

From: [Ducey, Peggy](#)
To: [Lemos, June](#)
Subject: FW: Public Comment -- 9/26/22 CC Mtg., Item No. 8A, Anti-Criticism Policy
Date: Monday, September 26, 2022 9:34:50 AM
Attachments: [Example of FB City Clerk Bullying.pdf](#)

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Sunday, September 25, 2022 5:34 PM
To: Lemos, June <jlemons@fortbragg.com>
Cc: Ducey, Peggy <PDucey@fortbragg.com>
Subject: Public Comment -- 9/26/22 CC Mtg., Item No. 8A, Anti-Criticism Policy

City Council [via BCC],

It might surprise some of you to hear that I support an anti-bullying policy and even some aspects of the proposal before you, although I certainly don't support what is being proposed for your consideration tonight because, IMO, it is written in an overbroad and ambiguous manner and appears to include a lot of protected political speech among the examples of what the City would officially describe as objectionable "bullying" behavior if it gets adopted without amendment. I recommend the policy be sent to the Finance & Admin Committee for further refinement prior to being brought back and considered for adoption by the City Council. The draft policy also appears to need more detailed legal review to ensure that it isn't going too far and setting the City up for unintended consequences should the City try to enforce the policy and end up restricting protected speech or otherwise infringing on someone's rights. You might not be aware but the ACLU is challenging policies adopted by the City of Montebello in Southern California that also appear to be intended to reduce criticism of city officials through public comments. The last thing the City needs is the ACLU knocking on the doors of City Hall.

Regarding the good aspects of the proposal, I appreciate that the policy is written to include bullying on the part of City staff directed at members of the public and a strict no-retaliation stance, which has been a problem and continues to be a problem with certain staff who appear to react to questions or perceived criticism with petty and vindictive retaliatory actions. That has apparently happened in several development projects where valid criticism or questions of staff from the people seeking permits has been met with further unreasonable demands and/or unjustified enforcement actions, etc. It is curious that the City's incident report doesn't include a lot of these instances where staff allegedly bullied members of the public and permit applicants even though I am aware that formal complaints have been filed in some of those instances so they should presumably show up in a complete report. Of course, it is not surprising that City staff focused on instances where a staff member felt they were being bullied rather than when it is the staff doing the alleged bullying. IMO, the City organization has an apparent culture of "us versus them" when it comes to the public and has exhibited a pattern of looking the other way concerning impermissible retaliation and abuses of power from staff or members of the City Council directed at members of the public who are either seeking services and permits from the City or are trying to participate in civic processes and public engagement opportunities. I can't tell you how many people come to me for help engaging with the City because they are too afraid of being retaliated against by the City officials who are causing their concerns to begin with so they don't want to identify

themselves. It happens very frequently. I believe you should take this concern seriously because I think it is suppressing valuable public participation and contributing to eroded trust in the City as an organization.

I mean, I would have certainly appreciated an anti-bullying and anti-retaliation policy back in 2018 when I was attacked online by the City Clerk as part of her infamous Mendocino Bacon comments where she referenced her as the City Clerk in her official capacity issuing colored stars to different citizens based on their ethnic group or family heritage, which alarmed many members of the community because it provided a clear parallel to the colored stars issued by public officials in Nazi Germany to disfavored and targeted minority groups. (Those comments are attached for your and the rest of the public's reference along with the press coverage of the incident since it has been a few years.) The City Council at the time, including then-mayor Lindy Peters, appeared to bend over backwards to try to explain away the City Clerk's outrageous and offensive behavior instead of protesting what would clearly fall within the City's proposed definition of objectionable bullying. As a result, the City Council, or at least the two members still serving from that time, hardly have any moral authority on this topic.

Getting back to the concerns about the details of this proposed policy (rather than the underlying concept which is admirable), the City appears to be trying to define normal protected political speech that might be perceived as negative (or even sometimes offensive) as objectionable bullying of staff rather than appropriate questions or concerns about matters of public concern. One person's "bullying" is another person's spirited public comment and the law is squarely in favor of protecting the public right's to bring these matters to the attention of their government and their fellow local residents. Political speech is highly protected, including by the First Amendment to the US Constitution. All people have a right to petition their government for the redress of grievances and the freedom of speech. Those rights extend to even highly offensive speech and incendiary remarks (provided the speech doesn't explicitly threaten physical harm to anyone or fall into one of the other narrow exceptions to free speech rights). As a result, you might adopt this policy but it could have no practical effect and wouldn't be enforceable if pesky members of the public or staff continue to object to matters of public concern in a manner that some staff or officials might not appreciate and could allege as another "bullying" incident. Basically, you might not like it and should be concerned about bullying but that doesn't mean you can try to use a policy to shield City staff and officials from criticism from the public because even speech that could be described as bullying may often also be protected political speech.

