

	<h2 style="margin: 0;">City Council</h2> <h3 style="margin: 0;">Agenda Form</h3> <p style="margin: 5px 0;">Meeting Date: <u>11/13/2023</u></p> <p style="margin: 5px 0;">Department: <u>Police</u></p> <p style="margin: 5px 0;">Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p style="margin: 0;">For Clerk's Use Only AGENDA ITEM #</p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 5px 0;"> <tr> <td style="width: 33%;"></td> <td style="width: 33%; text-align: center;">X</td> <td style="width: 33%;"></td> </tr> <tr> <td style="text-align: center;"><i>Consent Agenda</i></td> <td style="text-align: center;"><i>Regular Agenda</i></td> <td style="text-align: center;"><i>Closed Session</i></td> </tr> </table>		X		<i>Consent Agenda</i>	<i>Regular Agenda</i>	<i>Closed Session</i>
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Presenter: City Marshal James Hurley

Request Type: Informational Discussion Action Item

Does this item require legal review? Yes No **City Attorney E-Mail attached?** Yes No

Time Required for Request: 10 Minutes

Agenda Item Title:

Adoption of Code of Conduct for city meetings.

Attachment(s):

Information on conduct at city meetings from The Florida League of Cities, code of conduct

Brief Summary:

It is imperative, as City Marshal, to ensure that both ourselves and the public are well-informed about appropriate behavior during formal meetings within the City. Recent City Council meetings have witnessed the emergence of subjects that have evoked strong emotions among citizens and staff. Hence, I propose the implementation of a code of conduct at these meetings, which will serve as a guide for participants, outlining the expected decorum throughout the proceedings.

Action Requested:

For the City Council to adopt a code of conduct to be posted at city meetings.

Issue Overview:

Background Information & Issue Summary:

Financial Impacts:

Staff Recommendations/Comments:

Public Participation

The First Amendment of the U.S. Constitution provides protection to and opportunity for free speech in public forums. The public meeting of The City Council is considered a “limited public forum,” which means the government can regulate the time, place, and manner of speech.

Section 286.0114, Florida Statutes, requires The City Council to give the public a “reasonable opportunity to be heard on a proposition” or a matter that is before The City Council. This opportunity does not require being heard at the same meeting where official action is taken but it does require the opportunity to address the issue during the decision-making process and within a reasonable proximity in time to when the vote occurs. See Section 286.0114(2), Florida Statutes.

The City Council will have a public comment period either for each item or at the beginning of a meeting for all non-public hearing items, prior to official action being taken on an item.

Maintaining Decorum

The Chair of the meeting, or the city attorney may in-act a recess, which allows an opportunity to calm both elected officials and the public down.

Members of the public will be given a total of three minuets for speaking and allow some time to wrap up comments after a reminder.

Members of the public who speak will address policy and not people. Attacks on individuals are not necessary and the purpose of the meeting is to address policy matters.

Public comment time is not the appropriate time to have conversational dialogue with speakers. Section 286.0114, Florida Statutes, provides the opportunity to be heard, but does not require responses to comments or questions raised during the public comments. If one wants to respond, one method is to simply state that the governing body (City Manager or other appropriate staff) will look into the matter and get back with them.

Disruptive Behavior

The Sunshine Law was enacted to protect the public from “closed door” politics. See *Wood v. Marston*, 442 So.2d 934 (Fla. 1983). As such, the law is “broadly” read to effect its remedial and protective purposes.” *Lorei v. Smith*, 464 So.2d 1330 (Fla. 2d DCA 1985). However, public boards may adopt reasonable rules and policies to ensure the orderly conduct of its meetings and to require orderly behavior on the part of those meetings on the part those attending. *Pinellas County School Board v. Suncam, Inc.*, 829 So. 2d 989 (2002); AGO 91-28.

The Supreme Court has determined that freedom of expression protected by the First Amendment is not inviolate and that the First Amendment does not guarantee persons the right to communicate their views “at all times or in any manner that may be desired.” *Heffron v. International Soc. for Krishna Consciousness*, 452 U.S. 640 (1981); *Adderly v. Florida*, 385 U.S. 39 (1966). In analyzing one’s right to express their opinion on public property, the courts have established certain boundaries within which to balance a citizen’s First Amendment rights and the government’s interest in limiting the use of its property. *Jones v. Heyman*, 888 F.2d 1328 (11th Cir. 1989).

