

ORDINANCE NO. 2021-04-014

AN ORDINANCE AMENDING CITY CODE CHAPTER 2,
SECTION 2-5, Electronic Virtual Public Meetings
(Public Input During Virtual Meetings)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the Section 2.06(g) of the Open Meetings Act (5 ILCS 120/2.06(g)) provides: “Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body”; and

WHEREAS, the City Council believes that it is important to receive public comment and input during public meetings of the City Council, the City Council’s Committee of the Whole, City boards and commissions, and other City-sponsored public bodies (hereinafter, collectively, “Public Meetings”) regarding matters of public business whether or not a specific matter of public business appears on a Public Meeting’s particular agenda; and

WHEREAS, the First Amendment protects the rights of persons who provide public comment and input at designated portions of public meetings conducted by the City; and

WHEREAS, the City has the legal right to provide time, place, and manner restrictions on public comment and input during public meetings that are consistent with the First Amendment so long as such restrictions are content neutral (*Milestone v. City of Monroe, Wisconsin*, 665 F.3d 774 (7th Cir. 2011); *Vega v. Chicago Board of Education*, 338 F.Supp.3d 806 (D.C. N.D. 2018); *I.A. Rana Enterprises, Inc. v. City of Aurora*, 630 F.Supp.2d 912 (D.C. N.D. 2009); and

WHEREAS, the Public Access Counselor (PAC) issued a non-binding opinion related to several PAC appeals (2020 PAC 65871, 65961, and 66133) wherein they concluded that the Mayor and the City Council violated Section 2.06(g) of the Open Meetings Act in restricting public comment at the November 9 and November 16 meetings of the Council; and

WHEREAS, Urbana City Code Chapter 2, Section 2-5 establishes the City’s rules for the public to address City officials including members of the City Council, the City Council’s Committee of the Whole, City boards and commissions, and other City-sponsored public bodies during electronic virtual public meetings; and

WHEREAS, the Urbana City Council desires to amend the City’s rules for electronic virtual meetings to make a clearer distinction between public comment and input that may and may not be restricted or terminated.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 2, "Administration"; Article I, "In General"; shall be and hereby is amended as follows by amending Section 2-5 set forth hereinafter (additions shown with underline and deletions shown with ~~strike through~~).

Sec. 2-5. - Electronic virtual public meetings.

- (a) For purposes of this section 2-5, the following definitions shall apply.

Presiding officer means the person who chairs a given meeting of a public body.

Public body means the city council, including its committee of the whole, and city- created and sponsored boards, commissions, committees, and task forces.

- (b) Any member of the public who seeks to address the members of a public body at any public meeting conducted on a video and/or audio electronic platform will be permitted to provide input on any matter listed on the agenda or on any other matter of public concern, subject to the following provisions:

(1) Verbal public comments.

- a. The agenda for the meeting shall designate a time during the meeting per *Sec. 2-27 Rules for deliberations* at which the public may address the members for verbal comment.
- b. Prior to speaking, each person must be recognized by the presiding officer and must state their first and last name for the meeting record.
- c. Public comment shall be limited to no more than four (4) minutes per person. The public input portion of the meeting shall total no more than one (1) hour unless otherwise shortened or extended by majority vote of the public body members present. The presiding officer, the city clerk, or their designee, shall monitor each speaker's use of time and shall notify the speaker when the allotted time has expired. Since public comment is the time when the public body members listen to the public, all public comments should be addressed to the public body as a whole. A person may provide public input once during a meeting and may not cede time to another person or split their time if public comment is held at two or more different times during a meeting. The presiding officer may give priority to those persons who indicate they wish to speak on an agenda item upon which a vote will be taken.
- d. In order to maintain reasonable decorum at a meeting, the presiding officer of the meeting shall have the authority to provide a verbal warning to a speaker who ~~uses abusive, harassing, threatening, or defamatory language, or who engages in disorderly~~ conduct that disrupts, disturbs, or otherwise impedes the orderly progress of business conducted at ~~conduct of~~ a meeting. If the speaker refuses to cease such ~~remarks~~ behavior or conduct after being warned by the

presiding officer, the presiding officer shall have the authority to mute the speaker's microphone and/or video presence at the meeting. The speaker may send the remainder of their remarks via email to the public body.

(2) Written public comments.

- a. Any member of the public may submit their comments addressed to members of the public body in writing (including via e-mail). If a person wishes their written comments to be included in the record of public input for the meeting, the writing should so state. Comments must be received prior to closing of the meeting record. The meeting record will close at the time of adjournment unless otherwise stated in the public notice for the meeting.
- b. Specific instructions for verbal or written public comments shall be posted with the public notice for each meeting.

(3) Invited presentation.

- a. Members of the public invited by the presiding officer to address the public body on a specific topic and properly noticed on the agenda shall be limited to no more than ten (10) minutes unless otherwise shortened or extended by a majority vote of the public body members present.
- b. Members of the public body who wish to schedule a presentation to the public body by a member of the public must make a request to the presiding officer. The presiding officer must schedule the requested presentation with the city administrator for city council and committee of the whole items or staff liaison for board and commission items.
- c. If the invited speaker wishes to present material using screen sharing or a similar means, they shall email the material to the City Clerk before 3 pm on the day of the meeting.

(4) Separate rules, as required by law or as otherwise provided in this Code, will govern the conduct of quasi-judicial hearings.

- (c) The city clerk shall post the provisions of subsection (b) on the city's website.

Section 2.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor