

PUBLIC PARTICIPATION IN LOCAL GOVERNMENT BODY MEETINGS

Situation: The Wisconsin Open Meetings Law allows a local government body to provide for a period of public comment during which the body may receive information from the public and discuss a matter raised by the public. The law also requires that this period of public comment be properly noticed. Although the body may not take action on any matter raised by a citizen that is not on the public notice, members of the body are not necessarily in violation of the law by merely engaging in preliminary discussion of the matter. Attempts by the body to take action on citizen's comments under the premise of an agenda item such as "Other business which may come before the board" does not meet the statutory requirement for public notice and cannot be acted upon. Members may not, however, "plant" issues that are not on the public notice by having a citizen bring them up during the period of public comment.

It should be noted that the general right of the public to attend and observe local government meetings does not give them the right to participate. The local governing body retains the right to permit and regulate citizen participation at its meetings.

Although few would argue against the merits of engaging citizens in dialogue about the issues important to them, these "public input" portions of the meetings can present problems. Some individuals may dominate the input session to the extent that it is hard to give others sufficient time to be heard and/or for the board to get to its agenda in a timely manner. Citizens may get into heated disputes with each other or the board. In extreme cases, individuals may try to exercise rights of participation that belong only to members of the body such as offering motions or calling to points of order, etc. Neither do citizens have a right to use this forum to address the audience. All commentary should be directed specifically to the elected body.

The problems that may attend uncontrolled input sessions can lead to unnecessary confusion and acrimony between and among citizens and members of the body. Establishing rules that govern citizen participation can prevent many of the problems.

[NOTE: This paper addresses rules that would apply only to the meetings of local government bodies such as boards and councils. It does not consider mandated hearings or the annual or special meetings of the town electorate or school and other special districts.]

Any such rules need to be workable in local situations so it is difficult to set forth one set of rules that would be common to all local government bodies. The size of the body or of the constituency, or even local customs, may determine that rules useful in one municipality would be less desirable in another. We can indicate, however, the variables that can be taken into account when the local body drafts such rules.

On what subjects and at what point during the meeting should citizens address the body? The public body has three options when considering what subjects are permissible for citizens to address. (1) Allow for public comment on any issue of concern to the citizen. (2) Allow for public comment on any issue on the agenda for that meeting. (3) Allow for public comment only on selected items on the agenda. The body must also decide at what point during the meeting that the citizen comments will be heard.

If the body wishes to allow input on any matter of concern to the citizen, opportunities to address the body should come early in the meeting agenda so that comments on agenda items can be heard before the item is taken up. Possibilities would include scheduling citizen participation at some point after the meeting is called to order and before substantive agenda items such as reports are begun, or scheduling it for a time specific as in 8:00 for a meeting that started at 7:30. If the input session is set for a time specific, then any business being conducted at the scheduled time for input would be interrupted and would be resumed when citizen participation is concluded.

If the body wishes to restrict public comment to those items on the agenda, then it may also schedule the time for input early in the meeting or just after the item has been introduced. In any case, it should be made clear on the agenda that citizens are to address only those items on the agenda.

In the third circumstance, when the body is accepting public input only on *selected* agenda items, the body may choose to schedule public comment on those items early in the meeting or shortly after the item is introduced. In this case, it probably makes most sense to schedule citizen input after the item has been introduced.

Should citizens be limited by the number of times they can address the body and should the length of each comment be limited? To prevent over-long presentations and domination by individual citizens, it may be desirable to limit by rule the number of times a citizen can speak on an issue and the length of time each of his/her comments can consume. Probably the length of each comment could be limited to three, four, or five minutes and the citizen should be limited to addressing the body no more than twice on the same issue. Such time limits should apply to question–answer exchanges as well as to expressions of opinion. To promote equality of opportunity to speak to the body, no citizen who has already addressed the board should be permitted to do so a second time if another who has not spoken wishes to do so.

Rules can be relaxed as the situation warrants. Rules governing public participation in local government body meetings can seem arbitrary as to the number of times a citizen may speak, the length of each comment, the subjects s/he can address, etc. Fortunately, although established, such rules can be relaxed by group action. If there is good reason to allow a citizen

to speak at a time other than that set aside for his/her input, or to speak longer or more frequently than the rules permit, the body can agree to “suspend the rules.” In the tradition of parliamentary procedure, suspending the rules is to be done for good reason and for very limited purposes. For example, the body would agree to suspend the rules allowing “citizen Jones to comment a third time on the drainage issue.” Suspending the rules is often done by unanimous consent. That is, the chairperson might inquire of the body if there is any objection to allowing Ms. Jones to speak a third time on the drainage issue. If there is no objection, the chair so announces and the permission to speak again is granted. If there is disagreement among the body about suspending the rules, the body can still do so by formal motion and, unless the body’s own rules provide otherwise, a two-thirds vote is required to allow for passage of a motion to suspend the rules. In small, traditionally informal bodies such as three-person town boards or in committees and commissions, the chairperson might introduce the public participation session by reminding all present that the rules are in place and they will be enforced if they are needed.

Sign-in can be a useful tool. The elected body may wish to require citizens to sign in on a roster of speakers prior to the beginning of the meeting of the body. Requiring citizens to sign-in prior to addressing the governing body serves a number of purposes. First, it allows the body to control the number of speakers and their impact on the length of the meeting. The number of speakers may be arbitrarily limited. The sign-in requirement itself acts as a limiting factor as it precludes spur of the moment commentary from the audience from disrupting the meeting. Second, by requiring a sign-in with the issue on which the citizen wishes to address the body to be noted, it provides the governing body and its staff time to prepare for questions on the issue being addressed. Citizens may be allowed to sign-in for a short period just prior to the meeting, such as during a time frame between 30 and 15 minutes prior to the meeting’s call to order or a longer period, such as by noon on the day of an evening meeting. Either prevents the elected body from being surprised by an issue brought up by a citizen and often allows the diffusion of an issue before it has a chance to become a larger concern.

Televised and video recorded meetings. When the meeting of the governing body is televised via cable, it is important that citizen input be further managed as it is unlikely there will be an opportunity to edit citizen commentary. Citizens must be reminded that their comments are being recorded and aired and that proper decorum is mandated. Citizens wishing to address the governing body should be positioned as to face the governing body and not be allowed to speak directly facing the camera.

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