

September 9, 2019, City Council Meeting

<https://www.youtube.com/watch?v=E4bdk82UHBI>

At the 1:57:30 mark, the following motion brought by Councilmember Holloway:

“**MOVED** by Councilmember Holloway **SECOND** by Councilmember Sundwall to stop recoding public comments for item not on the agenda.”

At the 2:12:20 mark:

Point of Order by Councilmember Mayhew seeking clarification on whether the motion would stop recording of the meeting all together, or if it would only stop the video recording, keeping the audio.

Discussion followed regarding the capabilities held by IT.

At the 2:14:40 mark:

Councilmember Holloway stated, “I stand on the motion of not video recording, but audio recording the open public comment for items not on the agenda.”

At the 2:17:55 mark:

“**MOVED** by Councilmember Holloway **SECOND** by Councilmember Sundwall to call the question. Motion **CARRIED** 5 to 2 with Councilmembers Laase and Shapard voting against”.

At the 2:18:20 mark:

Councilmember Ross asked to restate the motion. Councilmember Holloway restated the motion as follows: “**MOVE** to suspend video recording of public comment for items not on the agenda”.

At the 2:18:40 mark:

Council voted on the main motion.

“Motion **CARRIED** 4 to 3 with Councilmembers Jeans, Laase, and Shepard voting against”.

In close vote, Snoqualmie City Council suspends video recording of open public comment portion of meetings

September 11, 2019 By [Danna McCall Valley News](#)



After setting a new limit on the amount of time city employees can spend on public records request last month, the Snoqualmie City Council threw another curve ball at citizens on Monday, September 9th. By a vote of 4-3 the council passed a policy that will eliminate the live video streaming and recording of the non-agenda item [AKA 'Open'] public comment period at meetings.

The new policy only applies to the public comments for topics not on meeting agendas. It will still be audio recorded and available the next day on the city website, but the camera will be turned off during this open public comment portion of the meeting going forward. Public comment will still occur.

Councilmember Bryan Holloway brought up the new policy during the Finance and Administration Committee report, saying "PDC (Public Disclosure Commission) informed the city that on occasions where public comment time is abused for campaign purposes, the offense is that of the current elected official, not the candidate who may be making the comments."

PDC Communication and Outreach Director Kim Bradford said she isn't aware of any recent contact with the City of Snoqualmie, but said the Holloway's comments are consistent of advice they give. She added that it is "quite possible" someone from the city communicated with their commission, but that the person wasn't identified.

At issue are comments made by Snoqualmie City Council Candidate William Donaldson who has been addressing council during public comment time on different issues and then using the footage in campaign videos on his [\[campaign\] website](#).

State law says: "No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency."

According to Kim Bradford, a city could be in violation of the law if the person making public comments identifies themselves as a candidate or their campaign – says 'vote for me' or other campaigning statements – and the city did not stop candidates from 'campaigning.'

Councilmember Sean Sundwall commented, "The PDC has been clear that somehow it's not that person's problem. It is our problem for allowing it to happen."

Sundwall said the violation is the city allowing public resources to be used on a campaign website. He said the candidate had continued the practice after being asked to stop. Sundwall said this has forced the council to use the 'nuclear option.'

Donaldson said, "This matter has been investigated. The PDC has made their position clear. I am not in violation of any campaign finance laws. I have yet to receive a single donation for my campaign and do not rely on the public to produce my videos. The City has waived any copyrights that it would have had by choosing to host its live streams on Google."

On May 13th, Donaldson did announce his candidacy during public comment period after expressing his views on the potential Snoqualmie Millsite re-development. The announcement was made as the buzzer signaled the end of his time and he did not discuss his campaign any further.

He has subsequently used public comment time to express his viewpoint on other city issues (but has not identified himself as a candidate nor shared information about it).

campaign) and then edited and created campaign videos. Last month, though, he began using his own camera to record his comments.

According to Bradford, Donaldson can use video footage of his comment on his website as long as there was no violation made during the footage used. She also said incumbents can use council video footage for their campaigns following the same parameters and as long as they weren't specifically campaigning during the meeting being recorded.

Also factoring into the council's decision were assertions that some residents are using public comment time for 'grandstanding,' rehashing past decisions repeatedly, and 'expounding inaccuracies.'

Councilmember Mayhew said the purpose of the public comment period is for topics not on the agenda is for councilmembers to hear what is on residents' minds – 'not come in and grandstand for our cameras.' He added, "It's about us communicating with our residents"

Councilmember Shepard was almost defiant in her opposition, saying, "I think it's ridiculous that we would cut off recording." She added that she didn't feel there was ever a [campaign] abuse made and felt the meeting recordings have been appreciated by the public. She called the proposal "nothing short of censorship."

Councilmember Ross said she was ok with not broadcasting the public comment and noted a recent email from MRSC (Municipal Research and Services Center) stating the purpose of public comment time is simply for members of the public to inform council of their views.

