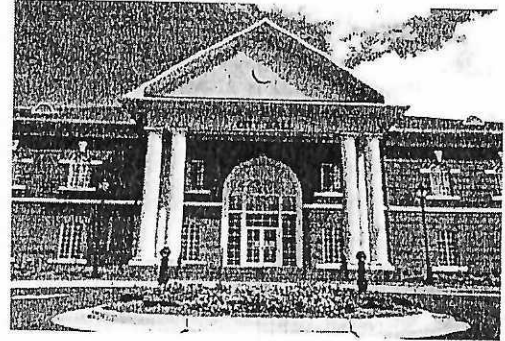


50 Guidelines for Public Comment



INTRODUCTION

In recent years the climate for public comment at local government meetings — city councils, school boards, utility districts, etc. — has become much more challenging. People everywhere are feeling the stress brought on by the pandemic's suffering and loss, economic difficulties, greater hostility in the political sphere, and global concerns. This stress sometimes erupts in tense public meetings.

Online meetings have offered new opportunities for the public to become engaged, while also requiring public agencies to create a new technological framework for public comment. This guide gives our best suggestions for managing public comment in your local government meetings, whether in-person, hybrid, or fully online.

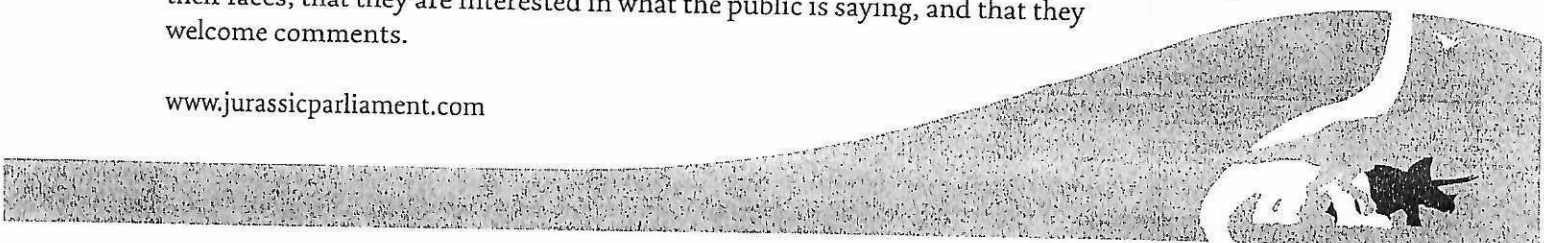
If disruptive events are common in your community, check your state law. In some states, it is a crime to disrupt a local government meeting.

Please note that these guidelines address occasions when members of the public speak to the governing body at its ordinary business and work or study meetings. Public hearings, quasi-judicial meetings, and public forums to seek community input are governed by different rules that are not discussed here.

Give the message that you welcome public comment

Through it all, it remains vital for any local government body to welcome public comment, and to convey that message of welcome to its community. How governmental bodies speak to their public at meetings is a critical factor in building trust and emotional connection to make a strong community. Jurassic Parliament believes that the emotional context of public meetings is more important than procedure. If you make a procedural mistake, you can retrieve the meeting. If you disconnect emotionally, damage can occur.

How is this achieved? The mayor, chair, or president of the local government body (the “presider”) must convey a personal message of warmth and welcome by their demeanor, facial expression, body language, and tone of voice. The members of the body must show, by their posture, their gaze, and their faces, that they are interested in what the public is saying, and that they welcome comments.



You may also want to take notes of what people say. This indicates that you are listening actively and helps with retention. Consult with your attorney as to whether such notes are personal, or whether they must be maintained as a public record. In the latter case, you may decide not to make any written notes.

Public comment is not a dialogue

The public comment period is not a time for dialogue. A meeting of a public board is not a MEETING OF THE PUBLIC. It is a MEETING OF THE BOARD that is held in public. The purpose of the public comment period is for the board to receive input from its community. It is, in fact, a ONE-WAY communication to the board, council, or committee. The public does not participate in making decisions. Instead, it provides input to the governing body, which will take that input into account in making its decisions.

