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7 Attorneys for CITY OF WESTMINSTER

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

10

11 CITY OF WESTMINSTER, a municipal
corporation,

12 Plaintiff,

13 v.

14 AMY PHAN WEST, an individual, and
15 NAMQUAN NGUYEN, an individual, and
DOES 1 through 50, inclusive,

16 Defendants.

Case No. 30-2024-01443472-CU-MC-CJC

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Assigned for All Purposes

Judge Gassia Apkarian

18 Plaintiff CITY OF WESTMINSTER, a municipal corporation (the "City") brings this
19 cause of action by and through its undersigned counsel and alleges as follows:

20 **INTRODUCTION**

21 1. Westminster City Council Members Amy Phan West and NamQuan Nguyen
22 ("Defendants") have repeatedly disrupted meetings of the Westminster City Council in violation of
23 Government Code section 36813, Government Code section 54957.95, Penal Code section 403,
24 and Westminster Municipal Code section 2.04.060. The Mayor has been unable to manage their
25 unruly behavior, and repeated efforts to obtain their compliance have failed. As a result, the City
26 Council has ended meetings without accomplishing its business, met late into the night, and
27 generally frustrated those interested in responsible, effective conduct of City meetings.
28 Defendants' actions impair the rights of others who wish to be heard at City Council meetings,

1 from council members and staff to business owners and residents. After exhausting all other
2 options, the City now seeks the Court's assistance in protecting the rights of the City and those it
3 serves and to ensure that Westminster City Council meetings are efficient. If court-assisted
4 mediation cannot resolve this dispute, the City will seek declaratory relief and an injunction
5 against Council Members West and Nguyen to restrain their disruptive behavior.

6 **THE PARTIES**

7 2. The City is and was at all relevant times a general law city duly organized and
8 existing under the California Constitution and Government Code sections 34000, et seq., located
9 in the County of Orange, California.

10 3. The City Council is, and at all relevant times was, the legislative body of the City.

11 4. The City Council is the highest authority of the City as to the issues raised here.

12 5. Defendant Amy Phan West is and at all relevant times was an individual residing in
13 the City and a duty elected member of the City Council, an officer of the City who bears fiduciary
14 duties to the City. She is sued in her personal capacity.

15 6. Defendant NamQuan Nguyen, is and at all relevant times was an individual
16 residing in the City and a duty elected member of the City Council, an officer of the City who
17 bears fiduciary duties to the City. He is sued in his personal capacity.

18 7. At all relevant times, the general powers of the City are, and were, vested in the
19 City Council pursuant to the California Constitution and Government Code sections 34000, et seq.

20 8. Plaintiff is ignorant of the true names and capacities of Defendants sued as DOES
1 through 50, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff
22 will amend this complaint to allege their true names and capacities when ascertained. Plaintiff
23 alleges that each of these fictitiously named Defendants is responsible in some manner for each act
24 or omission alleged.

25 9. Plaintiff is informed and believes and alleges that each of the Defendants
26 designated as a DOE is negligent or otherwise legally responsible in some manner for the events
27 and happenings referred to in this complaint, and negligently or otherwise caused injury and
28 damage proximately thereby to the City.

VENUE AND JURISDICTION

10. This Court has jurisdiction over this action pursuant to Code of Civil Procedure section 187.

4 11. The Superior Court of the County of Orange is the proper venue for this action.
5 Defendants are residents of Westminster and the violations of law alleged here occurred entirely in
6 Orange County.

FACTS AND PROCEDURAL BACKGROUND

8 12. The City Council is the legislative body of the City.

9 13. Cities “may sue and be sued.” (Gov. Code, §§ 945, 34501.)

10 14. Pursuant to state law, the City Council consists of five members. (Gov. Code,

11 § 36501.)

12 15. Members of a city council are trustees of the public welfare. (*County of Los*
13 *Angeles v City Council of the City of Lawndale* (1962) 202 Cal.App.2d 20, 24.)

14 16. Each council member, including each of the Defendants, takes an oath of office
15 pursuant to Article XX, Section 3 of the California Constitution as follows:

16 "I, _____, do solemnly swear (or affirm) that I will support and defend the
17 Constitution of the United States and the Constitution of the State of California
18 against all enemies, foreign and domestic; that I will bear true faith and allegiance
19 to the Constitution of the United States and the Constitution of the State of
20 California; that I take this obligation freely, without any mental reservation or
21 purpose of evasion; and that I will well and faithfully discharge the duties upon
22 which I am about to enter."

23 17. Pursuant to Sections 2.04.100 and 2.04.120 of the Westminster Municipal Code, a
24 mayor is elected at large and four council members are elected by district.

18. The City Council meets twice a month, with meetings scheduled to start at 6:00
p.m. and to conclude by 10:00 p.m., unless extended by a majority vote of the City Council.
(WMC, § 2.04.010.)

19. The Mayor “shall preside at the meetings of the [City Council].” (Gov. Code, § 36802.)

20. The City Council generally follows Robert's Rules of Order. (WMC, § 2.04.070.)

LEGAL BACKGROUND

21. Under the Ralph M. Brown Act, Government Code section 54950 et seq., meetings of the City Council are open to the public, who are entitled to be heard on City business before the Council acts on it.

