



Meeting Name: Town Council Meeting
Meeting Date: October 23, 2024
Prepared By: Leonard G. Rubin, Town Attorney
Item Title: Rules of Decorum for Members of the Public and Members of the Town Council

BACKGROUND:

Through the adoption of Resolution 2022-12 on December 14, 2022, the Town Council adopted Public Participation Rules and General Meeting Procedures for Town Council meetings (“Existing Rules and Procedures”) (copy attached). The Existing Rules and Procedures are very mechanical in nature and do not prescribe rules of conduct or decorum for members of the public or members of the Town Council. The Existing Rules and Procedures do, however, provide a mechanism for enforcement and general rules governing the conduct of the Town Council meetings. Recently, however, the Council has expressed a desire to enact rules of decorum for its meetings. The discussion will be divided into two sections: (1) rules of decorum for members of the public; and (2) rules of decorum for members of the Town Council.

DISCUSSION:

Rules of Decorum for Members of the Public:

The members of the Town Council are divided as to whether any decorum rules should be imposed on members of the public and at least one Councilmember questioned whether the imposition of such rules is prohibited by state law.

Addressing the legal issue first, Section 286.0114, Florida Statutes, requires the Town Council to give members of the public a reasonable opportunity to be heard on a proposition before the Council, subject to rules or policies adopted by the Council. Section 286.0114(4), Florida Statutes, provides that such rules and policies are limited to those that: (a) provide guidelines regarding the amount of time an individual has to address the Council; (b) prescribe procedures for allowing representatives of groups to address the Council; (c) prescribe procedures or forms for an individual to use in order to inform the Council of a desire to be heard or indicate his or her position on a proposition before the Council; and (d) designate a specific time period for public comment. Section 286.0114, Florida Statutes, only applies to public comment on a specific proposition (or item) before the Town Council and does **not** apply to public comment on non-agenda items. Furthermore, Section 286.0114(2), Florida Statutes, specifically provides that “[t]his section **does not prohibit a board or commission from maintaining orderly conduct or proper decorum** in a public meeting.” Consequently, by its very terms, Section 286.0114, Florida Statutes, does not prohibit the Council from adopting rules of decorum applicable to members of public.

Furthermore, numerous court decisions have upheld the right of legislative bodies to regulate decorum at public meetings, holding that meetings of legislative bodies are limited public forums, thereby allowing the legislative body to enact content-based restrictions on free speech so long as they are reasonable and viewpoint neutral. Members of the public do not have the unrestricted right to free speech at Town Council meetings, and the Council may enact rules regulating the behavior of participants to ensure that its meets are conducted in an orderly and efficient manner.

As a preliminary matter, the Council must decide whether it wishes to enact decorum rules applicable to members of the public. If the Council wishes to move in this direction, my suggestion would be the adopt the following revised rules proposed in 2022 (that were ultimately removed by the Council) (copy attached) with some minor revisions:

1. All Town meetings shall be conducted in an orderly and businesslike manner. All participants and attendees shall be treated with respect.
2. The Town shall adhere to the following norms of civility and decorum:
 - a. A person who has the floor should be permitted to speak without interruption, whether by other participants or attendees.
 - b. While a speaker may speak strongly in opposition to another's views or actions, the character and integrity of the other person should not be attacked.
 - c. A speaker's tone of voice and word choice should be appropriate for a formal, civic meeting. The use of profanity or vulgarity or the making of defamatory, abusive, or threatening comments shall not be tolerated.
 - d. No person shall be allowed to become aggressive, belligerent, or boisterous or engage in disruptive behavior, such as calling out from the audience, clapping, or whistling.

In addition to rules of decorum, members of the Council have suggested supplementing the Existing Rules and Procedures to formally adopt Robert's Rules of Order and appointing the Police Chief or some other person to act as a Sergeant-at-Arms to carry out all instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting.

Rules of Decorum for Members of the Town Council:

The Existing Rules and Regulations do not address rules of conduct or decorum for members of the Town Council. While rules of decorum for members of the public could be included in the Existing Rules of Regulations, rules governing the conduct of members of the Town Council should be adopted in a separate document. For the Council's consideration and discussion, I have attempted to consolidate all the comments received and materials provided into a consolidated Town Council Code of Conduct to read as follows:

Code of Conduct for Town Council

Goal Statement: Members of the Town Council shall serve as a model of leadership and civility in the community, inspire confidence in Town government, and demonstrate honesty and integrity in every action and statement.

