

Select Board Meeting Minutes

Meeting Date: 4/18/2023

Members in Attendance: Arthur Doyle, Chair; Michael Zullas, Vice Chair; Richard G. Wells, Jr., Secretary; Roxanne Musto, Member; Nicholas Milano, Town Administrator and Lynne DeNapoli, Executive Administrative Assistant to the Select Board

Members Absent: Erin G. Bradley

Meeting Location: Council on Aging-Hybrid

Time Meeting called to Order: 7:02PM

Time Meeting Adjourned: 9:36PM

1. Call to Order
2. Pledge of Allegiance

Chair Doyle called the meeting of the Select Board to order at 7:43PM under Chapter Two of the Acts of 2023. The Chairman introduced the Members of the Trust and Staff and led the Pledge of Allegiance.

3. Public Comment

Philip Johening
Cindy Christiansen

Due to technical difficulties, the Milton residents who provided public comment were not audible. Their comments have been provided in the meeting minutes.

4. Discussion/Approval- Citation for the Amateur Gardeners of Milton for their many Decades of Service to the Town

Chair Doyle read the citation for the Amateur Gardeners Club.

Mr. Wells moved to approve the citation for the Amateur Gardeners of Milton for their many years of service. The motion was seconded by Ms. Musto. The Board voted by roll call (4-0) to approve.

(13)

Discussion/Approval –Citation/ Proclamation honoring Bill Ritchie, Director of Consolidated Facilities and James McAuliffe, Town Treasurer on their retirement

Chair Doyle read aloud the proclamation honoring Bill Ritchie and the citation honoring Jim McAuliffe.

Mr. Wells moved to approve citation and proclamations honoring Bill Ritchie, Director of Consolidated Facilities and James McAuliffe, Town Treasurer on their pending retirements. The motion was seconded by Ms. Musto. The Board voted unanimously to approve the proclamation and citation.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

The Board Members each expressed their appreciation to Mr. Ritchie and Mr. McAuliffe.

ZULLAS: YES

WELLS: YES

MUSTO: YES

DOYLE: YES

5. Discussion/Approval - Transfers of various parcels of land to the Conservation Commission or Board of Parks Commissioners, contingent upon approval of Town Meeting

Chair Doyle expressed his appreciation to Mr. Peter Jackson for the information he previously provided the Board regarding land transfers.

No additional action is required at this time.

6. Discussion/Approval - Animal Shelter project:

a. Review of Cost Estimates

b. Release of Request for Proposals for the Access Road site

c. Site Selection

Mr. Milano noted that the Animal Shelter Advisory Committee met on Friday, April 14th to review the cost estimates for the animal shelter project located on the dump access road.

Dan Daly, Co-Chair of the Animal Shelter Advisory Committee and Tim Czerwienski, Director of Planning and Community Planning Development joined the Select Board to provide the Members with the cost estimates for the for the animal shelter project located on the dump access road. Hill International, the Owner's Project Manager provided an estimate of \$3.9 million. The cost is higher than the Committee anticipated and will exceed the Milton Animal League's donation of \$3.7million.

The Committee has agreed not to make a recommendation to the Select Board regarding the RFP. The Committee's decision is based on the estimate and the offer from the anonymous donor with location restrictions. The Committee is ready to move forward and will work with the Select Board to determine the best course of action.

Mr. Milano noted that the office of Town Counsel will be contacting the Public Charities Division of the Attorney General's office regarding the potential uses of the Governor Stoughton property. The Select Board/Governor Stoughton Trustees and the Animal Shelter Advisory Committee will continue to work together on this project. The Select Board Members expressed their appreciation to the Animal Shelter Advisory Committee for their hard work and support.

7. Milton Access TV Annual Report to the Select Board

Rebecca Padera, President; Michael Lynch, Member-at Large and Shane Brandenburg, Ex. Director of Milton Access TV joined the Select Board to present their annual report and an update of the goings-on at MATV.

Ms. Padera introduced the MATV Team and Board Members and expressed her appreciation for their hard work.

