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Chapter Five

The City Council at Work: Meetings

It is imperative that every meeting of the city council be conducted in an orderly and legal manner. If the council's procedures are improper, the legality of its actions may be successfully challenged in court. If its meetings are slovenly and disorganized, the council cannot expect to command public respect.

Legal Requirements

State law prescribes several specific requirements for council meetings: (1) that meetings be scheduled at a fixed time and place; (2) that a quorum of the council be present for the transaction of business; (3) that any question before the council be decided by majority vote of the members present and voting, except where the law requires more than a simple majority; and (4) that the mayor always presides, if present.

Texas Open Meetings Act

Every meeting of the city council must be conducted in accordance with chapter 551 of the Government Code, the Texas Open Meetings Act. Among all the state laws affecting city officials, this is the one most likely to be unintentionally violated because of lack of knowledge.

To help educate government officials on the Act's requirements, each elected or appointed member of a governmental body must take at least one hour of training in the Open Meetings Act. The training must be completed not later than ninety days after the member takes the oath of office or assumes the responsibilities of the office.

The attorney general's office allows the requirement to be met in at least two ways: (1) a video that is available to borrow or online; and (2) certification of other entities, such as the Texas Municipal League, to provide the training. Please visit the attorney general's Web site or call TML for more information on the training.

The Open Meetings Act requires that written notice of the date, hour, and location of every council meeting, together with an agenda specifically describing all of the items to be considered, be posted 72 hours in advance of such meeting on a bulletin board in city hall accessible to the public day and night. If the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at city hall must be readily accessible to the general public during

normal business hours. There are three exceptions to the 72-hour posting requirement:

- (1) At least two hours advance notice is required for a special meeting called in the case of "emergency or urgent public necessity," the nature of which must be stated in the notice.
- (2) Items of an emergency or urgent public necessity nature may be added to the agenda of a meeting for which 72 hours notice has already been posted if a supplemental notice listing such items is posted at least two hours prior to the meeting stating the emergency that requires action on the additional items.
- (3) Pursuant to a general posting of items of "community interest," the following need not specifically appear on the posted article: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by a city official or employee; and announcements involving imminent threats to the public health and safety of the city.

The law also requires that all council meetings, with narrow exceptions, be open to the public. Some exceptions from this requirement are provided for the following:

- (1) Private consultations between the city council and its lawyers to discuss pending or contemplated litigation, settlement offers, and other legal matters where a discussion in open session would adversely affect protected attorney-client relationships. The city's attorney must be present (either in person if the attorney is a city employee, or in person or by telephone, video conference call, or Internet communications if the attorney is an independent contractor) at any closed meeting at which litigation is discussed.
- (2) Discussions regarding the purchase, exchange, lease, or value of real property, or negotiated contracts for prospective gifts or donations to the city, when a discussion of these items in public would have a detrimental effect on the city's negotiating position.
- (3) Cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a city officer or employee, or to hear complaints or

charges against such officer or employee, unless such officer or employee requests a public hearing.

- (4) Discussions regarding the deployment or implementation of security personnel or devices.
- (5) Discussions regarding commercial information received from a business prospect and/or the nature of any incentives being considered by the city for economic development purposes.
- (6) Deliberations regarding a test item or information relating to a test that the city administers to individuals who seek to obtain or renew a license or certificate necessary to engage in an activity.
- (7) Electric or gas service discussions in very limited circumstances.
- (8) Discussions regarding various critical infrastructure and homeland security information, including: (a) staffing requirements of an emergency response provider; (b) tactical plans; (c) infrastructure vulnerability assessments and other reports prepared for the federal government; (d) the location of dangerous materials that may be used for weapons; (e) computer passwords; and (f) information regarding security systems that protect property from terrorism or related criminal activity.

Closed meetings (“executive sessions”) are permitted for the discussion of items that legitimately fall within the exceptions stated in the law. However, before an executive session can take place, the council must first convene in open session, the presiding officer must announce that a closed meeting will take place, and he or she then must cite the section of the Open Meetings Act that authorizes the closed session.