A. During Public Meetings:

1. Members of the Town Council shall fully participate in all Town Council meetings and practice civility, professionalism, and respect in all discussions and debate.

2. Members of the Town Council shall prepare in advance of all Town Council meetings by reviewing agenda materials, speaking with the Town Manager and other members of Town Staff, speaking with constituents, and becoming familiar with issues.
 - a. When preparing for Town Council meetings, members of the Town Council should direct questions ahead of time to the Town Manager so that Staff can provide the desired information at the Council meeting.
 - b. “Meeting by ambush” is never acceptable. Members of Town Council should avoid asking questions that Town Staff cannot answer on the spot or otherwise act in a manner that makes Town Staff appear ineffective.
 3. Members of the Town Council shall be respectful of other people’s time, stay focused, and act efficiently during public meetings.
 4. Members of the Town Council shall honor and respect the role of the Mayor (or presiding officer) in maintaining order.
 5. Members of the Town Council shall make the public feel welcome and shall not demonstrate any signs of partiality, prejudice, discrimination, or disrespect toward an individual participating in a public meeting. To that end, members of the Town Council shall:
 - a. Actively listen to speakers;
 - b. Ask for clarification with the consent of the Mayor, but avoid debate and argument with members of the public; and
 - c. Be mindful of their tone and body language.
 6. Members of the Town Council shall refrain from personal comments, attacks, or innuendo directed toward other members of the Council or members of the public.
 7. Members of the Town Council shall ensure that all comments pertain to the topic under discussion.
 8. Members of the Town Council shall refrain from using cellular phones or any type of audible device during any Town Council meeting.
 9. When attending meetings of other Boards, members of the Town Council shall refrain from making any comments regarding quasi-judicial matters that will come before the Town Council for consideration and shall clearly indicate that his or her statements or questions are made in the capacity of a Town resident and not on behalf of the Town Council.
- B. Outside of Public Meetings:
1. Members of the Town Council shall not make any promise or representation on behalf of the Town Council or Town Staff.
 2. Members of the Town Council shall not make any personal or derogatory comments about other members of the Council, members of the public, or members of any Town board, either orally or through the dissemination of written materials.
 3. Members of the Town Council shall not make any representation or inquiry on behalf of the Council to any other public or private agency unless specifically authorized to do so by the Council. Any such representation of inquiry shall be made solely in the Councilmember’s personal capacity without the use of the Councilmember’s official title.
 4. Members of the Town Council shall support the official Town position on any issue and shall not use Town letterhead for correspondence representing a personal point of view or a dissenting point of view from an official Town Council position.

5. Members of the Town Council shall direct all questions or requests for additional information from Town Staff through the Town Manager, Department Heads, or the Town Attorney. Members of the Town Council shall be professional and courteous in their interactions with members of Town Staff and refrain from any public criticism.
6. Members of the Town Council shall refrain from any involvement in Town administrative functions and shall not attempt to influence Town Staff on items that are within purview of the Town Manager.
7. Members of the Town Council recognize that their Town e-mail is the appropriate mechanism for communicating with members of the public and further understand that they are personally responsible for maintain records of all communications that are conducted on a platform other than their Town e-mail, including all text messages.
9. Members of the Town Council are free to take public positions on political issues, even if those positions are not consistent with the majority view of the Town Council. Similarly, members of the Town Council are free to endorse candidates for local, county, state, and federal office.

C. Enforcement

Once the Town Council agrees upon a Code of Conduct, the final issue is whether the Council wishes to adopt formal enforcement procedures. One Councilmember provided a formal resolution process summarized as follows:

1. Complaints for violations of the Code of Conduct may be filed with Mayor, the Town Manager, the Town Attorney, or the Town's Human Resources Department.
2. The Complaint shall then be forwarded to the Town Council, and the named Councilmember shall be afforded an opportunity to respond.
3. If appropriate, the Town Council may direct the Town Attorney to initiate an investigation.
4. The Town Council reviews the complaint and response, as well as the results of the investigation, if any.
4. After reviewing the complaint and response, or the results of the investigation, the Council may take the following actions:
 - a. Admonishment: A remainder that a particular type of behavior is a violation of the Code of Conduct.
 - b. Written Warning: Formal Council action determining that a violation occurred.
 - c. Censure: Formal Council statement of official reprimand in the case of a serious violation of the Code of Conduct.

RECOMMENDATION:

Town Staff requests Council input and guidance regarding the adoption of a Decorum Rules for participants in Town meetings and a Code of Conduct for members of the Town Council, including the adoption of an enforcement mechanism for the Code of Conduct.