Mr. Brandenburg introduced the volunteers and reviewed the Programming line-up currently available on three channels.

Hours of Programming

Government (Comcast 8/Astound 3) -6,188

Public (Comcast 9 /Astound 13) 4,368

Education (Comcast 22/Astound 15) -2,912

MATV streams 24/7 on YouTube: www.youtube.com/@miltonaccesstv

MATV also streams meetings and other events on their Facebook page.

Mr. Lynch reviewed the funding component for MATV/MPEG (Milton Public Education and Government TV)

Cable Providers within the Town enter a franchise agreement with the Issuing Authority (Select Board) for a ten-year period. The Providers are required to give a certain percentage back and the revenue will help public education. Milton currently has two cable providers: Comcast and Astound and contribute 5% of their gross annual revenues to the Town. The Town retains a portion while MATV/MPEG receives a percentage.

Mr. Lynch provided the Board with the 2024/2025 Operating Budget for 2024-2025.

Revenue expected in 2024/Article 44: \$450,000-500,000

Budget for 2024-\$450,000

Mr. Lynch also highlighted Capital funding and how the money was appropriated.

The Select Board thanked the MATV Team for their presentation and their hard work.

8. Discussion/Approval – Milton Arts Center (East Milton Library) Driveway

Ms. Joan Clifford, Director of the Milton Art Center joined the Select Board to revisit MAC's request to update the condition of the driveway. Ms. Clifford provided photos and descriptions of the current location. MAC would like to see the driveway extended to allow for extra parking and easier accessibility for visitors.

Ms. Clifford also met with Bill Ritchie, Director of Consolidated Facilities regarding this matter. Mr. Ritchie made some additional suggestions. The Board Members agreed to defer action on this matter until a cost factor can be determined and funding resources confirmed.

9. Discussion/Approval - Contract Amendments for Context Architecture re: Fire Station Building Project

Mr. Milano provided an update on the stats of the amendments from Context Architecture re: Fire Station Building project.

Milton Fire Stations Amendment 9, East Milton Driveway

The scope of the work includes separating the driveway from the main project, determining a temporary drainage strategy, and reviewing with the Town of Milton engineering department. The project procurement method will be reviewed with the Town DPW department with the goal of utilizing chapter 30 (horizontal public works) in lieu of chapter 149 (vertical) construction.

Construction Documents including cost estimate \$11,000

Bidding \$2,500

Construction Administration \$6,500 Total: \$20,000

Context would like to move the timeline up and address the driveway during the summer months.

Milton Fire Stations Amendment 12, Former Milton HQ Second Floor Demo

The scope of the work includes design and construction administration phase services for the demolition of the existing Electrical & Plumbing systems on the second floor and provide new MEP/FP, Technology, and Security systems for a future fit-out.

Design and RFP Documents \$24,250

Construction Administration \$21,600 Total: \$45,850

Mr. Wells moved to approve \$20,000 for driveway improvement at the new Engine #2 Station located at 432 Adams Street and \$45,850 for the abatement of both floors of the Fire Station Headquarters. The motion was seconded by Ms. Musto. The Board voted by roll call (4-0) to approve the amendments and appropriations.

ZULLAS: YES

WELLS: YES

MUSTO: YES

DOYLE: YES

10. Discussion/Approval - Request to increase membership of the Shade Tree Advisory Committee from five members to seven.

Laura Beebe, Chair of the Shade Tree Advisory Committee and her colleagues, Nancy Chisolm and Branch Lane joined the Select Board Members to provide an update on the Committee's progress, fundraising efforts and to request that the Board increase its membership by two.

Ms. Beebe noted that due to climate change, the Committee's workload has increased. The Committee has been asked to advise on tree related issues and special projects by the Planning Board, Historic Commission and Conservation Commission. Additional support would be welcome.

Following a discussion among the Board Members and the Committee, Mr. Wells moved to approve the request of the Shade Tree Advisory Committee to increase membership from five members to seven. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call to increase the Committee's Membership.