The law requires that a certified agenda or a tape recording must be made of all meetings that are closed to the public, except executive sessions held for the purpose of consulting with an attorney under the provisions of the law. For an executive session to discuss critical infrastructure or homeland security matters, a tape recording is mandatory. The law does not define “certified agenda,” but it does provide that the agenda shall state the subject matter of each deliberation and include a record of any further action taken. It also must include a record of the date and time of the beginning and end of the meeting. The presiding officer must certify that the agenda is a true and correct record of the proceedings. In lieu of the certified agenda, the governmental body may make a tape recording of the meeting, including an announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time.

The certified agenda or the tape recording must be maintained for a period of two years after the date of the meeting. However, if a lawsuit is filed during this two-year period, the certified agenda or tape must be preserved pending the outcome of the action. The certified agenda or tape is not a public record, and it is unlawful to make either available to the public without lawful authority, but either may be reviewed by a current member of the governmental body that conducted the closed meeting. It is advisable that the certified agenda or the tape be placed in a sealed envelope identifying the contents and then placed in secured storage. They are available for inspection by a judge if litigation has been initiated involving an alleged violation of the open meetings law. The proceeding before the judge is closed to the public, but the judge may order that the tape or certified agenda be made available to the public if the closed meeting was not authorized.

Although a certification of the posted notice may have been the intent of the legislature, the fact that a certified agenda or tape is to be made available only upon court order may indicate that the contents of the certified agenda consist of a more descriptive agenda item than might be placed on the posted notice. For example, while the posted notice may state that an executive session is being held for the purpose of discussing “Land Acquisition for an Electric Substation,” the certified agenda may read “Land Acquisition—Discuss acquisition of land for a new electric substation to serve The Oaks subdivision.” Although the statute requires the certified agenda to include a record of any further action taken, the open meetings law expressly provides that no final action, decision, or vote can be made except in a meeting that is open to the public. The “further action” which must be noted on the certified agenda may be no action, or it may be the directive to place the item on an open meeting agenda for final action, or it may be a request that additional information be gathered for discussion on another date.

Stiff penalties are provided for violations of the law. A councilmember or any other person who participates in an illegal closed meeting can be punished by a fine of \$100 to \$500, confinement in the county jail for one to six months, or both. The same penalty can be applied to a councilmember who circumvents the requirements of the law by using the telephone or e-mail to poll other councilmembers or who meets with them individually to deliberate over some matter of city business in order to arrive at a decision.

The actions taken by a city council in an illegal meeting are voidable, and a court may assess costs of litigation and reasonable attorney’s fees incurred by a party who substantially prevails in an action brought under the open meetings law. It is an affirmative defense to prosecution that the mayor or councilmember relied in good faith on the written advice of the city’s attorney.

Public Information Act

Chapter 552 of the Government Code requires that most city records, including those in the possession of councilmembers, be open to public inspection.

As with the Open Meetings Act, each elected or appointed member of a governmental body must take at least one hour of training in the Public Information Act, or designate the city's records administrator to take the training on his or her behalf.

The training or designation must be completed not later than ninety days after the member takes the oath of office or assumes the responsibilities of the office. Again, note that a public official (for example, a member of a city council) may designate a public information coordinator to satisfy the open records training requirement.

"Public information" is defined as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it." The media on which public information is recorded include paper; film; a magnetic, optical, or solid state device that can store an electronic signal; tape; mylar; linen; silk; and vellum. The general forms in which the media containing public information exist include a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, drawing, and a voice, data, or video representation held in computer memory.

The advent and widespread use of electronic mail has created numerous issues under the Public Information Act. While the Act does not currently address e-mail directly, e-mail is stored in the memory of the computer that sends or receives the message. Thus, e-mail messages generally fall under the current definition of public information. Special care should be taken when conducting city business through a home e-mail account. The attorney general has concluded that e-mail transactions regarding city business that are conducted from a home e-mail account on a councilmember's home computer may be subject to disclosure.

