

## Ethics Inquiries

### Making Decisions That Constituents Hate

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*By the Institute for Local Self Government*

Question: We have an extraordinarily controversial item coming up in a few months on the council agenda. It has to do with an affordable housing development. The developer has worked well with our staff and has addressed most of the city's concerns. The community, however, is opposed to the development. The city attorney says that the council has limited options in terms of being able to turn the project down. In fact, approving the project will help the city meet our affordable housing requirements and, I truly believe, be good for the community. What should we do if our sense of the right decision is at odds with constituents' sense of the "right" decision?

Answer: This is always an interesting and difficult dilemma, no matter what the context. It also raises fundamental questions about what kind of elected official or manager—and leader—you want to be. Saying no to constituents is difficult, even when you disagree with them.

Can you say no and politically live to tell the tale?

### The Shifting Sands of Representative Democracy

Naturally, public support is important to elected officials and to the managers who work with them. How far should a public official go to represent the public's views in a representative democracy? To what extent should it be assumed that it is the elected official's duty to vote their best judgment on what best serves the community?

John F. Kennedy pondered this dilemma in his Pulitzer Prize-winning book *Profiles in Courage*. He noted one school of thought, which says that a representative should put his constituents' views above all else. He concluded, however, that his constituents did not elect him to "serve merely as a seismograph to record shifts in popular opinion" but to exercise his own judgment. Of course, the very theme of *Profiles in Courage* celebrates those public officials who had the courage to risk their careers for principles they held dear.

There actually is a political risk, however, associated with allowing one's actions to be determined by popular sentiment. These risks were explored at a League

of California Cities Annual Conference session. The speaker, political strategist Steve Grand, cautioned that leaders can get misleading information about perceived public sentiment by listening only to the vocal few. Even polls can be misleading. He also reminded the audience that the public sometimes can be wrong on issues.

### **Before Making the Decision, Analyze Community Sentiment**

As with so many situations in public life, communication is key. You say the community is opposed to the project. Is the city hearing only from a vocal few? What are the concerns underlying this opposition? Could opponents' concerns be addressed, or at least reduced, if the public had more information?

Seal Beach, California, Councilmember John Larson shares his experience: "The important question is determining what the electorate really wants. Twenty people may appear for a land use or other decision; they may be loud and even have valid reasons for their position. Based upon the hearing, it may even seem to be a bad proposal. In many cases, however, the area that would be affected contains hundreds of residents who have not stated any opposition to the proposal. Thus, it is just as valid to say that 20 are opposed and 900 are in favor. Often, I have asked the staff, 'How many notices were mailed to the residents?'"

This is an example of the "vocal few" phenomenon that can give local officials a misleading impression of community sentiment.

But what if community concerns run deeper? Many times, the role of a leader is to engage in a "bridging the gap" process between where the community currently is and where the official thinks the community needs to go. This is the essence of leadership, as political strategist Dick Morris observes in his book about political effectiveness, *The New Prince*. Ever direct, Morris postulates, "Too often, leaders don't think carefully before they take unpopular positions. Intellectually lazy, it's easier to revel in martyrdom (on the one hand) or to resort to demagoguery (on the other hand) than to think out in advance how to take an unpopular position . . . and survive. A politician can do what he thinks is right; he just has to be sophisticated in how he goes about it."

Drawing on a quotation from Henry Kissinger, Morris proposes that the art of leadership is to maintain sufficient forward momentum to control events and steer public policy without losing public support.

The alternative, according to Morris, is "timid, tepid, meek governance that leaves the initiative to others—usually enemies." It also reduces the public official to a gambler, dependent on "good times and dumb luck to take him where he wants to go." Or, as Harry Truman put it: "How far would Moses have gone if he had taken a poll in Egypt?"

This advice suggests a proactive strategy of public education on the need for affordable housing in your community, what kinds of people benefit (typically

people that most others in the community would consider to be fine neighbors—nurses, teachers, police officers, and other hardworking wage earners). Engage in active listening, and determine what really bothers those who are organizing the opposition, to see what the city might do to address these concerns.

To the extent that the city has anticipated certain concerns, explain the steps that the city has taken to address them (for example, design guidelines). And don't wait to be put on the defensive, counsels Craig Dunn, an ethics professor. Explain the values and thought processes underlying your perspective before you become the target of criticism for that perspective.

This can be an arduous and time-consuming process—making it particularly difficult for busy city officials. Discuss the challenges with staff to see what steps they can take in terms of community outreach and education. It may make sense to consider hiring a mediator to help those on different sides of an issue to identify approaches that address everyone's needs.