22. Pursuant to Government Code section 54957.95, the Mayor may remove or cause the removal of an individual who disrupts a legislative body meeting, after a warning.

23. “‘Disrupting’ means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting” and includes the failure to comply with “reasonable and lawful regulations adopted by a legislative body.” (Gov. Code, § 54957.95(b)(1).)

24. Penal Code section 403 also provides that a person who willfully disturbs or breaks up any assembly or meeting is guilty of a misdemeanor. (See *McMahon v. Albany Unified School Dist.* (2002) 104 Cal.App.4th 1275 [dumping garbage on floor of schoolroom during school board meeting justified arrest under Penal Code § 403].)

25. Government Code section 36813 provides the “[City Council] may establish rules for the conduct of its proceedings. It may punish a member or other person for disorderly behavior at a meeting.”

26. “A speaker may disrupt a Council meeting by speaking too long, by being unduly repetitious, or by extended discussion of irrelevancies. The meeting is disrupted because the Council is prevented from accomplishing its business in a reasonably efficient manner.” (*White v. City of Norwalk* (9th Cir. 1990) 900 F.2d 1421, 1426; see also *Ribakoff v. City of Long Beach* (2018) 27 Cal.App.5th 150, 175.)

27. Pursuant to Section 2.04.060 of the Westminster Municipal Code, "any person who persistently interrupts the proceedings of the council, or refuses to be seated or keep quiet when ordered to do so by the presiding officer, shall be guilty of a misdemeanor."

1 28. Recently, meetings of the Westminster City Council have become dysfunctional
2 and raucous, with Defendants Amy Phan West and NamQuan Nguyen repeatedly disrupting
3 meetings from the dais.

4 29. The events have been widely reported in the media, including by way of the news
5 articles attached hereto as Exhibits A and B.

6 30. Several recent meetings of the City Council have also extended into the early hours
7 of the morning, with three in the last six months exceeding 10 hours each.

8 31. In total, Defendant West and Defendant Nguyen have failed to adhere to the
9 Mayor's determinations of who has the floor on dozens of recent occasions.

10 32. Speaking over other speakers at a public meeting is necessarily disruptive.

11 33. At the August 14, 2024 City Council meeting, Defendant West and Defendant
12 Nguyen failed to adhere to the Mayor's authority and interrupted him.

13 34. At the August 28, 2024 City Council meeting, the Mayor warned both Defendant
14 West and Defendant Nguyen after they interrupted another council member whom the Mayor had
15 determined had the floor.

16 35. At the September 11, 2024 City Council meeting, Defendant West repeatedly
17 interrupted the Mayor.

18 36. At the October 9, 2024 City Council meeting, Defendants West and Nguyen
19 interrupted another council member whom the Mayor had determined had the floor. Defendant
20 West also repeatedly spoke when the Mayor told her that she did not have the floor and the Mayor
21 warned her that she was disrupting the meeting. Defendant West also continued to argue with the
22 Mayor while a vote on a motion was being taken.

37. At the October 14, 2024 City Council meeting, both Defendant West and Defendant
Nguyen interrupted the Mayor and spoke when the Mayor did not recognize them as having the
floor. The Mayor warned Defendant West.

38. At the October 23, 2024 City Council meeting, Defendants West and Nguyen
39. repeatedly spoke when they did not have the floor . Defendant West also repeatedly interrupted

1 other council members who were speaking and the Mayor warned her of her misconduct
2 repeatedly. The Mayor also gaveled Defendant Nguyen out of order.

3 39. The City acknowledges that each Defendant Council Member has the right to speak
4 regarding the issues at hand and even engage in speech that others may find offensive or rude and
5 the City seeks no relief by this Complaint that does not respect those rights. However, Defendants
6 must abide by the rules of decorum and respect the Mayor's authority to determine who has the
7 floor, just as other members of the City Council and members of the public who participate in City
8 Council meetings — lest they degenerate into shouting matches; generating heat, but not light.

9 40. To curb disruptions and more efficiently handle the public's business, the City
10 Council has amended its decorum and related policies; to date, without much success.

11 41. For example, on August 28, 2024, on a three-to-two vote, with Council Members
12 Nguyen and West dissenting, the City Council adopted a policy setting time limits for City
13 Council Members' comments on business items (the "Time Limit Policy").

14 42. Under the Time Limit Policy, each City Council Member may speak on an item of
15 Council business for five minutes without interruption, then each council member will receive
16 another five minutes after the first round is over, and may request and obtain additional time after
17 that second round. The Time Limit Policy does not apply to public hearings.

18 43. Violations of the Time Limit Policy, which include speaking during another
19 member's allotted time or exceeding time limits, are subject to a multiple-warning policy. The
20 Mayor will issue an initial warning and notify the member that if he or she does not stop the
21 offending conduct, he or she may be removed from the meeting. The Mayor will give a second
22 warning, and if necessary, a third. After the third warning, the Mayor will take a five-minute recess
23 to seek the council member's cooperation. Once the meeting reconvenes, if the disruption
24 continues, the Mayor may direct law enforcement to remove the offending council member from
25 the meeting.

26 44. Despite the new Time Limit Policy, Defendants continue to disrupt City Council
27 meetings and to impair the City Council's ability to handle the public's business.

