City Council Rules of Procedure – Public Speakers

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Overview

- Public speaker types and legal standards
- Regulation of disruptive speakers
- Current speaker rules and regulations
- Options
- Survey of Ad Hoc Administrative Affairs Committee

City Council Rules of Procedure – Two Types of Speakers

Dallas City Council Rules of Procedure § 6.3

and Texas Local Government Code § 211.007 (zoning public hearings)

and Texas Government Code § 551.007 (action items)

The city allows two types of speakers during city council meetings:

(1) Open microphone speakers.

(2) Speakers on agenda action items, including public hearing items.

Open microphone speakers are allowed before any agenda items are taken up and after all agenda items are taken up. Persons who wish to speak on an agenda item are permitted to speak either during the morning open microphone session or before consideration of an agenda item.

Standards for Agenda and Open Microphone Sessions

General Rules

- Cities can require that speakers limit their comments to topics on the meeting agenda. Topic limitations do not violate the First Amendment because they are reasonable regulations that serve the government's interest in conducting an efficient and orderly meeting.
- Courts treat open microphone sessions differently, however. When a city opens its forum to all topics, it cannot subsequently restrict speech based on subject matter during the open microphone session.

Disruptive Speakers

- Cities may remove speakers who cause an actual disruption of a meeting.
- When speakers are limited to agenda topics, they can cause an actual disruption by discussing irrelevant subjects.
- In open microphone sessions, a speaker can cause an actual disruption only by violating a rule of decorum or exceeding time limits.
- The presiding officer must first warn the speaker and should only remove the speaker after he or she failed to comply after being warned.

Disruptive Behavior Standard

- "Actual disruption means actual disruption..." *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010) (en banc).
- Examples:
  - Discussing irrelevant subjects when speaking on an agenda item.
  - Exceeding time limits.
  - Failing to address the chair.

Disruptive Speakers (cont.)

- The city's speaker rules currently prohibit speakers from "[m]aking personal, impertinent, profane, or slanderous remarks or becoming boisterous..." Dallas Public Meeting/Speaker Guidelines § 6.4.
- Many cities are adopting rules that focus on preventing actual disruptions of meetings. Focusing on actual disruptions aids enforcement by creating a more objective standard that is rooted in preserving order.
- We recommend adopting a similar standard.

Current Speaker Rules

Dallas City Council Rules of Procedure § 6.3

All speakers are required to register by 5:00 p.m. the day before a city council meeting and must provide certain information, including their name and topic or item they will address.

Other provisions that govern general speaker procedures include:

(1) only one speaker is allowed at the microphone at a time;

(2) speakers may not be substituted or pooled;

(3) speakers must address the presiding officer and may not refer to councilmembers by name; and

(4) a person who addresses the city council during a public hearing or on a voting item must limit their remarks to the subject matter being considered.

Current Speaker Rules (cont.)

Dallas City Council Rules of Procedure § 6.3

- For **open microphone speakers**, additional procedural rules apply.
- Only five persons may speak at the open microphone period at the beginning of the meeting. Generally, these five speakers will be called in the order they registered to speak. But the City Council Rules of Procedure also provide that the mayor may determine the order of the speakers.
- If a person fails to speak when the person's name is called, they will be deemed to have spoken at the meeting.
- An open microphone period is also provided after the city council has concluded its agenda, at which time all speakers not heard earlier or deemed to have already spoken in the meeting may speak.

General Rules
Texas Government Code, Case Law, and the Constitution

- Cities can impose reasonable restrictions on speakers to maintain order and promote efficiency.
- Cities can implement reasonable time limits, require speakers to keep their remarks related to a topic on the council agenda, and take measures to prevent speakers from being disruptive.
- However, to impose stronger restrictions on speakers than we currently have, the city will need to change the nature of the forum it provides to public speakers.

Options

Options for **open microphone** speakers:

1. Enforce current rules limiting the number of speakers in the morning, requiring pre-registration, and limiting the frequency of speakers (*status quo*);
2. Set aside time at some point during the meeting for open microphone speakers on council days and schedule it as a recess;
3. Hold separate meetings on different days solely for open microphone speakers;
4. Allow open microphone speakers on city council briefing meeting days only (or a single briefing day per month); or
5. Eliminate open microphone speakers.
6. Adopt the disruptive speaker standard.

Survey of Ad Hoc Committee Meeting

- CM West: Keep current rules or move to open microphone speakers on briefing days.
- Chair McGough: Keep current rules.
- Chair Schultz: Open microphone on briefing day. Councilmembers must use points of order.
- CM Moreno: Pilot program - open microphone speakers on briefing days only.
- Chair Willis: Open microphone on briefing day.

Next Steps

- Clarify that if open microphone speakers are moved to a briefing meeting whether the current rule regarding five morning speakers and the rest at the end of the meeting will remain in effect or be changed.
- Bring amended rules to city council agenda meeting for consideration.

QUESTIONS



Appendix A
Dallas City Council Rules of Procedure § 6.3

A. Speakers to Register. A person wishing to address the city council must first register with the city secretary and provide the following information: Name, residence address, daytime telephone number, the subject matter to be presented, and whether the subject is on the current city council meeting agenda. A person may register in person, by electronic mail, or by telephone. The earliest a person may register for an upcoming city council meeting is 8:15 a.m. of the next regular business day following the previous city council meeting. The deadline for registering to address the council at a city council meeting is 5:00 p.m. of the last regular business day preceding the meeting.