ZULLAS: YES

WELLS: YES

MUSTO: YES

DOYLE: YES

11. Discussion/Approval- Select Board Committee-Review Process of Volunteer Appointments to Boards and Committees Report

Ms. Musto, Co-Chair of the SB Review Committee provided the Board with an update on the Committee's progress and offered their recommendations. On behalf of her Co-Chair, Ms. Bradley, Ms. Musto expressed their appreciation to all the committee participants (Town Administrator's office, Town Clerk's Office, Office of Town Counsel, Town Moderator and the IT Dept.) for their feedback and support. She provided the Board with the "Guide for Appointed Volunteers, Volunteer Application and Committee List" as well as the "Handbook for Appointed Committees."

Mr. Wells moved to accept the Report and recommendations of the Select Board Committee-Review Process of Volunteer Appointments to Boards and Committees. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call to accept the report and recommendations of the Committee.

ZULLAS: YES

WELLS: YES

MUSTO: YES

DOYLE: YES

12. Discussion/Approval - Policies on Decorum at Public Meetings in Milton

Chair Doyle noted that the office of Town Counsel is working on drafting the policy on decorum.

13. Discussion/Approval –Citation/ Proclamation honoring Bill Ritchie, Director of Consolidated Facilities and James McAuliffe, Town Treasurer on their retirement

Select Board Members addressed this matter earlier in the evening.

14. Discussion/Approval-Committee Appointments and Re-Appointments

a. Animal Shelter Advisory Committee:

Mr. Wells moved to re-appoint the following individuals to the Animal Shelter Advisory Committee to a one-year term to expire on June 30, 2024: Alyssa L. Cook, Daniel Daly, Therese Desmond and John Sheldon. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call (4-0) to approve the committee re-appointments.

ZULLAS: YES

WELLS: YES

MUSTO: YES

DOYLE: YES

b. Airplane Noise Advisory Committee

Mr. Wells moved to re-appoint Kathleen Conlon to the Airplane Noise Advisory Committee for a one-year term to expire on June 30, 2024. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call (4-0) to approve the committee re-appointment.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

c. Council on Aging Board of Directors

“Move to re-appoint the following individuals to the Council on Aging Board of Directors for a three-year term to expire on June 30, 2026: Caroline A. Kinsella, BSN, RN,RS, Janet Mullen, Marie Zinkus, Marjorie Mahoney and Maryellen Sullivan and to re-appoint Sara Truog as an Associate Member for a one-year term to expire on June 30, 2024. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call (4-0) to approve the committee re-appointments.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

Mr. Wells moved to appoint Marshall Levy as an Associate Member to the Council on Aging Board of Directors for a one-year term to expire on June 30, 2024. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call (4-0) to approve the committee appointment.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

d. Trustees of the Affordable Housing Trust

Mr. Wells moved to re-appoint the following individuals as Trustees of the Affordable Housing Trust for a one year term to expire on June 30, 2024: Thomas Callahan, Julie D. Creamer, Kathleen Conlon and Danya Raphael. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call (4-0) to approve the committee re-appointments.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

15. Discussion/Approval- One-day Liquor License-Historic New England-Eustis Estate, May 20, 2023 from 2PM-4PM - Mobius at Eustis Multidisciplinary Art Series

Mr. Wells moved to approve the one day liquor License-Historic New England-Eustis Estate, May 20, 2023 from 2PM-4PM - Mobius at Eustis Multidisciplinary Art Series. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call (4-0) to approve the one-day Liquor License.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

16. Discussion/Approval-Meeting Minutes- February 24, 2023, March 1, 2023, March 14, 2023 and March 21, 2023

Mr. Wells moved to approve the Meeting Minutes dated: February 24, 2023, March 1, 2023, March 14, 2023 and March 21, 2023. The motion was seconded by Ms. Musto. The Board voted unanimously by roll call to approve the meeting minutes.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

17. Town Administrator's Report

Mr. Milano shared an update from the Friends of the Milton Council on Aging. "Bring on the Spring Bling" Fundraiser is scheduled for Thursday, April 20, 4 p.m. to 7 p.m and Friday, April 21, 9 a.m. to 1 p.m. Come Shop for Nearly new, upscale Jewelry, Scarves, and Pocketbooks. All proceeds benefit COA transportation & programming. Dealers are Welcome.