Once the public comment period is over, the presider MUST thank the speakers warmly for their input. Residents can be disappointed when they do not receive an immediate answer to their questions or comments. Acknowledging how valuable their views are is critical.

Consider First Amendment and free speech rights of residents

A governmental body must craft its requirements with care in order to preserve the free speech rights of its citizens and residents. If questions arise about the public comment period, consult your attorney. Remember that state law and regulations, and your specific bylaws or rules of procedure, have higher standing than *Robert's Rules of Order*, other parliamentary authorities, or these guidelines.

Maintain other channels for communication with the public

Given the limits on the public comment period, it is essential for the governing body to maintain other channels of communication. You can use a form on your website, surveys, personal communications, "coffee with the board" (always less than a quorum), or public forums to do this. You must be, and appear to be, responsive to your community. And it's better to refer to "our community," rather than "our public."

Rely on your authority and role as an elected official

When feelings run high in your community, and opinions differ widely, elected officials are placed under additional stress. We believe that it is essential to be able to absorb the public's views, their anxiety, and sometimes their hostility, without passing it on. Elected officials should not fan the flames of controversy, but should strive to be peacemakers seeking common ground.

You can rely on your authority, your role, and your duty, as an elected official, to take all views into consideration, and then to exercise your own best judgment on the issues involved. For more on this concept, see our article, *When public pressure is intense, what can you do?*

Disclaimer

These guidelines are based on the principles of *Robert's Rules of Order, Newly Revised*, 12th edition. However, the book has almost nothing to say about public comment. Our guidelines are drawn from Jurassic Parliament's twenty years of experience in working with local government bodies. You may create your own rules for public comment, as long as you follow state law. Your rules have higher authority than *Robert's Rules of Order*.

The guidelines are educational in nature and do not constitute legal advice. Always consult your attorney, since the penalties for violating the public's right to speak can be severe.

GUIDELINES

▸ Parameters of public comment

1. Establish specific periods for public comment during your meetings, in a way that is consistent with your community's expectations and customs. Public comment at the beginning of the meeting helps residents who don't want to attend the entire meeting. Some bodies also take public comment about each individual agenda item, or add a session at the end of the meeting.
2. In some states, you may limit speakers to those who reside within the specific political jurisdiction.
3. Set a time limit for each individual to speak. You may wish to set a slightly longer time for someone who speaks for an entire group that is present.
4. You may limit people to one opportunity to speak per period.
5. Adopt a rule prohibiting speakers from donating their time to other people.
6. Set a length of time by which each period will conclude, unless the body votes to extend it. Note that in some states, if you have allowed public comment, you must allow everyone present to speak, even if briefly. Other states do not require this. See our article, *Are your meetings seven hours long?*
7. Usually you may establish subject-matter restrictions, for example, that public comment will be taken only on agenda items, or on matters relevant to the city or council. Check state law on this. All such restrictions must be viewpoint-neutral.
8. If someone brings up something off topic, the presider should interrupt and cut them off, politely but firmly. "Excuse me, that topic is not allowed under our guidelines."
9. Safety comes first. If you anticipate that a hostile crowd may turn violent, speak with law enforcement authorities and do your best to create a safe environment. Some bodies have uniformed police officers routinely at their meetings. If they are seated among the public, they are less intimidating. Police officers can also be posted nearby, out of sight and not physically in the meeting room, but on call if needed.

▸ Written guidelines

10. Provide printed copies of the guidelines and expectations and post them on your website. See below for a sample policy.
11. Review the guidelines at the beginning of each comment period if necessary, and explain that this is the time for citizens and residents to express their views in order to inform the board.
12. Explain that the board will not engage in dialogue with the public during this time, and what arrangements are available for obtaining answers to questions.