1 45. To further abate this disruptive behavior, on October 23, 2024, the City Council
2 approved first reading of an ordinance to revise the Westminster Municipal Code to add Section
3 2.04.065 (the “Decorum Ordinance”). A true and correct copy of the Decorum Ordinance, as
4 introduced on October 23, 2024, is attached as Exhibit “C” to this Complaint.

5 46. When adopted at second reading, the Decorum Ordinance will define disruptive
6 conduct to include:

- 7 (a) a council member’s persistence in discussing an agenda item, or any other
8 matter, before being recognized by the presiding officer;
- 9 (b) speaking longer than the allotted time after being told by the presiding officer
10 to stop; or
- 11 (c) interrupting someone else who has the floor after being told by the presiding
12 officer to stop the interruption; or
- 13 (d) failure to comply with the presiding officer’s request to maintain decorum
14 during the proceedings; or
- 15 (e) being unduly repetitious; or
- 16 (f) extending discussion of irrelevant issues for the purpose of preventing the
17 accomplishment of business in a reasonably efficient manner; or
- 18 (g) threatening to use force or violence upon another person.”

19 (Decorum Ordinance, § 2.04.065(C)(1).)

20 47. The Decorum Ordinance also requires city council members wishing the floor to
21 “make a respectful request to the presiding officer and [to] wait respectfully until recognized.”
22 (Decorum Ordinance, § 2.04.065(D)(4).)

23 48. Members of the City Council “must also respect the role of the presiding officer
24 and shall not interrupt him or her unless called upon.” (Decorum Ordinance, § 2.04.065(D)(5).)

25 49. If a member is disruptive, the presiding officer will warn him or her up to three
26 times, before ordering a five-minute recess to restore order. If after the five-minute recess the
27 offending member continues to disrupt the meeting, the presiding officer may ask the offending
28 member to leave the meeting. The Mayor may then order another five-minute recess and renew the

1 request that the member leave. If the offending member does not comply, the presiding officer
2 may adjourn the meeting or request law enforcement to remove the offending Councilmember.
3 (Decorum Ordinance, § 2.04.065(E)(1)–(3).)

4 50. The City Council approved the Decorum Ordinance with amendments for first
5 reading on October 23, 2024 by a vote of three to two, with Council Members West and Nguyen in
6 opposition. The second reading of the Decorum Ordinance is expected to take place at the City
7 Council meeting on December 11, 2024.

FIRST CAUSE OF ACTION

**(Violation of Government Code sections 36813, 54957.95, and
Westminster Municipal Code section 2.04.060)**

11 | 51. Plaintiff incorporates by reference paragraphs 1 through 50 above, as though set
12 | forth in full.

13 52. "The Constitution does not require that any person, however lofty his motives, be
14 permitted to obstruct the convention or continuation of a meeting without regard to the implicit
15 customs and usage or explicit rules governing its conduct." (*In re Kay* (1970) 1 Cal.3d 930, 938.)

16 53. Plaintiff alleges that Defendants have repeatedly disrupted City Council meetings,
17 by failing to comply with the Mayor's recognition of who has the floor.

18 54. Plaintiff believes that Defendants' misconduct will continue absent the relief sought
19 here.

20 55. Allowing the Mayor to control debate is a reasonable and lawful regulation for the
21 conduct of City Council proceedings pursuant to Government Code sections 36813 and 54957.95
22 and reflects customary usage of deliberative bodies in the democratic world.

23 56. Pursuant to Section 2.04.060 of the Westminster Municipal Code, "any person who
24 persistently interrupts the proceedings of the council, or refuses to be seated or keep quiet when
25 ordered to do so by the presiding officer, shall be guilty of a misdemeanor."

57. When Defendants speak when they do not have the floor, despite multiple warnings from the Mayor, they engage in disorderly behavior and disrupt City Council proceedings within the meaning of the statutes and ordinance cited above.

1 58. Plaintiff prays for an injunction enjoining the Defendants from further disruption of
2 City Council meetings, from continuing to speak when they are not recognized by the Mayor as
3 having the floor, or failing to respect the Mayor's meeting-management directions after a request
4 to do so.

SECOND CAUSE OF ACTION

(Declaratory Relief)

7 59. Plaintiff incorporates by reference paragraphs 1 through 58 above, as though set
8 forth in full.

9 60. Plaintiff alleges that Defendants have repeatedly failed to respect the Mayor's
10 authority to control debate.

11 61. Plaintiff contends that allowing the Mayor to control debate is a reasonable and
12 lawful rule for the conduct of City Council proceedings pursuant to Government Code sections
13 36813 and 54957.95.

14 62. Defendants have alleged that allowing the Mayor to determine who has the floor is
15 invalid or unlawful.

16 63. A dispute has arisen between the parties as to the validity of allowing the Mayor to
17 control debate, including by determining who has the floor and enforcing the Time Limit Policy to
18 control comments by Defendants and other council members.

19 64. Plaintiff seeks a declaration from the Court that allowing the Mayor to control
20 debate by determining who has the floor and enforcing the Time Limit Policy is valid and
21 enforceable and a declaration that Defendants may not speak at City Council meetings when the
22 Mayor determines they do not have the floor.