In providing for public comment, the government has created at a limited public forum. *Brown v. City of Jacksonville*, 2006 WL 385055 (M.D. Fla.2006); *Jones v Heyman*, 888 F.2d 1328 (11th Cir. 1989). As such, content neutral time place and manner restrictions are permissible if they are narrowly drawn to achieve a significant governmental interest and if they allow communications through other channels. However, implementation of the rules can create potential issues. To avoid content-based restrictions, it is recommended to treat all speakers equally.

The elected body does have a significant and important interest in

confining members to the topic at hand and preventing disruption of this meeting. *Jones v. Heyman*, 888 So.2d 1328 (11th Cir. 1989); *Rowe v. City of Cocoa*, 358 F.3d 800 (11th Cir. 2004).

Irrelevant debate and disrupting behavior would improperly result in extraordinarily long meetings and could deny others the right to speak. See, *Jones v. Heyman*, 888 F.2d 1328 (1989). In reviewing whether the decision by the meeting chairperson concerning what is the most appropriate means for promoting a significant government interest. *U.S. v. Albertini*, 472 U.S. 675 (1985); *Jones v. Heyman*, 888 F.2d 1328 (1989).

Examples of disruptive behavior:

If the conduct of the public which interrupts a meeting or there is utterance of fighting words. See *Jones v. Heyman*, 888 F.2d 1328 (1989); *Beebe v. Foster*, 661 So.2d 401 (Fla. 1st DCA 1995).

If the public speaker is repetitious, or speaks on arguments unrelated to an agenda topic. *Rowe v. City of Cocoa*, 358 F.3d 800 (11th Cir. 2004).

If the public speaker is addressing items unrelated to the governing body’s business. See, *Lozman v. City of Riviera Beach*, 138 S.Ct. 1945 (2018).

If the public speaker goes beyond the allotted time and refuses to leave the podium. See, *Lozman v. City of Riviera Beach*, 138 S.Ct. 1945 (2018).

Remedies for disruptive behavior:

You **MAY** remove disruptive speaker from a public meetin. *Rowe v. City of Cocoa*, 358 F.3d 800 (11th Cir. 2004); *Jones v. Hayman*, 888 F.2d (1989).

You **MAY** turn off microphone to a disruptive speaker. *Brown v. City of Jacksonville*, 2006 WL 385055 (M.D. Fla. 2006).

You **CANNOT** ban persons who have exhibited disruptive behavior from attending or speaking at future meetings. The government cannot prohibit future expressive activity because of past unlawful conduct. *Brown v. City of Jacksonville*, 2006 WL 385055 (M.D. Fla. 2006).

<https://www.floridaleagueofcities.com/docs/default-source/default-document-library/respectful-public-meetings-memorandum.docx>

Conduct at City Council for city meetings.

- (1) Unless addressing the City Council or entering or leaving the Council Chambers, all persons in the audience shall remain seated in the seats provided.
- (2) All demonstrations, including cheering, yelling, whistling, handclapping and foot stomping which disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting are prohibited.
- (3) No placards, signs, posters, packages, bundles, suitcases or other large objects or trash shall be brought into the Council Chambers or other meeting place if doing so would disrupt, disturb, or otherwise impede the orderly course of the meeting.
- (4) All persons wishing to speak to the Council at the time designated for oral communications shall state their name, and the subject matter upon which they wish to speak for the record. All speakers who wish to address members of the City Council or staff must do so through the Mayor or Chairperson. No person shall address the Council until he or she has first been recognized by the Mayor or Chairperson. Each person speaking shall be limited to three (3) minutes.
- (6) Members of the audience shall respect the rights of others and shall not create noise or other disturbances so as to disrupt or disturb persons who are addressing the City Council, Council Members who are speaking, or otherwise impede the orderly conduct of the meeting. All persons addressing the City Council shall speak in a civil and courteous manner and shall not yell, scream, or use foul language. Speakers shall address the agenda topic to which they are speaking on and shall not be repetitive.

Violations of this Code of Conduct may result in removal from the City Council Meeting.