Certain information is specifically excluded from the requirements of the law. While the list of exempt materials is too long to recite here, it includes such information as working papers being used to draft ordinances or resolutions; certain personnel records; information that would, if released, give an advantage to bidders; documents protected because of attorney-client relationships; documents relating to pending litigation; and various types of critical infrastructure and homeland security information, including information that relates to: (a) staffing requirements of an emergency response provider; (b) tactical plans;

(c) infrastructure vulnerability assessments and other reports prepared for the federal government; (d) the location of dangerous materials that may be used for weapons; (e) computer passwords; and (f) information regarding security systems that protect property from terrorism or related criminal activity.

Despite the narrow exemptions established in the law, its net effect is to require that most information must be made available, upon request, to the news media and other members of the public. A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions, must ask for a decision from the Texas attorney general. The city must request the decision and state the exceptions that apply not later than the 10th business day after receiving the written request. Not later than the 15th calendar day after receiving the request, the city must submit to the attorney general the reasons that the exceptions apply, a copy of the request for information, and a copy of the information requested or representative samples labeled to indicate which exceptions apply to which parts of the information.

Formal Meetings of the Council/The Agenda

A well-organized agenda is an indispensable part of every orderly council meeting. The agenda establishes a calendar of activities for the council to follow in the course of its meeting. It lists all the items of business that will be considered. By putting councilmembers on notice as to what will be discussed, each of them is enabled to arrive at the meeting prepared and ready to conduct business.

The following illustrates a typical agenda format:

- (1) Call to Order—The presiding officer calls the meeting to order and determines whether a quorum is present.
- (2) Invocation—Optional.
- (3) Roll Call—Although most city councils are small enough to readily determine who is present by simply looking around the council table, a formal roll call lends an air of dignity to the proceedings.
- (4) Approve Minutes of the Previous Meeting—Unless a majority of the council desires that the minutes of the previous council meeting be read, the minutes can be approved as submitted or corrected.
- (5) Consent Items—"Consent" items are noncontroversial items that can be considered and voted upon as a block.

- (6) Presentations by Citizens—Scheduling this agenda item early in the meeting permits citizens to complete their business with the council in a timely manner and then leave, if they wish.
- (7) Public Hearings.
- (8) Old Business—Final passage of ordinances, and other business pending from previous council meetings.
- (9) New Business—New ordinances or resolutions (or amendments to existing ones) or policies that councilmembers or city staff wish to have the council consider. Under the Open Meetings Act, each item to be considered must be specifically described in the agenda. It is not sufficient just to put the words “New Business” or “Old Business” on the agenda, and then allow the consideration at the council meeting of any or all items that might be brought up.
- (10) Reports of Advisory Boards and Commissions—Each board or commission must be listed, together with a description of each report that will be presented at the council meeting.
- (11) Items from Council—This part of the agenda is provided for councilmembers to present matters other than ordinances, resolutions, and other matters requiring formal action. The attorney general has opined that matters raised by councilmembers or members of the city staff must be specifically described on the agenda (other than items of “community interest,” as previously explained in this chapter). Examples would include a councilmember’s request that the staff take action on a particular problem, as described in the agenda.
- (12) Staff Reports—This agenda item includes reports from the mayor and/or city administrator on the status of various projects, problems that are developing in particular neighborhoods, and so on. Under the open meetings law, each of these reports must be listed and specifically described in the agenda.
- (13) Announcements.
- (14) Adjournment—If there is no further business, the mayor can adjourn the meeting. If all of the items listed in the agenda have not been considered and disposed of, a majority vote usually is required to adjourn.

The amount of detail included in the agenda is a matter for the council to decide. The legal rule applicable to the format of an agenda is found in the open meetings law, which requires that every agenda item be specifically described in the meeting notice. In practice, this means that broad categories, such as “Old Business” or “New Business,” cannot be included in the agenda without listing each of the specific items that will be discussed.

The governmental body is specifically required to have minutes or a tape recording of each of its open meetings. The minutes shall state the subject matter of each deliberation and shall indicate each vote, other decision, or other action taken by the governmental body. The minutes or tape recording are public records and may be examined or copied by members of the public. This requirement must be met for all meetings of governmental bodies, including meetings when formal actions or votes do not occur. City councils or boards that meet to discuss formulation or development of a policy or ordinance that will be voted on at a later date must keep a formal record of the proceedings, even though no final vote or action is taken.