Ross commented, "We are not required to live stream the public comment, but we do want to hear the public comment."

Councilmembers Laase and Jeans said they could not support the policy. Jeans suggested staying with the current system of letting the mayor cut people off who don't follow the rules.

Regarding the decision, Councilmember Mayhew provided a statement, "Council meetings are for conducting Council business. Meetings are open to the public, recordings are made and available publicly, and we live stream full Council meetings. We take public comment on every bill before acting on it. We also take public comment on matters not on our agenda to ensure councilmembers know resident concerns. Recently some have misused that portion of our meeting, provide false visuals to the camera, make false statements to the camera, cause the city to record video for the purpose of a candidate's campaign website and social media posts, and other activities that aren't sharing of resident

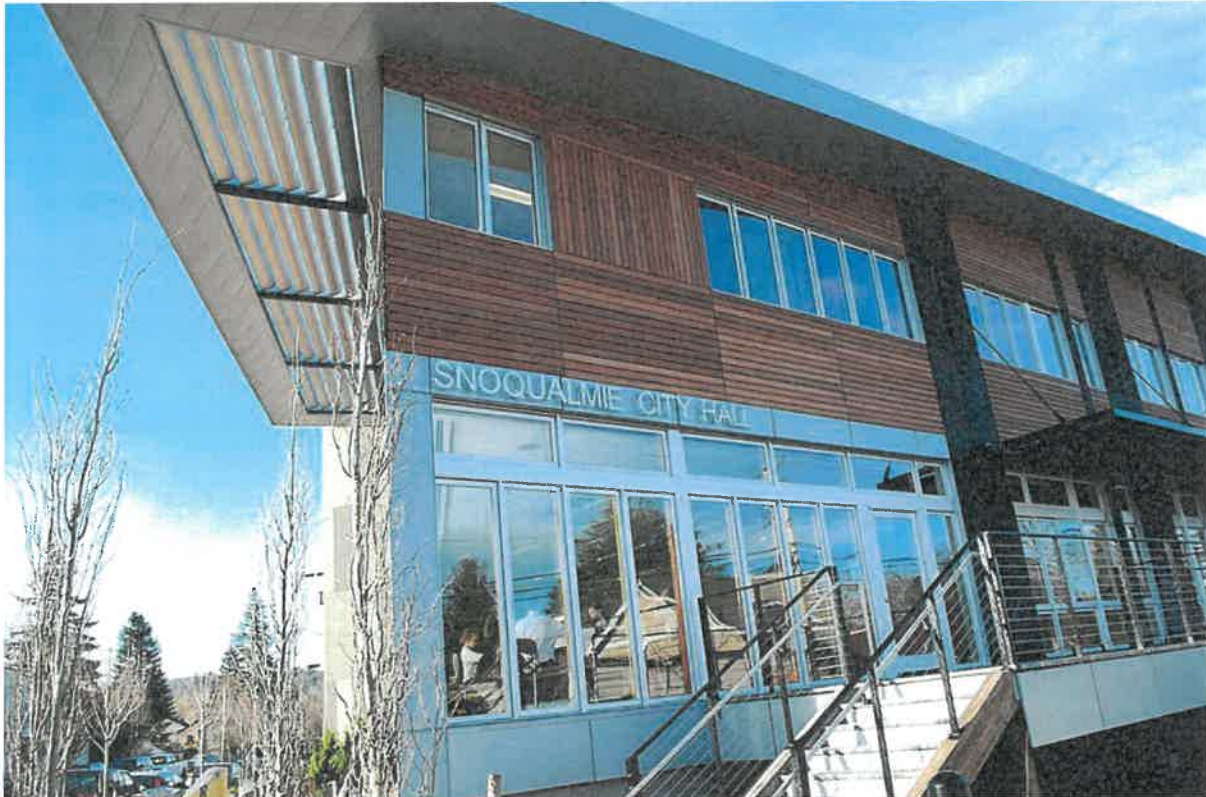
concerns To remove the incentive for misuse, we decided to turn off the video for this portion of our meeting. It will still be audio recorded and made publicly available the next day, just like the video recording of the rest of the meeting. The public can still comment as before, no censorship or limitation on speaking is being introduced, but hopefully the misuse of this time will stop.”

Donaldson said, “If the City’s position is that my actions are unlawful, then in my view, their top priority should be to get the Public Disclosure Commission to first enforce the appropriate policies on the State’s highest office first...Last night, they voted to censor public comments from our city council live stream. This shows you where their priorities lie.”