Mr. Milano expressed his appreciation to Chairman Doyle for acting as his Mentor as he began his new role as Milton's Town Administrator. On behalf of the Town, Mr. Milano wished him a long and happy retirement.

18. Chair's Report

Chair Doyle expressed his appreciation to the residents of Milton, the Select Board, Town Employees, Volunteer Committee Members and his family for their dedication and support during his time in office. Chair Doyle encouraged Milton's younger generation to get involved and help make a difference.

Mr. Zullas, Mr. Wells and Ms. Musto each thanked Arthur Doyle for his service and leadership.

19. Public Comment Response

No responses at this time.

20. Future Meeting Dates

The Select Board is tentatively scheduled to meet on Wednesday, April 26, 2023. The Board will meet throughout the Annual Town Meeting: (Monday, May 1st, Tuesday, May 2nd, Thursday, May 4th, Monday, May 8th, Tuesday, May 9th, Thursday, May 11th) and Tuesday, May 16, 2023

21. Executive Session – Pursuant to M.G.L. c. 30A, § 21(a)(3) - To discuss strategy with respect to litigation against the Massachusetts Bay Transit Authority regarding the condition of the stairs located at the MBTA station located at Adams Street, Milton, MA

Chair Doyle noted that the Executive Session will not be part of the Select Board's business this evening.

22. Executive Session- Pursuant to M.G.L. c. 30A, § 21(a)(3) – To discuss strategy with respect to collective bargaining

- a. Milton Clerical Unit of the Southeastern Public Employees Association**
- b. Milton Professional Management Association**
- c. Milton Public Employee Association**
- d. Milton Firefighters, Local 1116**
- e. Milton Police Association**
- f. Milton Superior Officers**

Chair Doyle noted that the Executive Session will not be part of the Select Board's business this evening.

23. Executive Session- Approval of Meeting Minutes- February 17, 2022, March 23, 2022, April 6, 2022, April 13, 2022, May 3, 2022, May 11, 2022, May 18, 2022, May 23, 2022, June 1, 2022, June 29, 2022, July 13, 2022, July 27, 2022, August 3, 2022, August 10, 2022, August 23, 2022, September 9, 2022, September 20, 2022, October 5, 2022, November 1, 2022, November 15, 2022, December 5, 2022, December 6, 2022, December 21, 2022, January 3, 2023, January 10, 2023, January 18, 2023, January 24, 2023, February 7, 2023, February 13, 2023, February 21, 2023, February 24, 2023, March 1, 2023, March 7, 2023, March 21, 2023 and April 4, 2023

At 9:25PM, Chair Doyle moved to enter Executive Session to approve the following Meeting Minutes: February 17, 2022, March 23, 2022, April 6, 2022, April 13, 2022, May 3, 2022, May 11, 2022, May 18, 2022, May 23, 2022, June 1, 2022, June 29, 2022, July 13, 2022, July 27, 2022, August 3, 2022, August 10, 2022, August 23, 2022, September 9, 2022, September 20, 2022, October 5, 2022, November 1, 2022, November 15, 2022, December 5, 2022, December 6, 2022, December 21, 2022, January 3, 2023, January 10, 2023, January 18, 2023, January 24, 2023, February 7, 2023, February 13, 2023, February 21, 2023, February 24, 2023, March 1, 2023, March 7, 2023, March 21, 2023 and April 4, 2023. The motion was seconded by Mr. Wells. The Board will not return to Open Session.

Ms. Musto requested that there be separate motions to address the following meeting minutes: February 17, 2022, March 23, 2022, April 6, 2022, April 13, 2022.

The Board Members agreed to Ms. Musto's request. The Board voted unanimously by roll call to enter Executive Session.

ZULLAS: YES
WELLS: YES
MUSTO: YES
DOYLE: YES

Adjourn

At 9:36PM, Mr. Wells moved to adjourn. The motion was seconded by Ms. Musto. The Board voted by roll call to adjourn.

