



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 11/3/2015

Agenda Placement: 6I

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Jeffrey Richard for Minh Tran - County Counsel
County Counsel

REPORT BY: Jeffrey Richard, CHIEF DEPUTY COUNTY COUNSEL - 253-4234

SUBJECT: Adopt Resolution Amending Board of Supervisors Policy to Clarify Time Allotments for Speakers at Board Meetings

RECOMMENDATION

County Counsel requests adoption of a resolution amending provisions of the Napa County Policy Manual, in Part 1, Sections 8 and 8B, effective as of November 3, 2015, to clarify that the time limit for each public speaker on any item shall be limited to up to three minutes, unless the Board Chair grants more time, and that the limit of three minutes may be reduced by the Chair to less than three minutes per speaker (other than applicants or appellants who are parties to noticed hearings), but in no event to less than two minutes, as may be reasonably necessary for the orderly and efficient conduct of Board meetings.

EXECUTIVE SUMMARY

County Counsel recommends that the Board adopt a resolution amending Part I, Sections 8 and 8B of the County Policy Manual, effective as of November 3, 2015, to clarify that the time limit for each public speaker on any item shall be limited to up to three minutes, unless the Board Chair allows more time, and that the limit of three minutes may be reduced by the Board Chair to less than three minutes (but in no event to less than two minutes), as may be reasonably necessary for the orderly and efficient conduct of Board meetings. These amendments are necessary to clarify the extent to which the Board Chair has discretion to apply reasonable limitations on each speaker's time for input in a manner that is consistent with California case law on the issue. The amendment will also make it clear that the time limits apply to all speakers other than applicants or appellants who are parties to noticed hearings.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Two provisions of the County Policy Manual currently prescribe time limits of three minutes per speaker for all Board of Supervisors agenda items other than noticed appeal hearings:

1. Part I, Section 8 of the Policy Manual provides, in pertinent part, as follows:

“The time of 9:00 a.m. to 9:15 a.m. is set for public input, with a limit of three minutes per person, and to introduce items for Board consideration for future agendas.”

2. Part I, Section 8B, Rule 11 of the Policy Manual provides, in pertinent part, as follows:

“RULE 11. Persons Addressing the Board – Other Than Noticed Appeal Hearings

“. . . In the interest of facilitating the business of the Board, the following shall apply:

A. Each speaker shall be permitted to be heard once for up to three minutes unless the Chair affirmatively grants additional time.”

Government Code section 54954.3(b) (a provision of the Brown Act) requires public entities to adopt reasonable regulations of public meetings, including regulations as to the time allotted for public speakers. Public bodies generally have discretion to make adjustments, including increases or reductions of allotted public speaking time, as reasonably necessary for the orderly conduct of public meetings. *Chaffee v. San Francisco Public Library Commission* (2005) 134 Cal.App.4th 109.

In order to apply the principles announced in the *Chaffee* case, and to clarify the discretion of the Napa County Board of Supervisors to either increase or reduce (within reasonable bounds) the time limits applicable to each public speaker, we recommend that the above-quoted provisions be amended to read as set forth below. It should be noted that the policy amendments would also make it clear that the per person limits on public speaking times would apply to all matters, including noticed appeal hearings, but that the time limits would not apply to applicants or appellants who participate in such appeal hearings who should be given greater latitude, within reason, in light of due process protections that may apply to such matters.

As is also depicted by the redlined version of the changes to Section 8 and 8B attached to the resolution as Exhibit A and Exhibit C, respectively, the proposed revised provisions would read as follows (with new language shown in bold italics):

1. Part I, Section 8:

“The time of 9:00 a.m. to 9:15 a.m. is set for public input, with a limit of ***up to*** three minutes per person, ***unless the Board Chair affirmatively grants more time***, and to introduce items for Board consideration for future

agendas. ***The time limit of up to three minutes per public speaker shall also apply to public speakers on each discussion item and noticed public hearing on the Board's agenda (except as to applicants or appellants who are parties to noticed hearings). The per person time limit for public input at the beginning of the Board meeting or on any specific agenda item may be reduced by the Board Chair to less than three minutes (but in no event to less than two minutes per speaker) as may be reasonably necessary for the orderly and efficient conduct of Board meetings. Any reduction of the time limit should be announced by the Board Chair prior to the beginning of the public speaking segment of each item to which the reduction applies.***

2. Part I, Section 8B, Rule 11:

"RULE 11. Persons Addressing the Board [***Note deletion here of "Other than Noticed Appeal Hearings"***]

"Any person desiring to address the Board when recognized by the Chair shall give his or her name for the purpose of the record. In the interest of facilitating the business of the Board, the following shall apply:

A. Each speaker shall be permitted to be heard once for up to three minutes ***on any Board agenda item*** unless the Chair affirmatively grants additional time. ***The three-minute per speaker time limit for public input on any agenda item may be reduced by the Board Chair to less than three minutes (but in no event to less than two minutes per speaker) as may be reasonably necessary for the orderly and efficient conduct of Board meetings. Any reduction of the time limit should be announced by the Board Chair prior to the beginning of the public speaking segment of each item to which the reduction applies. The per person time limit shall not apply to applicants or appellants who are parties to matters that are the subject of noticed hearings.***

SUPPORTING DOCUMENTS

A . Final Resolution

CEO Recommendation: Approve

Reviewed By: Helene Franchi