Finally, some communities have rethought how they describe such housing. Professor Dunn notes that language does matter in terms of how the public responds to proposals. Analyze whether the proposal for which you are seeking support is being described in unnecessarily pejorative (“low-income housing”)—or just downright unclear— terms. Even within a county, “affordable” housing can mean different things, given the nature of the community's own housing stock, explains Rosemary Corbin, former mayor of Richmond, California.

### **When Making the Decision, Explain Your Position**

When it comes time for the council or commission to make the difficult vote, there is the possibility that, in spite of all these efforts, people will remain opposed to the project. Acknowledging that both sides share a concern about the community can be helpful, insofar as it shows that the project opponents' views have been heard and respectfully considered. Demonizing your opponents is never an ethical strategy and is rarely effective in the long term.

According to Dick Morris, keeping public support does not mean abandoning principle. Rather, he believes that it means explaining your positions well.

Explaining why you believe a particular course of action better serves the community's needs also can be helpful. Indicate the depth of thought you have given to the issue—particularly if you have linked your decision to core ethical values with which many people agree—a strategy suggested at the League of California Cities' recent annual conference session “Good Ethics Is Good Politics.” For example, if a councilmember ran for office on a platform of expanding housing opportunities, she can remind people of that campaign promise and explain her support for the project in terms of keeping her promise (an ethical quality that most people respect and value).

Other core and widely held ethical values relating to this policy decision include fairness (everyone should have access to decent and affordable housing) and

compassion. If indeed the target income levels for the housing match those of nurses, teachers, police officers, and other hardworking people, explain why you feel this segment of the population deserves access to affordable housing in the community.

What's more, councilmembers probably have taken an oath of office to uphold federal, state, and local laws. If the law does not permit turning the project down, they should note that aspect of promise keeping as well. Again, keeping their word is a quality that most people value.

The key to maintaining public support often lies in explaining one's position well, while indicating that their concerns have been heard. Those who disagree with one's analysis will still do so, but they may respect a leader for having carefully considered all perspectives and remained faithful to personal and professional values.

Again, however, it is important to respect differing perspectives; the council chambers are not the forum of a debating society in which one loses points for concessions to the other side. As the person who ultimately gets to cast a vote, an elected official can afford to be magnanimous—as can concurring appointed officials.

### **A Proactive Strategy**

Steve Grand suggests that, as a proactive strategy, public officials prepare for the day when they will have to make or implement an unpopular decision. According to Grand, officials do this by cultivating a reservoir of goodwill with constituents who like and respect them (by having many friends and few enemies). Having a record of positive accomplishments in office fosters such goodwill as well. Grand further observed that constituents can also be more forgiving of disagreements with their representatives if the community's "big picture" is generally positive.

### **Living with the Consequences of an Unpopular Decision**

Of course, there are situations in which people will remain upset and unforgiving of such disagreements. These are particularly difficult situations, as Caroline Kennedy observes in *Profiles in Courage for Our Time*, because "local battles are often among the most intense political fights, for public servants are placed in conflict with friends, neighbors, and colleagues with whom they share a lifetime of experience. Often, too, their family's security is at risk. Rage, anger, and hostility can be directed not only at public officials but also at those they love."

"California Connected," a PBS broadcast, ran a story about a local district attorney who was encountering fierce opposition to his decision to take on a powerful company that employed many local people. So outraged were some people in the community that critics mounted a recall effort against him.

Regardless of the merits of either side of the debate, the district attorney's comments are interesting on how to approach the task of an elected official. After acknowledging the people's right to "kick him out of office," the district attorney observed, "If I become too attached to the job, I can't do the job. It's a job to do, not a job to have."

At some point, each official must evaluate whether keeping their position is more important than making the kinds of tough decisions that doing the job well involves. This analysis is not easy because not all decisions implicate equally important principles and values for an individual. As author Alexandra Stoddard noted: "The choices that make a significant difference in our lives are the tough ones. They're not often fun or easy, but they're the ones we have to make, and each is a deliberate step toward better understanding ourselves."

Of course, making tough choices is what ethics is all about.

*Adapted with permission from the December 2003 issue of Western City magazine, published by the California League of Cities, Sacramento, California. For information about Western City, call 916/658-8223, or visit the Web site at [www.westerncity.com](http://www.westerncity.com). A fully footnoted version of this article is available online at [www.westerncity.com/articles](http://www.westerncity.com/articles).*

*This column is one of a series of bimonthly columns made available to local officials in Western City magazine by the Institute for Local Self Government (ILSG). The "Tough Questions and Tight Spots: Everyday Ethics for Local Officials" column is part of ILSG's Public Confidence Project. It is a joint effort of the members of the Institute's advisory panel on ethics.*

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