▸ During public comment

13. Check your state law as to whether you may require speakers to give their name and address. For personal safety reasons, it is better not to require an address. It is reasonable to ask if a speaker is a resident of your jurisdiction.
14. Require all speakers to address their remarks to the chair, not to board members or the public.
15. Require all speakers to keep to the time limits. It is important to be consistent for the appearance of fairness. Some jurisdictions provide a visible public timer, so the speaker knows how much time is available. The chair may enforce the time limits, or a staff member may do so.
16. If someone speaks beyond their allotted time, the presider must intervene by saying "Thank you, your time is up." Sometimes a presider has to speak several times, with increasing force. It is the presider's duty to prevent any speaker from hijacking the meeting.

17. The chair should thank each speaker, whether positive or negative.
18. In general, it is best not to respond at all to public comment. However, the chair may provide brief factual information, if appropriate. For example, the chair might explain that legal limitations on the board's authority prevent the board from taking a requested action. This response must not degenerate into lecturing or criticism.
19. The chair must not under any circumstances enter into back-and-forth exchanges with the public. See our article, *Don't get into back-and-forth exchanges during public comment*.
20. We recommend using surnames to address speakers. If you use first names for some speakers, use them for all.
21. Board members refrain from speaking during this portion of the meeting.
22. It's helpful to have a staff person present at the side with whom community members may speak privately to provide their questions and contact information. The staff will get back to them at a later date. Do not call on staff to give public answers on the spot.

► First Amendment

23. The public has the right to make personal, critical, or harsh remarks, including vulgarity or obscenity. The courts have found that members of local governments must follow the rules of decorum, but members of the public are not bound by them. (See our article *Inappropriate remarks on local government councils* for more information on decorum among board members.)
24. Members of the public do not have the right to DISRUPT the meeting. However, mere words likely do not constitute a disruption in themselves. All concerned should become familiar with case law on this point, and be able to determine when conduct becomes truly disruptive.
25. Some bodies have rules like this: "Any person making boisterous, impertinent, or slanderous remarks may be removed from the meeting." If you act on such a rule, you may subject your body to a First Amendment challenge in the courts. We recommend changing this language to ensure that it refers only to disruptive behavior—behavior that prevents the meeting from continuing.
26. If things are getting hot in your community, consult with your attorney and develop an action plan for steps to take in case of disruption. In cases of serious disruption, state law may allow you to adjourn the meeting to a different location or to go online.
27. Be very cautious about ordering a disruptive member of the public to leave the meeting. It may be advisable to give three warnings to cease from the disruptive behavior before taking any action. Consult with your attorney before doing this.
28. You may be able to set limits on some kinds of public comment based on other legal considerations. Threats of violence or sexual harassment can be prohibited. It is reasonable to prohibit speech pertaining to a campaign or election. In a school district, you may be able to prohibit comment about students based on the Family Educational Rights and Privacy Act. You may be able to require that complaints or concerns about individual teachers be addressed through administrative channels. As always, consult your attorney.
29. For more information, See Brett Vinson's article, *Danger Will Robinson!* and this article published by MRSC*, *When First Amendment Rights and Public Meetings Clash*.

► Behavioral expectations

30. Model courtesy and respect and encourage members of the public to do the same.
31. The board should discourage demonstrations (booing, hissing, clapping). These can be chilling to discourse and inhibit free speech, both on the part of the elected officials and of the public.

32. The public must not be permitted to crowd the dais and harass or physically intimidate anyone.
33. Some boards permit signs to be posted outside the meeting room, and some allow them within the room as long as they do not contain obscene language, block anyone's view, or disrupt the proceedings.
34. Usually boards do not permit residents to bring posters or display PowerPoints during routine public comment. They can provide written material for the board.
35. There was an instance where people were allowed to pray silently during council meetings, since it was not disruptive. However, bringing animals into the room, playing the piano, singing, chanting, or disrobing can be prohibited.

► **Responsiveness to the public**

36. The body language and manner of the chair and other elected officials are critical to running successful public comment sessions. Board members should listen to each person speaking as if there were no one else in the room. This takes a lot of energy!
37. Board members should refrain from using their cell phones or laptops, whispering to each other, or otherwise demonstrating lack of interest in what the public is saying.
38. It is helpful to see oneself on video in order to gauge the impression given to the public. We recommend a facial expression that projects warmth and genuine interest. If a speaker is highly negative, it is appropriate to keep a neutral, serious expression. Do not frown, grimace, sigh, or roll your eyes.

