

Imposing limits on remote participation may be appropriate if this practice becomes burdensome, but why should it be presumed to become a burden? Also, there is no basis to assume that remote participants shall become profane. If so, as would apply to any member of the public who appeared in person, the profane speaker can be cut off... if need be, by hanging up the line (or perhaps less dramatically, but taking the phone away from the speaker and thus cutting off the transmission to the entire committee).

I think the same standard should apply to any remote participant as you would apply to those seeking hearing assistance devices... that is, to ensure the request is made in sufficient time to allow MWPM staff advance notice.

David C. Laredo
General Counsel
Monterey Peninsula Water Management District



From: Arlene Tavani [mailto:Arlene@mpwmd.dst.ca.us]
Sent: Thursday, May 28, 2009 11:57 AM
To: Dave Laredo
Subject: RE: Public Access to Meetings

David: Thank you for the opinion, it is very clear. Your last paragraph mentions requiring speakers to advise staff in advance that they would be commenting by phone or email/instant messaging (whatever method is established). During the discussion of this proposal, the concept was that members of the public would be invited to comment from a remote location as a matter of practice. The agenda would provide direction on the phone number or email address to contact for comment. The Board and staff would be prepared to receive the comments. Why should we "require" that persons provide advance notice of their intent to comment via remote connection? It might be necessary for logistical reasons, in case we would IM or phone a person letting them know that it is time for them to comment.

Arlene

From: Dave Laredo [dave@laredolaw.net]
Sent: Thursday, May 28, 2009 2:06 PM
To: Arlene Tavani
Subject: RE: Public Access to Meetings
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Arlene -

My concern was one of logistics. One member can phone in... but more than one will require a conference call system so that each can hear the other. That will require establishment of a conference call number and advance call in to it. If a member of the public were to merely call the District's phone number, they would not be able to hear others who also do the same. My comment, therefore, was based upon my sense that callers would identify their intention in advance so that a call-in number could be given to them, and so that the meeting room could be configured to enable phone contact.

My sense is that use of the standard phone would not enable full communication, and thus should be avoided.

Comments by e-mail, of course, would not be so limited, but unless an advance deadline is announced, I question who on staff will be assigned the task of receiving such e-mail and then distributing these to the Board.

You mention the ability to IM... and again, this is an alternate form of electronic communication. Is this to be in addition to e-mail. And if so, who on staff will be assigned the task of receiving these IMs and distributing these to the Board.

Whatever format is accepted, I strongly encourage a cut-off date/time so that staff can have some certainty as to whether or if these communication vehicles are to be made available.

David C. Laredo
General Counsel
Monterey Peninsula Water Management District