

RESOLUTION 2023-04

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, ESTABLISHING POLICIES TO GOVERN THE COMMENTS AND PETITIONS PORTIONS OF PUBLIC MEETINGS; ESTABLISHING A LIMITATION ON PERSONS WHICH MAY SPEAK DURING THOSE PORTIONS OF THE MEETING WHICH ALLOW FOR PUBLIC COMMENTS; ESTABLISHING A TIME LIMIT FOR ADDRESSING PUBLIC MEETINGS; LIMITING THE SPEECH TO RELEVANT AND LEGITIMATE INQUIRIES AND DISCUSSION BY THE PUBLIC; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there is a significant governmental interest in conducting orderly efficient public meetings of the City Commission and the City's other Boards and Committees; and

WHEREAS, the City Commission has the authority to limit public input and discussion at public meetings in accordance with the provisions of §286.0114, Florida Statutes; and

WHEREAS, the City Commission finds it to be in the interest of the public to establish reasonable limitations on addressing the City Commission and other Boards and Committees during the Comments and Petitions portion of public meetings; and

WHEREAS, in *Rowe v. City of Cocoa, Florida*, 358 F.3d 800 (2004) the United States Court of Appeals for the Eleventh Circuit rejected a challenge to the city council's restriction allowing only citizens or taxpayers to be heard during the "delegations" portion of the Council meetings or hearing from persons who receive utility service from the city concerning that service; and

WHEREAS, the Comments and Petitions portion of the City of Lake Wales' public meetings is similar to the "delegations" segment of the public meetings of the City of Cocoa, Florida; and

WHEREAS, the Court in *Rowe* stated "The freedom of expression protected by the First Amendment is not inviolate; the Supreme Court has established that the First Amendment does not guarantee persons the right to communicate their views 'at all times or in any manner that may be desired.'" *Jones v. Heyman*, 888 F.2d 1328, 1331 (11th Cir.1989) (quoting *Heffron v. International Soc'y for Krishna Consciousness*, 452 U.S. 640, 647, 101 S.Ct. 2559, 69 L.Ed.2d 298 (1981)). This Court has held in *Jones* that a city commission meeting is one forum where speech may be restricted " 'to specified subject matter.'" *Jones*, 888 F.2d at 1332 (quoting *City of Madison Joint School Dist. v. Wisconsin Employment Relations Comm'n*, 429 U.S. 167, 176 n. 8, 97 S.Ct. 421, 50 L.Ed.2d 376 (1976)). Stated differently, city commission meetings are "limited" public fora—i.e., "a forum for certain groups of speakers or for the discussion of certain subjects." *Crowder v. Housing Auth. of City of Atlanta*, 990 F.2d 586, 591 (11th Cir.1993) (citing *Perry Educ. Ass'n. v. Perry Local Educators' Ass'n.*, 460 U.S. 37, 46 n. 7, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983)). As such, "the government may restrict access to limited *803 public fora by content-neutral conditions for the time, place, and manner

of access, all of which must be narrowly tailored to serve a significant government interest.” *Id.* (citing *Perry*, 460 U.S. at 45–46, 103 S.Ct. 948). *Id.* At 802, 803; and

WHEREAS, the City Commission has determined it is appropriate to restrict public access to the Comments and Petitions portion of its meetings by content neutral conditions for time, place, and manner of access to be narrowly tailored to serve a significant government interest.


NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Lake Wales as follows:

1. The Comments and Petitions portion of a regular or special City Commission meeting shall occur near the beginning of the meeting following the Invocation, Pledge of Allegiance, Call to Order, Roll Call, Proclamations and Awards (if any) and Presentations or Reports (if any).
2. Speakers are limited to 5 minutes for public comment. The limitation may be extended at the pleasure of the Mayor or by majority vote of the City Commission to allow for an extension for the speaker.
3. The Comments and Petitions portion of the meeting is limited to no more than 45 minutes unless a Motion is made by a member of the Commission and approved by a majority of the Commission. Such an extension may not exceed 15 minutes and only one such extension will be allowed during the meeting.
4. Public comment may be heard during the Comments and Petitions portion of the meeting, as well as on each agenda item which requires a public hearing. The Mayor will advise that comments on agenda items which require a public hearing will not be heard during the Comments and Petitions portion of the meeting.
5. Speakers concerning an agenda item which requires a public hearing are limited to a single appearance at the podium concerning that item.
6. The City Commission solicits and welcomes comments from members of the public entitled to speak when the comments address subject matter that is within the Commission’s scope of authority and may be of assistance in carrying out the Commission’s responsibilities for the benefit of the City and its citizens.
7. The City Commission solicits and welcomes comments from members of the public entitled to speak, as previously defined, when such comments would be of assistance concerning any agenda item being considered for approval. These comments must be limited to the subject matter of the agenda item being considered.

8. City staff, consultants and others presenting an agenda item for consideration are not subject to the limitations set forth in this Resolution governing public comment.
9. Those members of the public who wish to make public comment during the Comments and Petitions portion of the meeting or concerning a specific agenda item are required to complete a CITY COMMISSION - REQUEST TO SPEAK form, a copy of which form is attached hereto, and provide it to the City Clerk prior to the beginning of the meeting.
10. The Mayor or Deputy Mayor as presiding officer may regulate irrelevant debate or disruptive behavior which might cause the meeting to drag on interminably or deny others the right to be heard on the relevant subject matter.
11. The City's other Boards, Commissions and Committees may separately designate the period for Comments and Petitions at their meetings.

THIS RESOLUTION shall take effect upon its adoption.

APPROVED and ADOPTED by the City Commission of the City of Lake Wales, Polk County, Florida, this 22nd day of February, 2023.



Jack Hilligoss, Mayor

Attest:

Jennifer Nanek, CMC, City Clerk