Council votes to suspend recording of open public comment unrelated to agenda

Published 1:30 am Wednesday, September 11, 2019

By Ashley Hiruko



Gov. Jay Inslee made his presidential announcement March this year and used footage captured of the candidate speaking at various points of his political career. The clips featured in his bid video varied, but in the few glimpses he was shown speaking before Congress and state legislators. And the scenes used appeared to be captured on government cameras. Snoqualmie City Council candidate William Donaldson did something similar when he used footage captured of himself during the open public comment period at city council for promotional videos. He spliced the footage with non-council scenes before posting the pieces on his campaign website. In an attempt to curb the practice, the Snoqualmie City Council voted 4-3 on Sept. 9 to stop recording the open public comment period if they are not about agenda items. The other agenda-related comment opportunities will continue to be recorded and live streamed for viewers. Councilmembers Sean Sundwall (Donaldson's competitor), James Mayhew, Bryan

Holloway and Katherine Ross all voted in favor of the restrictions. Matthew Laase, Peggy Shepard and Bob Jeans voted against the action. Certain councilmembers and Donaldson have been in disagreement over what is legal based on RCW 42.17A.555. The state law says that "No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition." "This is an open dialogue between us and the citizens," Mayhew said. "The purpose of this is not for someone to come in and grandstand for our cameras, grandstand for people at home or for recordings. This is about us communicating with our residents. The people that vote us to be here and who we represent." But other council members were against the move and worried about the impact the decision would have on those who tune in online to view that portion of the meeting. "We're trying to make a rule based on a bad apple, and all we're going to do is punish everyone," Laase said. "I don't support this in any way. There's got to be a better way. We've got to find a way to deal with it. And if dealing with it means that we continue to broadcast and take our chances, that's what we have to do." Laase said he believed public comment is intended for public consumption, and he would hate to have 99 percent of the comments that have been said during that time not available to the public. However, the council indicated that whatever is not recorded, would be documented in the meeting minutes. Jeans favored staying with the current system. He suggested that if the mayor were to observe someone speaking on personal or political matters during public comment, he should step in and stop it. "The purpose of our council meetings is not open-mic night," Mayhew said in his argument for the action. "There's some restaurants nearby that do open-mic nights and bars that can do that there." Throughout the night, councilmembers in favor of cutting the recording also alluded to discussions that happened between the council and the Public Disclosure Commission on the RCW. "The PDC has informed us that on occasions where it is abused for campaign purposes, the offense is on the currently sitting elected official, not the candidate making comments as part of the public discussion," Holloway said. Holloway continued, "The logic there being that the sitting elected official really has the opportunity or ability to limit that exposure. We are responsible for providing the opportunity. If it's abused, it's on us." Donaldson argued that the videos were not in violation of the law. He was not an elected official and had no ability to expend any public funds on his campaign. And he said the city's representatives were not in violation because they too spent zero dollars on his campaign. "What was said during these particular public comments is fine," Sundwall said during the meeting. "I didn't find the content of the items to be campaigning. I didn't hear 'This is my view. Vote for me.' I didn't hear any of that. The problem is those public resources were

used on a campaign website. That's the problem." Kim Bradford, communications director with the PDC, told the Valley Record in August that the official in charge of running the meeting would need to step in and stop any offender of the law. They need to vocalize that they can't use that public open comment time for campaigning. That the onus is on the city, not the member of the public, for compliance with the law. She elaborated that campaigning could appear as someone who "gets up and says, 'I'm a candidate and you should vote for me.'" But other comments not falling within the campaigning parameters were OK to happen. She added that there's no problem with using the video footage, and it would be comparable to someone using a photo taken by the city of an event that's available to everyone. Bradford was emailed a link to Donaldson's videos posted onto his website in August. She responded, "Based on a brief look at those videos, it doesn't appear that they would be a concern under RCW 42.17A.555." In a Sept. 11 email, Bradford did note that at the end of Donaldson's Mill Site Development video he attempts to announce his candidacy. But Donaldson is soon cut off after the signal sounds notifying him that his time had run out. "The question seems to be what constitutes campaigning," she said by email. When asked about any communication between the city and the PDC, Bradford said "I'm not aware of any contact. I've talked to anyone who would have fielded that inquiry. It is quite possible someone called and didn't say they were from the city of Snoqualmie or we don't remember that they were. That's quite possible. There will be no record of that other than people's recollection." Bradford reached out to the city to verify what communication between the two agencies had taken place. After hearing back, she said it appeared that the city had no recent contact with the PDC, but that it was still possible the PDC was contacted by an elected official. The Valley Record also reached out to the city for further elaboration on the communication and hasn't received a response. In his defense of the videos, Donaldson said that members of Congress use excerpts of video captured in both the House and Senate to create montages. Even Jay Inslee, the highest elected official in the state bound by the law, has done it, Donaldson said. "If the city's position is that my actions are unlawful, then in my view, their top priority should be to get the (PDC) to first enforce the appropriate policies on the state's highest office," he said.

Read more at: <https://www.valleyrecord.com/2019/09/11/council-votes-to-suspend-recording-of-open-public-comment-unrelated-to-agenda/>