My main point is that this proposed policy is poorly written to the extent that it includes criticism of staff-prepared work as an example of offensive bullying. IMO, objectionable "bullying" at least within a public agency context, does not extend to criticism of particular work product or even direct criticism of individual officials or staff as long as the criticism and comments focus on the work itself and not the person. In short, I believe bullying is demeaning the person themselves but I do not agree that "bullying" includes questioning or objecting to work. The City is required to solicit public comments prior to making decisions for a reason, which is particularly true for agenda items involving formal public hearings, and adopting an anti-bullying policy that appears to actually be an anti-criticism policy is not aligned with that mandate nor is it consistent with the numerous statutory and constitutional rights of members of the public to express their opinions on matters of public concern. Pointing out apparent errors and sharing personal opinions through formal public comments or other communications with City officials is not "bullying" and the City's attempt to define it as

such through this draft proposed policy does a disservice to the entire community. The draft policy should be revised to reflect the very real distinction between personal attacks and criticism of work. Until the necessary revisions occur, the City Council should not adopt an anti-bullying policy at all.

Regards,

--Jacob



Joseph Bryant
President

Akbar Bibb
VP Region A (North Central)

Mary Sandberg
VP Region B (North Coast)

Yeon Park
VP Region C (East Bay)

Theresa Rutherford
VP Region D (San Francisco)

Marcus Williams
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September 26, 2022

Mayor Bernie Norvell & Fort Bragg City Council
City of Fort Bragg
416 N Franklin Street
Fort Bragg, CA 95437

Re: Anti-Bullying Policy

Dear Mayor Norvell and Members of the City Council,

We are writing to express our support and appreciation for the Council's proposed anti-bullying policy being considered at the 9/26/22 Council meeting. We appreciate City Manager Peggy Ducey's proactive approach to the growing problem of abusive and hostile behavior directed at city staff.

The past years has been particularly challenging for staff, with furloughs and restrictions brought on by the pandemic. But city staff has performed admirably under these difficult circumstances.

In addition to their normal work, staff have had to deal with exhaustive and frivolous public information requests, insulting emails, and attacks on their integrity and professionalism. This is a waste of scarce city resources and the time of the small but dedicated staff. It is time that the Council put a policy in place that will help protect employees from this harsh treatment. This will not only protect city staff but defend the broader public by not allowing limited public resources to be diverted and wasted by a small number of individuals who misuse and abuse city processes and the city's public servants.

We understand that as a public entity, the city is obligated to be transparent and open to the scrutiny of the citizenry, and we fully support this. But what we have been seeing, is individuals using this openness as a weapon and a way to torment, belittle and attack hardworking city staff members. As City Council members, you have an obligation to keep city operating efficiently and the staff safe.

We believe that this policy is a step in the right direction to make sure there is a way to track and address misconduct and actions and activities that falls outside the scope of acceptable public discourse.

Sincerely,

Patrick Hickey
Field Representative, SEIU Local 1021

Alden Ramos
President, City of Fort Bragg Chapter, SEIU Local 1021

Cc: Peggy Ducey, City Manager, City of Fort Bragg

In response to item 8A. 22-484 Receive Report and Consider Adoption of City Council Resolution Approving Anti-Bullying Policy

09262022 Anti-Bullying Policy Staff Report

Att 1 - Anti-Bullying Policy (RESO Ex A)

Att 2 - COFB Anti Bullying Incident Report

Att 3 - RESO Anti-Bullying Policy

To City Council, City Manager and staff,

First of all welcome aboard Peggy Ducey.

I am saddened to hear that members of City Hall have been apparently “attacked” by community members & “activists” in the last 4 years and feel that you have no other recourse as to come up with these ill worded documents. Please postpone any decisions until the public has more time to look at them, the various committees can have input, and until you reword your documents.

Putting a blurb in the Anderson Valley Advertiser online version the same day as the meeting is happening as Council member Lindy Peters did is not enough notice. He wrote: “that the next City Council meeting features an agenda item that codifies an Anti-Bullying-Policy to address the hostile attacks our City employees have had to withstand from certain members of our local community. The staff report mentions some employees have actually resigned and others have suffered severe emotional trauma while working in an atmosphere of intimidation and fear. The offensive comments by such individuals are clearly classified as bullying in the workplace. The time is now to address this problem and I am hoping our community will support the City Council’s efforts to insure a safe and healthy work environment for our valued City employees. Public scrutiny is welcome. Hostile threats and belittling commentary is not.” He included the first paragraph of your Agenda Item Summary listing Issues.