PRAYER FOR RELIEF

24 WHEREFORE Plaintiff prays for judgment as follows:

25 | 65. That Judgment be entered in Plaintiff's favor and against Defendants;

66. For a temporary restraining order and preliminary and permanent injunctions
enjoining Defendants from speaking at any City Council meeting when they have not been

1 recognized as having the floor by the Mayor after the Mayor issues a request or warning that they
2 respect the rights to speak of those who do have the floor.

3 67. For a declaration that allowing the Mayor to control debate, by determining who
4 has the floor and by enforcing the Time Limit Policy at City Council meetings, is valid and
5 enforceable.

6 68. For a declaration that Defendants may not speak at City Council meetings when the
7 Mayor determines they do not have the floor and that they may be lawfully be removed from
8 council meetings for doing so;

9 69. For an award of attorneys' fees incurred in this matter as permitted or required by
10 law;

11 70. For Plaintiff's costs of suits incurred; and

12 71. For such other and further relief as the Court deems just and proper.

14 DATED: November 27, 2024

**COLANTUONO, HIGHSMITH &
WHATLEY, PC**

16
17 
18 MICHAEL G. COLANTUONO
19 AJIT S. THIND
20 SERGIO C. ORDAZ
21 Attorneys for CITY OF WESTMINSTER

EXHIBIT A

NEWS > POLITICS • News

Infighting derails Westminster City Council; new rules didn't initially help

Two councilmembers have been skipping key meetings this summer, filibustering city business



City of Westminster City Council meets in Westminster on Wednesday, February 22, 2023. (Photo by Paul Rodriguez, Contributing Photographer)



By **JONATHAN HORWITZ** | jhorwitz@scng.com

UPDATED: September 6, 2024 at 1:35 PM PST

The Westminster City Council again is in turmoil with infighting. City business again is suffering.

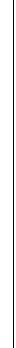
Last week's Westminster City Council meeting started at 4 p.m. on Wednesday. It ended after 5 a.m. on Thursday. It was the council's second 10-plus hour meeting this summer. A lot of what the council managed to accomplish dealt with motions it was supposed to hear two weeks prior, such as approving contracts for street improvements around town and a playground renovation at Tony Lam Park.

"With the infighting, we can't concentrate on the business at hand to take care of what the city needs," said Mayor Chi Charlie Nguyen. "We've been pushing back items, and this affects residents in the city of Westminster."

As an institution, the Westminster City Council is no stranger to drama and dysfunction. A previous iteration of the council censured then-mayor Tri Ta and also Nguyen when he was then vice-mayor. A censure is a formal and public condemnation of a councilmember's behavior.

This summer, another round of volleys to censure councilmembers has bogged down city business and led to institutional reforms. Though they were to take effect immediately, the reforms didn't seem to have much consequence at last week's meeting.

The council voted 3-2 to amend the way members can bring agenda items to discussion and to limit how long any member can speak on an item without receiving majority approval to continue.



Read More

00:00 02:00

Before, any two councilmembers could ask the city manager to schedule the discussion of an item. Moving forward, a majority of the council will have to agree to add any agenda item requested by a councilmember other than the mayor. In Westminster, councilmembers are elected by voters in one of four districts, while the mayor is elected citywide.

Councilmember Amy Phan West called the change a convenient way for the majority, who she calls a "gang of three communist dictators," to silence ideas they disagree with.

"For the mayor to exempt himself, that's unacceptable," she said in an interview. In a [statement she made on her social media accounts](#), Phan West said the rule "mirrors the tactics of authoritarian regimes that stifle dissent and disregard the will of the people."

Nguyen pointed out that the new rule returns Westminster to the way previous councils conducted business, and he defended the mayoral exemption.

"The mayor is responsible for the whole city, not only for one district," he said. "And the main thing is if we have an emergency item that comes up, the mayor needs to be able to put that up for discussion if the urgency demands it cannot wait until a vote at the next meeting."

"I'm not abusing the system," he said. "I'm doing what needs to be done in order to get the city moving forward."

A second rule intended to limit the length of discussions on existing agenda items to two rounds of five-minute comments unless additional time is approved by a majority vote purportedly took effect immediately.

But after that vote, Phan West and Councilmember NamQuan Nguyen steamrolled the limits, despite repeated warnings from the mayor, proceeding to talk for the vast majority of more than four hours of discussion about agenda items for which other councilmembers did not support extended dialogue.

In an interview, Phan West refused to commit to abiding to the new city rule. "We have freedom of speech," she said. "I will continue to defend freedom of speech."

The rule states that if a councilmember does not adhere to the policy or willfully disrupts a meeting, they will be warned to stop three times and if they continue they may be removed from the meeting.

"When a councilmember continues speaking over another member, I have to give a warning," Charlie Nguyen said. "I don't want to silence anyone. I don't want to mute anyone. But I need to get the meeting in order. It is my responsibility to do that. At the same time, I don't want to remove anyone from the meeting. The goal is to get everyone together and talk about trying to resolve the problem together for the benefit of the community."

When it comes to discussions about conduct and protocols, the council is divided three against two, with newcomers Phan West and NamQuan Nguyen typically pitted against council veterans Charlie Nguyen, Carlos Manzo and Kimberly Ho, who leaves the council at the end of this term in November.