WELLS: YES
MUSTO: YES
DOYLE: YES

Respectfully submitted by Lynne DeNapoli, Executive Administrative Assistant to the Select Board

Documents

Draft Citation-Milton Amateur Gardeners Club
Draft Citation-James McAuliffe, Town Treasurer
Draft Proclamation-Bill Ritchie, Director of Consolidated Facilities
Contract Amendments for Context Architecture re: Fire Station Building project
E-Mail correspondence from Joan Clifford, Milton Art Center -Driveway
E-Mail correspondence from Laura Beebe, Chair of the Shade Tree Advisory Committee -Membership
Volunteer Application-Boards and Committees - Marshall Levy
One-Day Liquor License Application- Historic New England-Eustis Estate- May 20, 2023
Meeting Minutes- February 24, 2023, March 1, 2023 and March 21, 2023

Public Comments

From: Philip Johenning

Sent: Wednesday, April 19, 2023 8:39 AM

To: Arthur Doyle

Cc: Nicholas Milano Richard G. Wells Erin Bradley Michael Zullas Roxanne Musto <

Subject: Civility is Dead

[External Email- Use Caution]

Please be sure to include the attached document in the record of the meeting last night. I also ask the Board to review the document carefully. I think that the Select Board and other Town Boards and Committees must become more tolerant of opposing points of view so that better decisions can be made for our Town. There is a danger to getting too entrenched in a point of view before a final consensus is reached.

Municipal Alert
March 16, 2023

CIVILITY IS DEAD – THE SUPREME JUDICIAL COURT RULES MUNICIPAL
CONTROL OF PUBLIC SPEAK LIMITED TO REASONABLE
TIME/PLACE/MANNER RESTRICTIONS

On March 7, 2023, the Supreme Judicial Court ruled in the highly anticipated Barron v. Kolenda and the Town of Southborough (SJC-13284) case. The case brought a constitutional challenge to the Town of Southborough’s (“Southborough”) public comment policy (the “policy”), which imposed a code of civility on members of the public who participated in so-called “public speak” before Southborough boards and committees. In its decision, the Court ruled that Southborough’s policy violated Articles 16 and 19 of the Massachusetts Declaration of Rights.

At the heart of the Barron¹ case was a select board meeting chaired by Kolenda and attended by Barron, and participation in the public comment part of the select board meeting. At the start of that part of the meeting, Kolenda reminded the public of the policy, which included the requirement that “...All remarks and dialogue in public meetings must be respectful and courteous, free of rude, personal or slanderous remarks.” Later, Barron spoke, while holding a sign that said: “Stop Spending” and “Stop Breaking Open Meeting Law.” Barron also critiqued the select board for its prior Open Meeting Law violations. Kolenda and Barron then entered into a colloquy where Kolenda threatened to stop public comment and go into recess, and Barron called Kolenda a particular name. After the second reference to that name, Kolenda ended the meeting and the video of the meeting ceased. Kolenda allegedly screamed at Barron and threatened to have her escorted out of the meeting. Barron left, believing he would act on that threat.

The Court’s opinion reviewed the history of Articles 16 and 19 of the Declaration of Rights, and the long history of freedom of assembly and speech in Massachusetts. The Court noted that long standing Massachusetts cases have stood for “the fullest and freest discussion” which is “sanctioned and encouraged by the admirable passage in the constitution,” where that right is “exercised in ‘an orderly and peaceable manner.’” The Court also noted that more recent Massachusetts cases have drawn from “well-understood First Amendment principles and provided for reasonable time, place and manner restrictions” to public speech.

In the context of full and fierce discussion, the Court determined that governmental criticism is subject to reasonable time, place and manner restrictions. Such speech, while required to be

¹In her Complaint, Plaintiff sought a declaration that a portion of the public comment policy requiring civility was unconstitutional under the Massachusetts Declaration of Rights because it disallows criticism of board members and decisions. Plaintiff also brought a claim under the Massachusetts Civil Rights Act (“MCRA”) against Kolenda individually. The Superior Court granted the Defendants motion for judgment on the pleadings and Barron appealed. The SJC transferred the case to itself, on its own motion.