Rules of Order and Procedure

Recognizing that every legislative body needs a systematic way of conducting its business, many city councils operate according to formal rules of order and procedure. Rules of order and procedure prevent confusion by establishing an organized process for conducting council meetings. Properly followed, they save time for all participants, while protecting the individual’s right to participate fully.

The following provisions usually are included in rules of order and procedure:

- ★ Designation of the time and location of regular meetings of the council, together with a description of procedures for calling special meetings;
- ★ Procedures for placing items on a meeting agenda;
- ★ Methods for compelling councilmembers to attend meetings;
- ★ A description of the duties of the presiding officer at council meetings;
- ★ A description of the parliamentary rules under which the council will operate;
- ★ Procedures for introducing and voting on ordinances, resolutions, and other items;
- ★ The order of business the council will follow at each meeting; and
- ★ A ranking of motions by order or precedence, which motions may or may not be debated, and so on.

Although most city councils use *Robert’s Rules of Order* to conduct their meetings, some have adopted their own local rules. *Robert’s Rules of Order* may be appropriate for some cities, but is often too cumbersome for others. Since state law is silent with regard to this matter, any standard rules

that are reasonable and consistently followed are acceptable.

The following two sections briefly describe motions and debate rules that are fairly common.

Motions

A motion is simply a vehicle for initiating action on a proposal. Some types of motions can be brought up and voted on at any time, while others are out of order at certain times. Certain motions outrank others. Some motions require a second; others do not. Knowing the difference between the various types of motions and when to use them is a first step in taking an active part in passing or defeating measures before the council.

A main motion is used to initiate the consideration of a new item of business. After being seconded, a main motion is subject to being debated, amended, tabled, or withdrawn before a final vote is taken.

Any councilmember making a main motion may, prior to receiving a second, withdraw or change it. If the motion has been seconded, approval of the person who seconded it is required in order for the maker of the motion to change or withdraw it, unless another councilmember objects, in which case the change or withdrawal must be voted upon.

A new main motion cannot be brought up for consideration while another main motion is being debated. Each main motion must be disposed of before another is made.

A secondary motion is used to propose an action on a main motion being debated by the council. Examples of secondary motions include the following:

- (1) Motion to table the main motion; that is, lay it aside and go on to the next item on the agenda.
- (2) Motion to request that discussion cease and that the main motion be voted upon; that is, moving the previous question.
- (3) Motion to limit discussion to a fixed amount of time.
- (4) Motion to postpone action on the proposal until some definite time in the future.
- (5) Motion to refer the proposal to a committee.
- (6) Motion to amend the main motion.
- (7) Motion to postpone action on the proposal to an indefinite future time.

These examples of secondary motions are listed in the order of their rank. Therefore, if the council is debating Councilmember X's motion that the item under consideration be referred to a committee, and Councilmember Y moves to table the main motion, debate would cease until Councilmember Y's higher-ranking motion is voted upon.

A privileged motion is used to bring procedural questions before the council, such as whether the council should recess or adjourn. Unlike other motions, privileged motions do not require a second in order to be considered.

A privileged motion can be offered at any time, without regard to any other motion pending before the council, and must be decided before the council returns to the other business under discussion. Therefore, a motion to adjourn, if made while a main motion is before the council, must be decided before the main motion is considered any further.

Some privileged motions are more privileged than others. This is the usual order of their importance:

- (1) Motion to set the time and place of the next meeting.
- (2) Motion to fix the time of adjournment.
- (3) Motion to adjourn.
- (4) Motion to recess.
- (5) Motions on questions of privilege.
- (6) Motion to keep the meeting to the agreed order of business.

Thus, during consideration of a main motion, a privileged motion might be made to adjourn. But before the question is called on the motion to adjourn, another higher-ranking privileged motion might be made to set the time and place of the next meeting.

Debate

Motions are usually classified three ways: (1) undebatable motions; (2) privileged motions upon which limited debate is permitted; and (3) fully-debatable motions.

