



City of Carson Report to Mayor and City Council

January 18, 2011
New Business Discussion

SUBJECT: CONSIDER ORDINANCE NO. 11-1465 AMENDING SECTION 2412 OF THE CARSON MUNICIPAL CODE RELATING TO THE MANNER OF ADDRESSING THE CITY COUNCIL

Submitted by William W. Wynder
City Attorney

Approved by Clifford W. Graves
Interim City Manager

I. SUMMARY

The City Council is requested to introduce Ordinance No. 11-1465 regarding the manner in which members of the public address the City Council.

II. RECOMMENDATION

WAIVE further reading and INTRODUCE Ordinance No. 11-1465, "AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 2412 OF THE CARSON MUNICIPAL CODE RELATING TO THE MANNER OF ADDRESSING THE CITY COUNCIL."

III. ALTERNATIVES

TAKE another action the City council deems appropriate.

IV. BACKGROUND

At the December 7, 2010, City Council meeting, the Council considered recommendations contained in a letter from the Los Angeles County District Attorney's Office, dated September 30, 2010, and gave direction to the City Attorney to bring back an amendment to the Carson Municipal Code regarding the manner in which members of the public address the City Council.

In its September 30 letter, the District Attorney's office concluded, without providing any citation to any legal authority, that "[w]hile some suggest that the statute [referring to the Brown Act] prohibits [sic] [permits] only criticism of the 'legislative body' as a whole, we believe such restrictive reading of the statute is not supported by case authorities, and undermines the very precepts of the Brown Act. In our view . . . 'any item of interest to the public . . . that is within the subject matter jurisdiction of the legislative body' necessarily includes comments regarding a single member of the body as well as matters, statements or comments to the body as a whole."

The stated position of the District Attorney was as follows: "We do not believe that a rule requiring public comment to be addressed to the entire council is

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supported by the law because it does not constitute a reasonable time, place and manner regulation.” The attached ordinance represents implementation of a recommendation from the District Attorney and as authorized by the City Council on December 7, 2010.

Ordinance No. 11-1465 would amend the Municipal Code by deleting text from Section 2412, as follows:

“§ 2412 Manner of Addressing Council.

A. Protocol. Each person desiring to address the Council is requested to fill out a speaker card and to give that card to the City Clerk. The use of speaker cards is for the purpose of ensuring that a speaker’s name is entered correctly in the minutes of the Council meeting. Speaker cards are to be submitted to the City Clerk prior to the commencement of the meeting but no later than the point in the meeting when the item about which the speaker desires to speak is reached on the agenda and announced by the Presiding Officer. When his or her name has been called by the Presiding Officer, he or she shall step up to the audience podium, state his or her name in an audible tone of voice for the record, and, unless further time is granted by the Council, shall limit his or her comments to three (3) minutes. Except as authorized in subsection B of this Section, no person shall be permitted to yield additional time to the speaker. ~~All remarks shall be directed to the Council as a body and not to any member thereof or the audience.~~ No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked a Councilmember except through the Presiding Officer.”

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Ordinance No. 11-1465. (pgs. 4-5)

Prepared by: William W. Wynder, City Attorney

TO:Rev010511

Reviewed by:

City Clerk	<u>City Treasurer</u>
<u>Administrative Services</u>	<u>Development Services</u>
<u>Economic Development Services</u>	<u>Public Services</u>

Action taken by City Council

Date _____ Action _____

ORDINANCE NO. 11-1465

AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 2412 OF THE CARSON MUNICIPAL CODE RELATING TO THE MANNER OF ADDRESSING THE CITY COUNCIL

NOW, THEREFORE, the CITY COUNCIL of the CITY of CARSON, CALIFORNIA, does hereby ordain as follows:

Section 1. The Carson Municipal Code § 2412(A) is hereby amended to read in its entirety, as follows:

“§ 2412 Manner of Addressing Council.

A. Protocol. Each person desiring to address the Council is requested to fill out a speaker card and to give that card to the City Clerk. The use of speaker cards is for the purpose of ensuring that a speaker's name is entered correctly in the minutes of the Council meeting. Speaker cards are to be submitted to the City Clerk prior to the commencement of the meeting but no later than the point in the meeting when the item about which the speaker desires to speak is reached on the agenda and announced by the Presiding Officer. When his or her name has been called by the Presiding Officer, he or she shall step up to the audience podium, state his or her name in an audible tone of voice for the record, and, unless further time is granted by the Council, shall limit his or her comments to three (3) minutes. Except as authorized in subsection B of this Section, no person shall be permitted to yield additional time to the speaker. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked a Councilmember except through the Presiding Officer.”

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the city of Carson hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

Section 3. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

Section 4. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the city of Carson and shall cause a summary of this ordinance to be published in accordance with Government Code § 36933.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this 18th day of January, 2011.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe

APPROVED AS TO FORM:

City Attorney