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Municipal
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peaceable and orderly, was not required to be “respectful and courteous.” The Court noted that even “rude and insulting” speech referencing a particular name is still protected speech.²

The Court also found that the civility code portion of the policy regulated the content of public speech and was “extraordinarily broad.” Where the policy required that speech directed at government be “respectful and courteous, free of rude remarks,” the Court determined it constituted viewpoint discrimination, since it allowed praise, but disallowed criticism.

Finally, the Court found that Kolenda, by allegedly screaming at Barron and threatening to remove her while she was engaging in protected speech, could be subject to a claim under the MCRA, which protects against violations of rights by threats, intimidation, or coercion.

Based on this opinion, and the Court’s description of reasonable time, place and manner restrictions, it is important that municipalities, in consultation with their counsel, take a hard look at their public speak or public comment policies, and consider revising them so that they are limited to designations of:

- when and where a public comment session may occur;
- how long a public comment session may last;
- time limits for each person speaking during public comment session; and,
- establishment of rules preventing speakers from disrupting others and removing those who do.

The Court did not address any portion of the Open Meeting Law or, under that law, the rights of the Chair of a public body to direct speakers at a public meeting. However, the designations listed above that could serve as reasonable time, place and manner, content-neutral limitations on speech are the types of rules which appear to be enforceable by the Chair of a public body, consistent with a Chair’s rights and obligations under the Open Meeting Law.

² Subject to a carve out related to the doctrine of “fighting words” which is not protected speech.

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This Client Alert was prepared by Karis North and reviewed with Andy Waugh, Michael Maccaro, and Kevin Freytag. If you have any questions about this issue, please contact Karis North, Kevin Freytag, or the attorney responsible for your account, or call (617) 479-5000.

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Cindy L. Christiansen, 59 Collamore St., Milton, MA 02186; clcmilton@gmail.com

Public Speak, Select Board Meeting 4/18/23

Regarding your agenda item on decorum at public meetings, I warn this Board to be extremely careful when defining what is proper and what is improper for the public to say. The previous Select Board allowed its previous MCAC representative to lie to the public about flight paths yet when I spoke the truths about these untruths, I was silenced – Is this something that this Select Board will disallow? Do you consider that proper decorum on your colleagues' part?

At the Feb 21 ANAC mtg, I spoke about the Select Board and the ANAC's hypocrisy. I said that you and your ANAC committee members claim to want dispersion as long as it is not dispersion over the western side of town. At the end of the MIT study, Mr. Zullas even told Quincy, Braintree, and Hingham that they should take more of Milton's planes and that if the situations were reversed, he hoped that Milton would decide to share their burden. But now you are using tax dollars and secret meetings to try to stop a very small amount of dispersion over your homes? That is hypocrisy and, in my opinion, it needs to be said publicly.

During ANAC's Feb public speak, I was vilified by your appointed chair. She claimed I was off-topic. I responded to her by writing:

your message is clear - anyone who says anything that disagrees with you or that is critical of you, is being disrespectful. Yet, again tonight, you were the one being disrespectful. You implied that I had no right to speak the truths that I spoke. You lied and publicly said I was off-topic. I was not. What you did is what most people call disrespect.

I spoke of my experiences about ANAC and town government. I was truthful even though I admit I said truths that you did not want me to say. And I want to add tonight that the Supreme Court Justices agree with me.

Now, this is my final comment. In ANAC's Aug meeting your appointed MCAC rep said he would draft a letter for this Board to consider a meek attempt to help those in Milton who on average have 160 noise events per day. It is now 7 months later and there is no draft letter. During that same meeting your MCAC rep said that he planned to attend the MCAC Executive Committee meetings in his attempt to learn more – a noble statement to make – BUT I have attended all 6 MCAC Executive Committee meetings since then and your appointed MCAC rep has attended zero of them. Untruths stated by your appointees is disrespectful to the residents of Milton and needs to be considered when discussing public meeting decorum.