Undebatable motions involve procedural questions that can be resolved without discussion, such as tabling a main motion, moving the previous question, restricting further discussion of a main motion to a fixed number of minutes, postponing action, or referring an item under discussion to a committee. [See items (1) through (7) under "secondary motions."] After an undebatable motion is offered, the presiding officer must immediately take a vote, without discussion.

Privileged motions upon which limited debate is permitted include setting the time of the next meeting and others listed among items (l) through (6) under “privileged motions.” Any discussion of a privileged motion must be addressed to the motion itself. A motion to fix the time for adjourning the council meeting, for example, might require limited debate as to the advisability of such a decision, but other points of discussion would be out of order.

Fully-debatable motions are subject to unlimited discussion prior to a decision.

One of the most important principles of debate is that councilmembers’ statements be directly relevant to the item under consideration. Councilmembers recognized by the mayor are given the floor only for the purpose of discussing the item then pending, and they are out of order if they depart from that item.

“Debate” can easily evolve into statements of personal philosophy. Interesting though they may seem to the speaker, such departures do not belong in a council meeting. Meandering can be controlled by limiting councilmembers to one speech per agenda item or by restricting the length of their speeches. (*Robert’s Rules of Order* sets an arbitrary limit of 10 minutes for each such speech.) A more difficult alternative is to impose limits on the number of minutes that will be allotted for a given agenda item.

Role of the Mayor as Presiding Officer

The mayor, as presiding officer, has the primary responsibility for ensuring that the council’s rules of procedure are followed and for maintaining the dignity of council meetings. The mayor calls the meeting to order and confines the discussion to the agreed order of business. He or she recognizes councilmembers for motions and statements and allows audience participation at appropriate times. The mayor sees to it that speakers limit their remarks to the item being considered and, as necessary, calls down people who are out of order.

Proper performance of these functions requires that the mayor know parliamentary procedure and how to apply it. The mayor must recognize that parliamentary procedure is a tool, not a bludgeon—that is used to ensure that the will of the majority prevails while the right of the minority to be heard is protected.

In addition to fulfilling the duties of the presiding officer, the mayor should be familiar with legal requirements imposed by state law. This involves knowing which actions are required on ordinances, when extraordinary council votes are required, and when a time element—such as the deadline for giving notice of a city election—is important. The city attorney can help with these matters, but if the mayor

knows the basics, time can be saved and illegal or incomplete actions prevented.

Presiding effectively at a council meeting is an art that no book can fully teach. The tactful presiding officer knows how to courteously discourage councilmembers who talk too much or too often, and how to encourage shy councilmembers who are hesitant to speak at all.

Councilmembers’ remarks should always be directed to the chair. Even when responding to questions asked by another councilmember, he or she should begin by saying, “Mayor, if you will permit me. . .” and wait for recognition from the chair before proceeding. This helps avoid the spectacle of two councilmembers haggling over an issue that is of little interest to their council colleagues.

In addition to maintaining order and decorum at council meetings, the mayor must see to it that all motions are properly dealt with as they arise. The mayor must recognize the councilmember offering the motion, restate the motion, present it to the council for consideration, call for the vote, announce the vote, give the results of the effect of the vote, and then announce the next order of business.

In some cases, the mayor might refuse to allow a councilmember to offer a motion, even though it is in order, either because of unfamiliarity with parliamentary procedure or because of personal opposition to the proposed action. The mayor’s refusal to allow a motion to be considered is subject to appeal, as are all of the mayor’s decisions regarding procedures. A simple majority vote is all that is required to overrule the mayor’s decision on procedural issues. If the decision of the chair is sustained, no further action is taken; but if the decision of the chair is overruled by the council, the council goes forward with the discussion of the motion or other matters before it.

On rare occasions, the mayor, in the heat of the moment, may rule that an appeal is out of order, or even declare the meeting adjourned. Both rulings are improper. A meeting cannot be summarily adjourned by the mayor. If an appeal from the decision of the chair is made immediately following the ruling, it is not out of order. If the mayor refuses to honor the appeal, the person making the appeal could then state the question, suggest limited debate, and then put the question to a vote.