Phan West, elected in 2022 fresh off a primary loss to represent U.S. House District 47, was [censured in August by her colleagues](#) for allegations she violated the city's ethics policy in several ways, including using brash language on the dais, filing a false police report against Manzo and trespassing across a construction site on her dirt bike — among a potpourri of other claims.

West says the allegations are politically motivated. "Maybe they don't like how I speak so bluntly," she said.

"I'm not a career politician," she added, although she has twice run for Congress and said she might run again for public office when her council term ends in 2026. "I will speak from my heart, and I will never be polished or politically correct, you could say."

Last week, she and NamQuan Nguyen motioned and seconded censure of Charlie Nguyen and Ho, spending about two hours unfurling their allegations against their colleagues. Both of those motions failed when in front of the full council. Phan and NamQuan Nguyen spent awhile arguing for the city to ask voters to appoint rather than elect its mayor — the deadline to add any such measure to the ballot this November has passed and Westminster voters denied that very measure in a 2022 election.

During the discussion, Phan West made derogatory comments about the mayor. She later acknowledged she could have handled that conversation more respectfully.

"I was frustrated because I felt silenced over and over and targeted by a new rule by a group in power that doesn't care about each individual district's voice," she said.

She said the mayor has struggled to keep meetings in order, arguing his warnings to her about crosstalk at the dais are unfair while she says he's allowing his supporters to heckle her from the audience.

Charlie Nguyen said the new resolution is fair for everyone.

"If we run meetings according to Robert's Rules of Order and we respect each other, then we don't need to have additional policy put in place," he said. Robert's Rules of Order is the foremost guide for parliamentary procedure for public governing bodies across the United States, including city councils and committees.

The last council meeting also ran long because Phan West and NamQuan Nguyen skipped a two-hour closed session during which city officials were supposed to discuss pending legal issues behind closed doors. It was at least the third time this summer that both have missed a closed session, a pattern that has at times caused public business to get pushed back until later in the evening.

Then, throughout the meeting, the two councilmembers intermittently left the dais together without announcement, interrupting their colleagues while speaking and causing the council to lack quorum on issues when another member needed a recusal or when an exasperated Charlie Nguyen sometimes joined them.

When the two councilmembers walked out of the room at one point, Manzo called their behavior childlike and said it was "the most unprofessional behavior I've ever seen in my life." He later, in an interview, said he regretted his comments as he strives to improve the professionalism at the dais.

Phan West said she comes from the private sector. "I've never seen," she said, "a toxic working environment like this in my whole life."

The Westminster City Council's first full meeting with the new rules in place is scheduled for Wednesday, Sept. 11.

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EXHIBIT B



TIMESOC

Westminster City Council meetings continue to be disruptive despite new rules



Westminster Councilwoman Amy Phan West speaks during the Sept. 11 council meeting. (James Carbone)



By Gabriel San Román
Staff Writer | Follow

Sept. 12, 2024 5:08 PM PT

On the far right of the Westminster City Council, between miniature U.S. and South Vietnamese flags perched in front of her dais seat, Amy Phan West has otherwise been at the constant center of controversy.

Since the councilwoman was elected by a razor-thin margin of 21 votes in 2022, City Council meetings have grown more dysfunctional, with shouting, five-minute recesses, muted microphones, pleas for decorum, censure resolutions and allegations of corruption becoming commonplace this year.

During Wednesday's meeting, a new set of rules aimed at curbing the disruption made their full debut in tandem. Would they work?



TIMESOC

Westminster City Council censures Amy Phan West during chaotic meeting

Aug. 15, 2024

The meeting was originally slated to consider [censuring Phan West](#), if she hadn't changed her behavior, which a majority of council members described as violating the city's ethics policy.

But that same council majority felt compelled to censure Phan West on Aug. 14, a [month ahead of schedule](#).

Following the censure resolution, new rules on conducting council meetings were passed two weeks later.

Placing items on a council agenda now requires the support of a third council member on the five-member board. Mayor Chi Charlie Nguyen exempted himself from the rule as he argued that his position is elected at-large and represents all of Westminster.

Speaking times for council members are also limited to two rounds of five-minute comments on agenda items after the Aug. 28 council meeting lasted for nearly 11 hours and ended past 5 a.m., with some city officials bleary-eyed and yawning.

It was the third time this year a council meeting clocked in at over 10 hours long. The speaking time rule, which can be extended by a council majority vote, purportedly took effect immediately during the Aug. 28 meeting.

Similar meeting rules in Anaheim faced criticism when former Mayor Harry Sidhu implemented them during his tenure. Critics claimed the changes silenced minority members and disenfranchised the council districts they represented.

Phan West called Westminster's changes "reminiscent of a communist dictatorship" in a press release after they passed.



The Westminster City Council conducts business during a Sept. 11 meeting. (James Carbone)

At Wednesday's meeting, she tested the fences on the new rules early and often.

Council members held a closed session discussion before the open meeting about the recent U.S. Supreme Court ruling that gave local governments more power to enforce anti-camping laws against the homeless.

Only the subject matter of discussion, not the discussion itself, was disclosed, as is routine at council meetings across Orange County.

“You guys are hiding something,” Phan West nevertheless accused her colleagues.

