

Disruptions at City Council Meetings

Acosta v. City of Costa Mesa

May 2013

- Acosta, who was a speaker at a City Council meeting, sued the Mayor, Chief of Police, the City and individually-named Police Officers.
- Acosta challenged a Costa Mesa City Ordinance as facially unconstitutional, as well as his arrest under the ordinance as unconstitutional as it was applied to him.

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- Costa Mesa City Ordinance:

“Propriety of conduct while addressing the council. (a) The presiding officer at a meeting may in his or her discretion bar from further audience before the council or have removed from the council chambers, any person who commits disorderly, insolent, or disruptive behavior, including but not limited to the actions set forth in (b) below.”

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(b) it shall be unlawful for any person while addressing the council meeting to violate any of the following rules after being called to order and warned to desist from such conduct:

- (1) No person shall make any personal impertinent, profane, insolent or slanderous remarks.
- (2) No person shall yell at the council in a loud disturbing voice.
- (3) No person shall speak without being recognized by the presiding officer.

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- (b)(4) No person shall continue to speak after being told by the presiding officer that his allotted time for addressing the council has expired.
- (5) Every person shall comply with and obey the lawful orders or directives of the presiding officer.
- (6) No person shall by disorderly insolent or disturbing action speech or otherwise substantially delay interrupt or disturb the proceedings of the council.”

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9th Circuit Court Ruling regarding the Facial Challenge to the Ordinance:

-Costa Mesa City Ordinance was overbroad on its face and that no reasonable construction can eliminate its overbreadth. The overbroad terms could not be severed therefore the entire ordinance was invalidated.

-The ordinance was overbroad because it unnecessarily sweeps a substantial amount of non-disruptive, protected speech within its prohibiting language.

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9th Circuit Court's ruling regarding

Acosta's arrest:

-Court focused on whether officer who made the arrest had probable cause to arrest Acosta.

-Court looked to the totality of the circumstances known to the officers to determine if a prudent person would have concluded there was a fair probability that the person had committed a crime.

-Court found that based upon, undisputed facts, there was probable cause to arrest Acosta.

Rule 7 Meeting Decorum and Order

7.01 Decorum and Order among Councilmembers

The chair shall preserve decorum and decide all questions of order

7.02 Decorum and Order among City Staff

The chair has authority to preserve decorum in meetings as far as the audience, staff members and city employees. City Manager shall also be responsible for the orderly conduct and decorum of all city employees.

Rule 7 Meeting Decorum and Order

7.03 Decorum and Order among Citizen Participants

- The Chair may direct people to cease from activity that is disruptive.
- The Chair may direct a person be removed if the person is causing a disturbance.
- The Chair may request Law Enforcement assist with persons who are being disruptive.
- If the Chair does not act any Councilmember may request the Chair enforce the rules and a majority of the Council must affirmatively vote to require the Chair to act.

A.R.S. Section 13-3803

The mayor or other officer having direction of the police of a city or town shall order a force, sufficient to preserve the peace, to attend any public meeting, when apprehensive of a breach of the peace.

What is Disruptive behavior?

A.R.S. Section 13-2904 Disorderly Conduct:

(A) A person commits disorderly conduct if, with intent to disturb the peace or quiet of a neighborhood, family, or person, or with knowledge of doing so, such person:

- (1) Engages in fighting, violent, or seriously disruptive behavior.

Scenario #1

At the public comment portion of a City Council meeting a speaker who is recognized by the Mayor begins to speak and criticize certain City Councilmembers. The speaker then gives a silent Nazi style salute to the City Council and the Mayor.

Scenario #2

During public comment a speaker approaches the podium and begins to yell “Hallelujah” at the top of his voice repeatedly. People in the audience begin to look around. After yelling several times the speaker begins to speak about the Council’s consideration of passing a ban on the use of plastic bags. During his speech his voice is elevated but he is no longer yelling. He then bangs on the podium while making a point.