Streamlining Council Meetings

Even the best planned council meetings can deteriorate into endurance contests. These are not necessarily the exceptional meetings, with long public hearings or battles over controversial ordinances. As often as not, these are regularly-scheduled meetings which drone on until the entire council is thoroughly exhausted.

Regulating Talk

Too much talking is the most common cause of lengthy meetings. Talking can assume a variety of forms—bickering or tiresome exchanges of personal opinions among councilmembers, endless speeches by citizens appearing before the council, or unnecessarily long and detailed reports by staff.

Nearly all these problems can be overcome by tactful action on the part of the presiding officer. If citizens addressing the council ramble on and on, the mayor may have no choice but to tell them to confine their remarks to the subject at hand and conclude as quickly as possible. If the problem is created by a talkative councilmember, a simple statement to the effect that “it’s getting late and we must move along” usually will suffice, though private visits by the mayor may be needed to handle chronic talkers.

Shortening the Agenda

Having too many items on the agenda is another frequent cause of lengthy council meetings. This is not an easy problem to solve, and several evaluation sessions may be needed to correct the situation.

Perhaps the agenda is loaded down with detailed items that are included for reasons of custom, rather than necessity, and many of these could be handled by staff without council action. If too much meeting time is needed to explain the various items on the agenda, perhaps a requirement that the more complex ones be explained in writing in advance of the meeting would help.

In some cases, it may be discovered that lengthy council meetings are the result of complexities that simply cannot be overcome. In these instances, the only answer may be more frequent meetings.

Handling “Consent” Agenda Items

Agendas tend to be cluttered with uncontroversial, recurring items that are of little interest to most councilmembers, but must be included because they require formal council approval. Examples include council approval of the minutes of previous meetings, routine purchases, and minor fund transfers between accounts. Most of these items generate no discussion, but each uses up time by requiring a separate motion to approve, a second, and a vote.

This problem can be overcome by establishing a “consent” agenda category that encompasses routine items that are approved by a single motion and a vote, without debate. (“Councilmember Smith moves the approval of items 3a, b, c, d, e, f, and g.”)

If a councilmember objects to a consent item, it is removed from the list and added to the regular agenda at the appropriate spot. If a councilmember questions a consent item, but not so strongly as to require that it be removed from the list, his or her “no” vote or abstention can be entered in the minutes when the consent vote is taken.

The number of consent items can range from a handful to 25 or 30 or more, depending on the council’s workload and preferences. Whatever the size, the consent agenda can be a real time-saver. One city reported that using a consent agenda had slashed the length of the average council meeting by 50 percent.

Administrative Improvements

Some council meetings are unnecessarily long because of deficiencies in the city’s administrative procedures. For example, citizens who can’t get their problems solved at city hall during normal business hours are likely to show up at council meetings to demand assistance. The fact that most of these complaints should have been handled through administrative action does not relieve the council of the duty to spend time listening to them.

Councilmembers who sense that too much formal meeting time is being devoted to hearing gripes from citizens about administrative inaction usually come to the conclusion that the way to get frustrated citizens off the agenda and into proper channels is to establish a system for receiving and processing complaints. The system can be simple, such as assigning one or two employees to process complaints on a part-time basis, or it can be a more sophisticated office operated by a full-time staff. In any event, it is usually advisable to have at least one of the staff members responsible for this function attend council meetings to be available to head off complaints.

Mechanical Aids

The time needed to explain an agenda item can be reduced by using photographs, flipcharts, and other graphic arts to supplement or replace written reports. Graphics and visual presentations needn’t be expensive. In most cases, using a simple map to show the location of a project, flow charts to illustrate a particular procedure or process, photographs to point out the physical characteristics of the matter being discussed, or a PowerPoint presentation can provide the extra perspective that written words or oral discussions sometimes fail to convey.

Council Work Sessions

Informal work sessions of the council may be needed from time to time to study certain matters in detail. These are most often held in conjunction with budget review, since regular council meetings do not provide enough time to consider the budget in detail. Work sessions also are useful when major policy questions must be decided or when a complicated ordinance, such as a building code, comes before the council.