“We spent over an hour to speak on this item in closed session,” Councilwoman Kimberly Ho said. “Unfortunately, you chose not to come. This is the reason why you are so confused. And then you come out here [and] you waste everybody’s time. You accused people of hiding. That’s a childish game.”



Activist Terry Rains repeatedly called for the recall of council members Amy Phan West and NamQuan Nguyen during Wednesday's meeting. (James Carbone)

Verbal scrums over allotted time to speak, clock countdowns and commotion from the audience when Phan West left her seat prompted the mayor to call for a five-minute recess.

The majority of the meeting seemed to run smoothly enough after that until it came time to discuss putting items on the agenda for the next one.

Phan West deemed the council majority as a “gang of three” and criticized the new agenda-setting rule.

“I think it’s wrong,” she said. “[The] voice[s] of District 1 and District 4 will never be represented.”

Phan West, who represents District 1, attempted to put a study session on the Westminster Community Foundation on the agenda for the next meeting. Councilman NamQuan Nguyen, who represents District 4 and is a reliable ally of Phan West, supported it.

All council members approved of the study session, easily clearing the three-member threshold.



Phan West defends her position during City Council. (James Carbone)

But then Councilman Nguyen followed by seeking to put a discussion of bribery allegations involving both the mayor and Ho on the agenda.

“I want Mr. Mayor to clear his reputation,” Phan West said, in support.

“Don’t worry, just vote,” Mayor Nguyen told her.

“If you have evidence, go to the authorities,” Councilman Carlos Manzo told council members Nguyen and Phan West in not supporting the agenda item.

“They’re making a laughingstock out of us,” Ho added in voting no, as well. “Don’t use this as your forum to grandstand.”

Ho encouraged Councilman Nguyen and Phan West to go to the FBI or another law enforcement agency.

So did Mayor Nguyen.

Phan West spoke over him the entire time he explained his third and final no vote, which ensured that the discussion wouldn't appear on the next agenda.

Mayor Nguyen ended the meeting with a plea for Phan West, his council colleague.

"As you pray for me, I pray double for you," the mayor said. "You ask for mutual respect, I think you need to pay attention to what you're saying."



Gabriel San Román

Gabriel San Román is a feature writer for TimesOC. He previously worked at OC Weekly – as a reporter, podcast producer and columnist – until the newspaper's closing in late 2019. In 2023, San Román was part of the breaking news reporting team that was a Pulitzer finalist for its coverage of the Lunar New Year mass shooting in Monterey Park. He may or may not be the tallest Mexican in O.C.

EXHIBIT C

**CITY OF WESTMINSTER
ORDINANCE NO. XXXX**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER, CALIFORNIA, ADDING SECTION 2.04.065 (RULES OF DECORUM FOR CITY COUNCIL MEMBERS) TO TITLE 2 (ADMINISTRATION AND PERSONNEL) OF CHAPTER 2.04 (CITY COUNCIL) OF THE WESTMINSTER MUNICIPAL CODE ESTABLISHING RULES OF DECORUM FOR COUNCILMEMBERS DURING MEETINGS AND FINDING THE ORDINANCE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the residents of the City of Westminster are entitled to responsible, fair, honest, and ethical City government; and

WHEREAS, it is also important that council members maintain an environment where all those involved in the governing process feel welcomed to participate because they will be treated ethically and respectfully; and

WHEREAS, it is the duty and desire of the City Council to conduct its business in an orderly and fair manner while affording due process and opportunity to address issues with equity, fairness, and equal protection of the law; and

WHEREAS, the City Council is committed to prohibiting all forms of harassment and discrimination in the workplace; and

WHEREAS, the City Council desires to add Section 2.04.065 (Rules of Decorum for City Council Members) to the Westminster Municipal Code (“WMC”), establishing rules of decorum for council members during City Council meetings; and

WHEREAS, California Government Code § 38513 provides that “the council may establish rules for the conduct of its proceedings. It may punish a member or other person for disorderly behavior at a meeting;” and

WHEREAS, WMC Section 2.04.060 (Meetings – Decorum Required) further provides that “any person who persistently interrupts the proceedings of the council or refuses to be seated or keep quiet when ordered to do so by the presiding officer, shall be guilty of a misdemeanor;” and

WHEREAS, to avoid unnecessary disruptions of the meeting, WMC Section 2.04.065 (Rules of Decorum for City Council Members) establishes rules of decorum for council members during meetings to which each council member shall be required to adhere; and

WHEREAS, in 2022, the Governor signed SB 1100 adding Section 54957.95 to the Government Code authorizing the presiding officer of the legislative body conducting a meeting or their designee to remove, or cause the removal of, an individual for disrupting the meeting. This removal must be preceded by a warning to the individual by the presiding officer that the individual's failure to cease their behavior may result in their removal; and

WHEREAS, this ordinance shall establish that all council members have the opportunity to speak and agree to disagree, and each council member shall be given the widest latitude to express their views on issues of policy but abide by these rules to maintain civility, decorum, and respect; and

WHEREAS this ordinance also establishes that the presiding officer has the affirmative duty to maintain order and the city council will honor the role of the presiding officer in maintaining order; and

WHEREAS it is the intent of the City Council to codify the authority and standards for governing public meetings in accordance with *Acosta v. City of Costa Mesa*, 718 F.3d 800 (9th Cir. 2013), in which the court explained that an ordinance of decorum of a City Council meeting is not facially overbroad if it only permits a presiding officer to eject a person for actually disturbing or impeding a meeting; and

WHEREAS this ordinance is necessary to give the City Council clear authorization to restore order and decorum to meetings in the event of actual disruptions that are disturbing, disrupting, impeding, or rendering infeasible the orderly conduct of the meeting, and thereby preserve the rights of other members of the public at the meeting and allows the city council to continue its work on behalf of the public.

