

Sandy City Council
Legislative Policies and Procedures

Original Approval Date:

Revision:

Chapter:

Section:

Date Council Approved:

SUBJECT: Public Hearings

BACKGROUND:

State law requires that certain decisions before the City Council must be made after a public hearing on the matter is conducted. This policy is intended as a guide to the Council, staff and the public for how those hearings are conducted.

POLICY:

A. General Public Hearing Procedure:

1. City staff provides an overview and/or recommendation on the subject item.
2. If the public hearing pertains to a land use, budgetary, or other decision for a specific project, *generally* the project representative *will have the opportunity to* provide information about the project.
3. Council Members may offer comments or ask questions of the staff and/or the project representative.
4. Public comment is taken on the subject item.
 - a) Each member of the public desiring to address the City Council is allowed to speak for no more than 3 minutes on any issue, unless the time to speak is extended by the Chair or a majority vote of the Council. The sole spokesperson for an organization or defined group may speak for *5 to 7* minutes on behalf of the group. *The spokesperson for a group should contact the Council Office in advance to request this additional time.*
 - b) It is not beneficial to repeat same points already made by previous speakers as it takes away time from others who may want to speak.
 - c) Any person desiring to address the Council a second time *must wait until* all others have spoken before being allowed to speak a second time on the same issue.

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d) The Chair may ask each member of the public who desires to speak to form a line behind the first speaker. If no one is in line the chair may close public comment.

e) Public comments are directed to the Council and persons will refrain from talking to *or approaching* staff and/or the *project representative* while they are presenting information to the Council.

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f) *Council Members may ask clarifying questions during public comment. However, the intent of a public hearing is to receive comment from the public. It is not an opportunity for the public to engage the Council or a project representative in debate. It is not a forum in which the public should expect an interactive question and answer exercise between the public and the Council or a project representative. A member of the public may pose a question which the Council, in its sole discretion, may choose to answer or ask a project representative to answer, at the close of the public hearing.*

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5. Public comment is closed. *A project representative may choose to address issues raised in public comment.* Council Members may ask questions or offer comments to staff and/or the project representative based on information provided in public comment. *The Chair may limit the time for initial responses, questions, or comments from Council Members until each Member desiring to speak has done so. This initial response period is meant for clarification, not deliberation.* Unless a Council Member requests further information from a member of the public who has previously addressed the Council, there is no further public comment.

6. The City Council deliberates and takes appropriate action. *The Council may act on an item at the meeting in which the public hearing was held, may defer the vote to a later meeting, or, may choose to take no action.*

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B. *Comments on items scheduled for public hearing will not be accepted during the Citizen Comments portion of the meeting, but only when that item is opened for public comment by the Chair. Comments on Council items not scheduled for public hearing may be offered during the Citizen Comments portion of the meeting.*

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Comment [r1]: This edit makes the language consistent with the structure of the following sentence in the paragraph.

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C. Civil Discourse

1. *In order to ensure orderly and thorough discussion and record of proceedings, the Council Chair may require each person desiring to address the Council to complete a speaker card.*

2. All persons should avoid undermining the integrity or dignity of others in the meeting. Clapping, booing, cheering or other signs of support or opposition to the proposal is not permitted.

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3. Persons should refrain from leaving their seats, ~~making any noise or disturbance, or interfering or interrupting the Council or staff~~ while ~~the Council is in session~~.
4. Persons not following these guidelines may be asked, after a 2/3 vote of the Council, to leave the ~~meeting or the building~~, for the remainder of the meeting. Any person not honoring the request of the Chair to leave the meeting ~~may~~ be deemed guilty of disturbing an official meeting in violation of Section 7-8-11 of the Revised Ordinances of Sandy City ~~or section 76-9-103, Utah Code annotated~~, and would be guilty of a Class B Misdemeanor. ~~Disruptive behavior by a person may also result in prosecution for disorderly conduct and/or obstructing government operations under any number of provisions of the Utah Code, depending upon the specific behavior of an individual.~~

D. *Petitions and Written Comments*

1. A petition is a request of the City Council to take or refrain from some action signed by multiple individuals. Unless otherwise provided by law, a petition does not obligate or bind the City Council. Petitions are generally more persuasive if specific; arguments ~~are most persuasive to the City Council when supported by evidence~~. Opinions or speculation are less persuasive despite being held by multiple individuals. The City Council does not prescribe the form that a petition must take.
2. *Those interested in submitting a petition, handout, or other form of written comment on a particular agenda item should contact the Council Office for information on submission dates and deadlines. Written comments intended for the Council during a meeting should be provided to the Council Office staff for distribution to the Council Members.*

E. City Council Decisions

1. *The City of Sandy is a local government entity which operates under the council-mayor form of government. The powers of the council-mayor form of government are vested in two separate, independent, and equal branches of municipal government consisting of a mayor (commonly referred to as the "executive" branch) and the City Council (commonly referred to as the "legislative" branch).*
- 2.
3. *Generally the role of the City Council is to formulate and decide the policy direction and governing philosophy of the City. The legislative decisions of a City Council are given great deference by the courts and will generally be upheld as long as those decisions are based upon a rational reason. Public sentiment, preferences and opinions of individual City Council members, scientific data, facts and circumstances surrounding a decision, professional opinions and advice, and any number of factors may, at the option of or in the sole discretion of the City*

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<#>The City Council does not prescribe the form that a petition must take. Petitions are more effective if they include basic information such as name, addresses, and contact information so the City Council and/or staff can verify that signers are Sandy residents and follow up for additional information. It is helpful if the primary advocate or advocates leading the petition are identified and contact information provided.¶

¶

<#>City Council agendas are generally published on Friday before the Tuesday meeting. In order for a petition or other form of correspondence to appear in the Council's agenda packet, it must be delivered to the City Council Office by the close of business on Thursday prior to the Tuesday City Council meeting. Petitions or other correspondence provided after this deadline will be provided to the City Council at, but not prior to, the meeting in which the subject item is heard.¶

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Council, be considered by the City Council in its legislative decision making process. In legislative decision-making the adage, "reasonable minds may differ," has meaning and is respected by the courts when reviewing a City Council decision. In legal terminology, unless a decision of the City Council is found by a court to be arbitrary, capricious, or illegal, a court will uphold the decision of the City Council, even if there are good reasons for making a contrary or alternative decision. Arbitrary and capricious means a decision without reasonable grounds. Illegal refers to decisions which are inconsistent with or contrary to a statute, ordinance, or court ruling.

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Deleted: Utah state law requires that land use decisions must be based on credible, substantial evidence. "Credible" evidence includes such things as verifiable facts, expert opinion, and recognized methods and processes. Lay opinions, speculation, beliefs, feelings, and thoughts generally classified as "public clamor," are not relevant and are not considered "credible" evidence. "Substantial," as explained by court decisions, is more than a shred or scintilla of credible evidence; but, as court decisions also explain, "substantial" does not mean that all the evidence available must support the decision of the City Council. Even a "preponderance" of, or "weight" of, or the "most" evidence presented, need not support the decision of the Council. ¶

¶ Public sentiment is not substantial evidence. Evidence is independent—it stands on its own and is not based on public opinion. For the average person, either participating in a land use decision as a member of the appeal authority or as a citizen, his opinion is not evidence. Evidence is the justification—the facts—that are the basis for the opinion.

DRAFT