



Memorandum

TO: Community Development/Housing/General Government Committee
FROM: Angela I. Carmon, City Attorney
DATE: March 3, 2017
SUBJECT: Public Comment Period
CC: Lee D. Garrity, City Manager

City Attorney's Office

P.O. Box 2511
Winston-Salem, NC 27102
CityLink 311 (336.727.8000)
Fax 336.748.3816

Pursuant to N.C.G.S. 160A-81.1, Council must provide "...at least one period for public comment per month at a regular meeting of the Council." Said statute allows Council to "...adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules: "...(i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of person wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing." Council is not required to provide a public comment period during a month in which no regular meetings are held.

In September, 2005, Council amended Chapter 2 of the City Code, Section 2-38. Rules of Order to incorporate the required public comment period into the City Code. Section 2-38(d) provides that:

"City Council will hold a public comment period at the end of its regular open session meeting on the third Monday of each month. If there is no regular meeting on the third Monday of any month, the public comment period will be held at the regular meeting on the first Monday of the month. The public comment period will be limited to 30 minutes, and each speaker will be limited to three minutes. New speakers will precede speakers wishing to address a subject they spoke to the previous month. Speakers will be orderly and decorous in conduct and shall address only subjects related to City government."

It does not appear that said code provision has been amended since it was first adopted. The recent presentation of videos during the public comment period and the delays sometimes generated by the same malfunctioning caused staff to review this section of the City Code for possible enhancements.

While reviewing the aforementioned code provision for possible changes, a survey of the ordinances and policies from other governmental entities was conducted. The chart on page 3 provides a brief summary of the policies and ordinances from other cities as well as the policy from with Winton-Salem/Forsyth County School Board. The actual policies and ordinances are attached. I have also enclosed a relevant article/blog from the School of Government ("SOG") regarding the ability of cities to limit the topics covered during the public comment period.

CityLink311

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City Council: Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Derwin L. Montgomery, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity

After reviewing case law, a few relevant SOG articles and the ordinances and policies from other communities, I prepared for Council's consideration an ordinance amending the City's current public comment provision set forth in Chapter 2 of the City Code. In summary, the proposed ordinance amendment revises the current provisions regarding the public comment period to:

- (1) separate the public comment period from the rules regarding public hearings;
- (2) encourage speakers to sign up in advance of the meeting with the City secretary;
- (3) direct speakers to limit their comments to matters germane to City business, much like the existing language;
- (4) suggest that certain topics be directed to the citizen complaint procedure, the City manager or the City attorney;
- (5) discourage dialogue between the speaker and Council; however, where appropriate, the City manager or City attorney may respond to the comments.
- (6) prohibit the showing of videos during the public comment period due to the time delays and disruptions caused by said activity. Instead, speakers wishing to present videos may provide copies of the same to the City secretary for review by the mayor and City Council at a later time.

I believe each of the proposed revisions comply with first amendment limitations imposed by case law. Should you desire additional changes, please do not hesitate to let me know.

General Summary of Public Comment Period Ordinances and Policies from other Cities

<u>City</u>	<u>Registration Requirement</u>	<u>Topic Limitations</u>
High Point	Advance registration; those registered speak first	Topics not otherwise covered by a public hearing.
Charlotte	Advance registration with topic prior to meeting	Topics not otherwise covered by a public hearing.
Greenville	Advance registration prior to meeting; those registered speak first	Topics not otherwise covered by a public hearing.
Wilmington	Advance registration up to noon of the Meeting; request received afterwards will be scheduled for the next regular meeting	Directed to limit comments to City business.
Greensboro	Allows speakers from the floor.	Not restricted to agenda items.
Durham	Advance notice 10 days prior to meeting; Council may waive requirement	No known restrictions.
Fayetteville	Advance registration up to meeting	List of limitations; see ordinance and information from SOG.
Winston-Salem/ Forsyth County School Board	Sign up prior to end of meeting	Topics of general interest the agenda. Grievance or or complaint use grievance before addressing Board.