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated by reference.

SECTION 2. WMC Chapter 2.04.065, Rules of Decorum for City Council Members, is hereby added to Title 2 (Administration and Personnel) of Chapter 2.04 (City Council) of the Westminster Municipal Code as follows:

2.04.065 – Meetings – Rules of Decorum for City Council Members

A. Title.

This chapter shall be known as the "Rules of Decorum for City Council Members."

B. Purpose and Applicability.

In adopting these rules of decorum for City council members codified in this section, the Westminster City Council is committed to the democratic process, including each council member's and the public's rights of expression, robust debate and tolerance for disparate views. The City Council is also aware that the increasing incivility in our society is particularly acute and detrimental in local political arenas where it threatens the government's ability to function democratically and effectively. An atmosphere of incivility and disrespect among City council members can lead to unnecessary and inappropriate disruptions of the meeting, stifle participation and debate, threaten the quality of decisions, promote an intimidating and harassing environment, and can undermine the local democratic process.

As part of the above commitment, the City Council for the City of Westminster strives to practice civility and decorum in their discussions and debate, value each other's time by preserving the orderly conduct of the City's business, defer to the leadership of the Mayor or other presiding officer, refrain from any activities or outside conversations during the course of a meeting which unnecessarily disrupts, delays, interrupts, or detracts from the Council proceedings, avoid making remarks concerning issues which are not within the City Council's jurisdiction, or which are determined to be hateful speech, or speech which is only intended to intimidate, harass or otherwise slander City staff or members of the City Council, and refrain from any conduct or speech which interrupts other members of the Council while that person has the floor.

These Rules of Decorum for City council members are adopted as applicable to all meetings of the City Council to help ensure that civic engagement and local democracy continue to flourish in the City of Westminster.

C. Definitions.

For the purposes of this chapter, the following terms are defined as set forth herein:

1. "Disruption" or "disrupting" shall have the same meaning as in Government Code § 54957.95(b)(1). This means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited, one of the following:
 - (A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Government Code Section 54954.3 or any other law.
 - (B) Engaging in behavior that constitutes use of force or a true threat of force. This shall be interpreted to mean actual disruption, and not constructive disruption, technical disruption, virtual disruption, or disruption that is determined retroactively, or imaginary disruption.

Examples of disruptive conduct include, but are not limited to:

- (a) a council member's persistence in discussing an agenda item, or any other matter, before being recognized by the presiding officer; or
- (b) speaking longer than the allotted time after being told by the presiding officer to stop, or
- (c) interrupting someone else who has the floor after being told by the presiding officer to stop the interruption; or
- (d) failure to comply with the presiding officer's request to maintain decorum during the proceedings; or
- (e) being unduly repetitious; or
- (f) extending discussion of irrelevant issues for the purpose of preventing the accomplishment of business in a reasonably efficient manner; or
- (g) threatening to use force or violence upon another person.

2. "True threat of force" shall have the same meaning as in Government Code § 54957.95(b)(2) and shall be interpreted to mean that a reasonable observer would understand it to be intended as a serious actual threat by the person making the threat to use force or violence.

D. Rules of Decorum for City Council Members.

While any meeting of the City Council is in session, the following rules of order and decorum shall be observed.

- 1. The presiding officer of the City Council shall be responsible for maintaining order and decorum at council meetings.
- 2. Each member of the City Council shall preserve order and decorum and shall strictly abide by these rules.
- 3. At City Council meetings, each City council member shall:
 - (a) Make stewardship of the public interest their primary concern.
 - (b) Work for the common good of the people of the City of Westminster.
 - (c) Treat other council members and members of the public courteously and fairly.
 - (d) Listen to other council members respectfully.
 - (e) Exercise self-control in demeanor and language.

- (f) Give open-minded consideration to the viewpoints of other council members and city staff.
- (g) Focus on the issues and avoid personalizing debate.
- (h) Refrain from ad hominem attacks, such as publicly criticizing or making intimidating, harassing, disparaging, rude or derogatory remarks regarding or directed to other council members or individual employees of the City.
- (i) Embrace respectful disagreement and dissent as democratic rights that are inherent components of an inclusive public process and tools for forging sound decisions.
- (j) Respect the Council-Manager form of government structure.