Whether codify (to turn a common law requirement or practice into law) is the appropriate word or not is an other issue.

I am sorry to hear that some employees have actually resigned and others have suffered severe emotional trauma while doing their job. I understand why you feel that you need to respond swiftly and forcefully to prevent other staff to resign, not show up at work, and/or feel physically, mentally, and emotionally threatened/endangered.

Take a moment to reflect and realize that this ill conceived Staff Report, Anti-Bullying Policy, and Anti Bullying Incident Report should not be adopted today. Please listen to the feedback of the public, and also get the feedback of all the other committees. Why bother to let the Planning Commission see what was possibly adopted 2 days after the fact? Why not run it by the Finance & Administration Committee? You might also realize that the COFB Anti Bullying Incident Report ends with an incomplete sentence.

What has been happening in the last 4 years is that do to Covid the City Council has met only 9 times at Town Hall in 2020, 7 times in 2021 and so far only 11 times this year. As convenient as it is to connect per zoom, or telephone, it is not the same as showing up in person. Also it excludes some people who do not have that technology or do not feel that they want to rely on that.

We all became aware that money needed to be saved, employees were let go off, worked less, and/or got less money for their work.

In response mostly to Rex Gressett the city council already came up with the Tools of Civility on September 25, 2017 by adopting Resolution 4035-2017 regarding Tools of Civility to enhance public debate. View the Nine Tools of Civility. Read Resolution 4035-2017.

<https://www.city.fortbragg.com/home/showpublisheddocument/1630/637719457583230000>

<https://www.city.fortbragg.com/home/showpublisheddocument/1634/637719457599170000>

Next the Chief of the Police Department started attending each meeting.

Community members had to insist that public comments about non agenda items were allowed at the beginning of each meeting along with the fact that the consent calendar needed to be placed before conduct of business.

Minutes got shortened and public comments were no longer included in the meeting details unless received well in advance.

The city lost Tabatha Miller, had an interim City Manager, and now a new City Manager.

The city lost Marie Jones who was in charge of the Community Development Department, then hired new planners, as well as outside environmental organizations to evaluate certain projects. They do not have the knowledge locals have.

Do to the guaranteed rights by CEQA, NEPA, the Coastal Act, and other local laws comments during Public Hearings need to be encouraged and facilitated.

According to Lindy Peters “public scrutiny is welcome.” Who decides if and when public scrutiny is an attack on employees? When are comments from “activists” appreciated? When they are supportive of the City’s law suit against Mendocino Railway, but not when they are against a Hare Creek mall or a Grocery Outlet Bargain Market on North Harbor Drive?

The public is not privy to what transpired in the last 4 years that seems to have prompted this Anti-Bullying Policy and additional documentation.

Sometimes the public is misinformed. When reading comments from the public it helps when a person can be informed that their believes are not accurate. This had happened to me and appreciate having been notified about that.

I have also felt that some Council members were not as welcoming to comments from the public unless they live in Fort Bragg proper.

I did feel that there were occasions where even “bullying” happened by City Council members during City Council meetings. For one I was shocked when the committee to look at renaming Fort Bragg after having done serious work for a year were basically shut up the moment they were done with their presentation. What has happened since they came up with their great ideas?

I do not like the word “bullying”. I think there are many better words that can be used for various situations. As a former school teacher I have observed “bullying” on school sites, but among grownups in this setting it is important to specify what happened when and why, and not just use the name “bullying” to fit every situation. It seems the policy does not need to refer to schools.

It seems to me that many tools can be used to strengthen a positive collegiality at City Hall and make it clear that only appropriate behavior will be accepted. Trainings for staff, team building, having a backup person available when dealing with the public, so that people do not have to respond when triggered. Why not have a suggestion box or online information how City Hall could help people? Having regular meetings like Lindy Peters did for the public to attend and voice their concerns helped in the past.

Many people have money problems, feel lonely, have no work, can't find housing that they can afford, can not afford the City's bills, etc. Could the city have a list of local resources they can share with the public?

I believe when being reactionary things get worse. There was a time when the public was not trusted to see actual historical background in regards to a development in a separate room and the public had to squeeze into a corner in the office of the Community Development Department to see big plans.

It seems to me that it needs to be clearly established where things break down. Are issues experienced at City Hall, at City Council meetings, between employees, etc.? I suggest dealing with each situation accordingly instead of just trying to address everything with this policy.

Threatening to fire an employee based on an anti-bullying incident report does not encourage new people to apply to work at City Hall. How do you even enforce this? You might even need input from a lawyer. I wonder what the American Civil Liberties Union thinks about this policy (ACLU).

Thank you for allowing me to comment.

Sincerely, Annemarie Weibel

9-26-2022