► **Online issues**

39. When meeting online, plan this portion of your meeting carefully. You may need several staff people to manage public comment. Consider what your platform allows. Avoid situations ripe for interruptions or "zoom bombing."
40. Managing hybrid meetings is especially challenging. The presider must be alert and ready to notice who is waiting to speak. It helps to have other staff members monitor this.
41. Some jurisdictions allow speakers to use audio only, while others permit video. Time considerations may influence your choice.
42. In some states, you may require people to register in advance to give public comment, or you may accept only written comment.
43. When comments are submitted in writing, they should be provided to all board members for their review. We do not recommend having the clerk read all such comments aloud, as this can take hours of time. It is sufficient if the members have the opportunity to read the comments themselves.
44. As with in-person situations, be careful about muting or ejecting disruptive speakers. Hostile comments do not, in and of themselves, merit being muted. Comments must actually disrupt the meeting. You may mute speakers if they speak beyond the allotted time limit or otherwise violate your established policies.

► **Other considerations**

45. Legal concerns suggest that it is preferable to limit public comment to the designated periods of the meeting.
46. Provide a website form, or clearly marked paper, inviting individuals who are not heard during the public comment period, due to time constraints, to provide written comment for the board.

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47. Recent court decisions have affirmed that board members are not allowed to step down from the dais and take the podium as a member of the public during the public comment period. This amounts to "double dipping," since board members already have a platform during the meeting.
 48. Sometimes board or council members attend meetings of citizen advisory bodies, and wish to speak. This can be problematic due to the influence that board or councilmembers have. If your rules do not prohibit this, the official in question must be very clear that they are giving their own opinion, and not speaking on behalf of the main body.
 49. Detailed public comment should not be included in the minutes. It is sufficient to say, "Public comment was given." See the article written by Jurassic Parliament and MRSC*, *Less Is More: Action Minutes Save Time, Serve the Agency Best*. If you do wish to include public comment, a summary that avoids providing personally identifiable information on individual commenters is recommended.
 50. MRSC* has published an article, *Strategies for Managing Difficult Public Meetings and Hearings*, that gives valuable suggestions for managing issues before, during, and after the meeting

*MRSC, formerly the Municipal Research and Services Center, is a private non-profit organization in Washington State that provides advice to local government bodies.

SAMPLE PUBLIC COMMENT ANNOUNCEMENT

- ☐ Now is the time to hear from our community. We welcome your comments which are very important to us.
- ☐ Please go to the podium, speak into the microphone, and give your name and city of residence. Address your comments to the board as a whole, not to individuals. Courtesy is appreciated.
- ☐ Comments are welcome on general board business or specific agenda items. Each speaker is limited to 3 minutes. You may not donate your time to another speaker. If several people are here to speak on the same subject, you are invited to choose a single representative who may speak for 5 minutes.
- ☐ Note that we will not be entering into dialogue at this time. The purpose of this agenda item is for YOU, the public, to inform US, the board, about your views.
- ☐ If you have specific factual questions or complaints, please check in with our staff. They are seated on the side and will be glad to assist you. We welcome written questions and comments.
- ☐ Demonstrations (clapping, cheering, booing) are not allowed. They disrupt the meeting and inhibit free speech rights.
- ☐ Speakers may not endorse candidates, discuss ballot propositions, advertise, or speak to issues which are before the board as quasi-judicial matters or considered in a public hearing. PowerPoint presentations, recordings, or props are not allowed. Banners and signs are allowed along the back wall of the chambers as long as they do not impede the view or the board's work.
- ☐ We appreciate your coming to this meeting. Thank you for attending and sharing your thoughts with us.

Jurassic Parliament hereby grants permission to adapt and modify this sample announcement as appropriate for your organization. This information is provided for educational purposes only and does not constitute legal advice. For guidance in a specific situation, consult a qualified attorney.

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P.O. Box 77553, Seattle, WA 98177

TEL 206.542.8422 | EMAIL info@jurassicparliament.com

www.jurassicparliament.com