4. Acquiring the Floor. Every member of the council desiring to speak shall make a respectful request to the presiding officer and shall wait respectfully until recognized. Once recognized by the presiding officer, the member shall confine him or herself to the question under debate, seeking to avoid overly divisive, personal or indecorous language.
5. Every member of the City Council shall respect the role of the presiding officer and shall not interrupt him or her unless called upon.
6. Every member of the City Council shall show respect to other members of the Council, and shall not interrupt, speak over, distract, or otherwise disrespect another member of the council when they have the floor to speak.
7. A member shall not by conversation, by the utterance of loud, threatening, profane, intimidating, harassing or abusive language, or by engaging in any other disorderly conduct at a City council meeting disrupt, delay or interrupt the City Council proceedings.
8. Debate. Each council member shall be given an opportunity to speak on an agenda item in order to ask questions or make comments. No council member shall speak twice on any given subject unless all other council members have been given the opportunity to speak. To ensure that each council member has an equal opportunity to address each item, the following orderly sequence shall be followed:
 - (a) The presiding officer shall afford each council member an opportunity to speak for up to five minutes.
 - (b) During the five minutes, other council members shall not interrupt, except the presiding officer or as allowed under Roberts Rules of Order.
 - (c) At the end of a council member's five minutes, they shall defer to the next council member and shall not interrupt.
 - (d) At the end of the first round, after each council member has been afforded the opportunity to speak, if any council member desires to make further

comments, a second round of up to five minutes per council member shall be provided.

- (e) At the conclusion of the second round no additional discussion shall be required unless a consensus of the City Council expresses a desire to continue. If there is a dispute, a vote shall be immediately taken on whether to continue the discussion.

E. Sanctions against council members for disrupting meetings. The following rule is adopted to bring greater order to council meetings:

1. If a member of the City Council does violate the rules contained in WMC § 2.04.065, a warning will be issued and the presiding officer shall affirmatively state that the member is disrupting the meeting, and that failure to cease the disruptive behavior may result in removal from the meeting.
2. If the disruptive conduct continues, a second warning will be given, and, if necessary, a third warning shall be made by the presiding officer. After the third warning, the presiding officer shall take a five (5) minute recess to restore order. The purpose of the recess is to restore decorum and deference to the presiding officer's governance of the meeting, and to hopefully gain compliance by the offending council member to these rules.
3. Once the meeting reconvenes, if the disruption continues, the presiding officer shall formally declare that the offending council member is disrupting the presiding officer's ability to conduct the meeting, and the presiding officer shall demand the offending council member to leave. The presiding officer shall then take a five (5) minute recess and renew the request for the offending council member to leave the meeting. If the offending council member refuses to leave, at the discretion of the presiding officer, the presiding officer may choose to end the meeting, or the removal of the offending council member may be enforced.

Prior to enforcing a removal, the presiding officer shall detail in the record the reasons for the removal, including an explanation how the actions of the offending council member are intentionally and pervasively disrupting the meeting, preventing the City Council from being able to conduct its business, despite warnings and opportunities to stop the behavior.

4. It shall be the duty of any law enforcement officer serving as the Sergeant-at-Arms at the City Council meeting to carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum including, if necessary, the removal of the disruptive council member under Penal Code 403, or other law as applicable.
5. Resisting Removal. Misdemeanor; Penalty. Any council member who resists removal by the Sergeant-at-Arms shall be guilty of a misdemeanor.

6. The City Council may seek to take any other action authorized by law to prevent intentional and pervasive disruptive behavior, including but not limited to seeking a civil protective order or injunction.
7. Any actions or statements made by a council member in violation of these rules or in violation of local, state, or federal law does not represent the action or statements on behalf of the City of Westminster and may be considered outside the scope of the member's official duties. In the event of any legal action resulting from a council members actions or statements in violation of law or these rules, the council member may be held personally liable for those actions or statements.

SECTION 3. Environmental Compliance: Pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) the ordinance is not a "project" and further, that it can be seen with certainty that there is no possibility that the ordinance in question may have a significant effect on the environment, either directly or indirectly, and that therefore no environmental review under the CEQA is required, pursuant to CEQA Guidelines Section 15061 (b)(3).

SECTION 4. Severability: If any section, paragraph, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof. The Mayor and City Council of the City of Westminster hereby declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof and intends that the invalid portions should be severed, and the balance of the ordinance be enforced.

SECTION 5. The Mayor shall sign as to the passage, approval, and adoption of this Ordinance.

SECTION 6. The City Clerk certifies that the Mayor and City Council introduced and conducted first reading on the _____ day of October 2024. The City Clerk further certifies that the Mayor and City Council at its Regular Meeting on the _____ day of _____ 2024, conducted second reading, passed, and adopted Ordinance No. XXXX and shall affix their signature and City Seal and that same shall be entered into the Book of Ordinances.

SECTION 7. Attestation. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2024.

CITY OF WESTMINSTER

CHI CHARLIE NGUYEN
MAYOR

ATTEST:

ASHTON R. AROCHO, MMC
CITY CLERK

APPROVED AS TO FORM:

CHRISTIAN L. BETTENHAUSEN
CITY ATTORNEY

EXHIBIT "A"
CITY OF WESTMINSTER
CITY CLERK'S OFFICE

CERTIFICATION
OF
ORDINANCE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF WESTMINSTER)

I, ASHTON AROCHO, MMC, City Clerk of the City of Westminster, do hereby certify that the foregoing Ordinance No. XXXX was introduced for first reading on the XXth day of October 2024, and duly passed, approved, and adopted by the City Council of the City of Westminster at a Regular Meeting held on the XXth day of November 2024, with the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Ashton R. Arocho, MMC
City Clerk

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