The Texas Open Meetings Act applies to all council meetings, whether formal or informal. Notices of workshop meetings therefore should be posted in the same manner as notices of regular council meetings. Also, minutes or a tape recording must be made of the meetings.

Citizen Participation

Many citizens form their opinions of the city government on the basis of having attended just one council meeting. For some, it will be the only one they attend in their lifetime. This is the time to impress citizens favorably, and to show them that the council is capable of doing its job.

The “citizen participation” period is a time slot set aside on the agenda for citizens to address the council on any subject. It is not to be confused with a public hearing, which is a formal proceeding conducted for the purpose of discussing a specific topic, such as the city budget or a proposed rezoning.

Local practices vary considerably with respect to reserving a place on the agenda for citizen participation. Many city councils put this item toward the top of the agenda, so that citizens can make an appearance early in the meeting and then go about their business. Other councils reserve a place for citizen presentations at the very end of the agenda, while still others make no provision at all to hear from citizens during regular council meetings. Regardless of the time designated, if any, the presiding officer should inform visitors of the place on the agenda at which they will be recognized to speak. If an exceptionally controversial item has drawn a large crowd, it is generally wise to state the approximate time the item is likely to come up for discussion.

Although verbal interchanges between citizens and councilmembers are appropriate, discussions should not be permitted to drag on, especially if they concern administrative problems that can be solved by the staff during regular city hall hours. Also, if speakers take too much time or engage in personal attacks on councilmembers, it may be necessary for the mayor to cut them short. Councilmembers are expected to be polite to citizens appearing before them, but

there is no requirement that they subject themselves to intimidation by rude speakers.

To guard against citizen filibusters, some councils limit the length of time any one citizen may speak to three or four minutes, and permit this to be extended only by a two-thirds vote of the council. This kind of limitation often is necessary to keep talkative speakers from infringing on the rights of others who may wish to appear.

The city council cannot take action unless it has been posted on the agenda in accordance with the Open Meetings Act. If a citizen brings an item before the council that needs to be acted upon, the city council should request that it be placed on the agenda for the next meeting. The attorney general has also stated that a city that knows or reasonably should know the subject matter of a citizen’s presentation should describe the matter on the agenda.

Public Hearings

The purpose of a public hearing is to present evidence on both sides of an issue. Some public hearings are required by state law, as in the case of the Uniform Budget Law (Sections 102.001 et seq., Local Government Code), which requires a public hearing on the city budget prior to its adoption. Others are voluntarily conducted by the council to obtain a full range of citizen opinion on important matters, such as a proposed bond issue.

The proper conduct of a public hearing is no less important than for a regular council meeting. Each should begin promptly and be conducted in an orderly manner in conformance with established rules of procedure.

At the start of the hearing, the presiding officer should clearly state the subject to be discussed. If, for instance, it is a rezoning hearing, the proposed ordinance should be read and its purpose explained. If the subject is controversial, the following order can be adhered to: proponents’ presentation, opponents’ presentation, proponents’ rebuttal, opponents’ rebuttal, questions from council.

One cardinal rule to remember is that numbers don’t always count. There are some topics that naturally draw large, highly biased crowds. Vocal minorities often swamp public hearings to show that their side has widespread support. Such items as little league ballparks, school crosswalks, water rates, and taxes can attract crowds, but the size of the turnout does not necessarily indicate that their cause is just. The council is elected to serve all the citizens, and a councilmember must look at the overall picture—not just the view presented by one partisan group.

The council is responsible for weighing the evidence presented at the hearing and, after due consideration, reaching a decision. Obviously, this cannot always be done at the same meeting as the public hearing. In fairness to those who have taken the time to attend, the presiding officer should indicate when a decision can be made immediately after the hearing and the result announced. Otherwise, the chair should describe the reason that no decision will be made at that time, then state the probable time at which a final determination will be reached.

When a decision is announced on an issue that involves a public hearing, the presiding officer should give the reasons why the decision was reached. Even a brief explanation will help prevent observers from feeling that the outcome of the hearing was decided in advance, and that they wasted their time by attending.