B. Manager May Contact Speaker. On the Tuesday before the Wednesday city council meeting, the city secretary will provide the city manager with the registration information of persons who have registered up to that time. The city manager may direct a member of the city staff to contact the person to try to resolve a problem. Contact by a member of the city staff should in no way suggest that the person should not appear and address the city council.

Appendix A Cont.
Dallas City Council Rules of Procedure § 6.3

(c) Speaker Rules. In order that the city council may properly consider each matter brought to it by the public, speakers are asked to observe the following rules:

1. Only one person may approach the microphone at any one time, and only the person at the microphone will be allowed to speak.
2. There will be no substitutions or pooling of speakers.
3. Speakers must address their comments to the presiding officer rather than individual city councilmembers or staff. Speakers may not refer to a city councilmember by name.
4. Speakers may file copies of their remarks or supporting information with the city secretary. The city secretary will make the information available to the city council and city manager if requested.
5. A person who addresses the city council during a public hearing or on a voting item must limit remarks to the specific subject matter being considered by the city council in that public hearing.
6. Dallas residents will be allowed to speak before nonresidents.
7. Whenever it is necessary for a speaker to use an interpreter to translate their comments to the city council, the time required for the translation will not be counted against the designated time allotted for the speaker to address the city council.

Appendix A Cont.
Dallas City Council Rules of Procedure § 6.3

(f) **Open Microphone.** The city council will provide an opportunity for the public to present concerns or address issues that are not matters for consideration listed on a posted meeting agenda during an "open microphone" period at city council meetings, subject to the following rules:

(1) Five persons may speak on any matter, including an agenda item, during an open microphone period at the beginning of each city council meeting. These first five speakers will be called in the order in which they registered to speak with the city secretary. Whenever a person fails to speak when the person's name is called, the name of the next speaker registered for the initial open microphone period will be called, until either five persons have spoken, or all of the names have been called. An open microphone period will also be provided after the city council has concluded its agenda, at which time all speakers not heard earlier in the meeting may speak. For purposes of enforcing all provisions of Subsection 6.3 governing public speakers, a person who signs up to speak during the open microphone period at the beginning of a city council meeting, but who fails to speak when called upon, will be deemed to have spoken at the meeting.

(2) Each speaker may speak only once, and the length of time a person will be allowed to speak during the open microphone period is three minutes. If a large number of speakers register for the open microphone period, however, the mayor may, with the concurrence of a majority of the city council, impose more restrictive time limits in order to allow the maximum number of persons to speak.

(3) The order in which speakers will be called will be determined by the mayor.

(4) No person may register to speak during an open microphone period more than once within any 30-day period.

Appendix B
Other Cities

(1) Austin and El Paso both set aside time at 12:00 p.m. for open comment on council days.

(A) Austin allows a maximum of 12 people to speak. Members of the public wishing to speak in Austin may register between 9:00 a.m. 21 days before the council meeting and 4:30 p.m. 14 days before the meeting. In Austin, a speaker may not speak during the public comment period more than once every three council meetings.

(B) El Paso requires members of the public wishing to speak to register in advance between 4:00 p.m. the Thursday before the council meeting until 9:00 a.m. the day of the council meeting. El Paso limits each public speaker to three minutes and any group of five or more persons must appoint one person to speak for them, and that person is limited to three minutes of speaking time.

Appendix B
Other Cities

(2) Fort Worth, Houston, and San Antonio each hold open public comment meetings that are separate from their city council meetings.

(A) Fort Worth requires speakers to register no later than two hours before a **public comment meeting**. Speakers are limited to three minutes each, but groups of 10 or more individuals must appoint a designated speaker who is limited to six minutes of speaking time. Speakers wising to make a presentation must submit their presentation materials to the city secretary no later than 5:00 p.m. the day before the meeting. Presentation materials may not include any statements, graphics, or pictures that are offensive or reflect personal attacks on other individuals, city council, or city staff.

(B) Houston holds a **separate comment meeting** at 2:00 p.m. the day before its council meeting. Speakers are required to register in advance to be recognized. Individuals who speak out of turn will be muted, and if their interruption continues, they will be removed from the meeting. If speakers are late or do not respond when their names are called, they will not be able to speak during the meeting.

Appendix B
Other Cities

(C) San Antonio holds a **Wednesday public comment s**ession. Public comments speakers are requested to sign up online to submit written comments or register to speak and must register at least 30 minutes before the posted meeting time. Speakers are given three minutes each, and speakers who plan to make a presentation must submit their content at least 24 hours before the meeting.

Appendix B
Links to other cities

City of Austin, *Public Participation at Council Meetings*, at https://www.austintexas.gov/department/public-participation-council-meetings#:~:text=To%20speak%20in%2Dperson%20at,the%20day%20before%20the%20meeting.

City of El Paso, *Procedures for Addressing City Council*, at https://www.elpasotexas.gov/city-clerk/meetings/city-council-meetings/.

City of Fort Worth, *How to Appear or Speak Before City Council*, at https://www.fortworthtexas.gov/departments/citysecretary/appear-at-council.

City of Houston, *City Council*, at https://www.houstontx.gov/council/meetingsinfo.html.

City of San Antonio, *Public Comments*, at https://www.sanantonio.gov/Clerk/PublicComment.