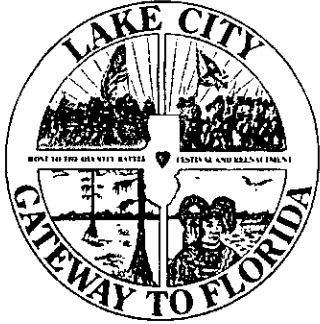


AGENDA
CITY COUNCIL WORKSHOP
November 18, 2013
6:00 p.m. at City Hall

1. Call to Order
2. Roll Call
3. Discuss Rules of the City Council Policy (SB 50)
4. Adjournment




OFFICE OF THE CITY MANAGER

City of Lake City
205 N. Marion Avenue
Lake City FL 32055
(386) 719-5768

MEMORANDUM:

Date: October 9, 2013

From: Wendell Johnson 

To: Mayor Stephen Witt
Councilmember/Vice Mayor Eugene Jefferson
Councilmember Melinda Moses
Councilmember Zack Paulk
Councilmember George Ward

Re: Rules of the City Council (SB 50)

Honorable Mayor and Council,

Recently, Florida League of Cities Legislative Counsel Kraig Conn provided a reminder regarding City Policies on Public Testimony at Public Meetings. His message was in regard to local government compliance with SB 50 which was passed during the 2013 legislative session. A copy of Kraig's article from the July Quality Cities Magazine is attached which provides great detail on the impact of SB 50.

SB 50 requires that members of the public be provided with a reasonable opportunity to be heard on all matters before the local government. Although the City Council and City appointed committees/boards have historically provided liberal opportunities for the public to be heard at public meetings, Kraig has suggested use of a policy under the general guidelines within SB 50.

I herein provide a "DRAFT" Policy for your preliminary review and consideration. The "existing" City Code language regarding public meetings is also included in the last page of this document for your information. In conclusion, a thorough review should be performed (with your participation) to ensure compliance with SB 50. A Council Workshop would be the most effective means to determine the benefit of a policy and/or need for City Code amendment. Please provide your preference on how you would like to proceed with this matter. Finally, please remember this is a draft and changes are most probable.

DRAFT

RULES OF THE CITY COUNCIL

CITY OF LAKE CITY, FLORIDA

Resolution No. 2013_ _ _

SECTION 1. DECLARATION OF PUBLIC POLICY

It is the intent of these rules that the deliberations and actions of the City Council of the City of Lake City, Florida be conducted and taken openly in order that the citizens may be fully informed. It is the finding of the Council that the citizens must be fully informed if they are to be intelligently advised as to the conduct of public business by the Council.

SECTION 2. DEFINITIONS

For the purpose of these rules, the following definitions shall prevail:

(a) A "meeting" is a gathering of a quorum of the membership of the Council for the purpose of receiving information relating to public business, or for discussion of public business, or for final action upon public business.

(b) A "regular meeting" is a meeting held pursuant to a schedule of such meetings as approved by the Council to enact ordinances and resolutions, conduct public hearings and otherwise discuss and act upon matters of public interest.

(c) A "special meeting" is a meeting held on the call of either the mayor, vice-mayor, City Manager, or three or more members of the City Council and, whenever practicable, upon no less than twelve (12) hours written notice to each member of the council. A "special meeting" is held for the purpose of addressing matters requiring the immediate attention of the Council or for the purpose of addressing matters which the Council has determined are best addressed at a special meeting. When a special meeting is called the purpose of the meeting will be stated and the Council shall address only those matters for which the meeting was called.

(d) The "Council" shall refer to the City Council of the City of Lake City.

(e) "Councilman (Councilmen), Councilwoman (Councilwomen) and Councilmember(s)" shall refer to the Mayor and members of the City Council of the City of Lake City.

SECTION 3. MEETINGS

(a) Location. All meetings of the Council shall be held in City Hall, unless the Council indicates another location, and shall be open to the public as required by law.

(b) Regular Meetings. The Council shall hold regular monthly meetings on the first and third Monday of each month beginning in January of each year. Unless otherwise noticed, regular meetings shall commence at 7:00 p.m. When the day fixed for regular meetings falls on a day designated by law as a legal holiday, the meeting shall be held on the Tuesday following that Monday holiday or as otherwise designated by the Council.

(c) Public Notice. The Council shall give public notice of the schedule of meetings and shall state the dates, times and places for such meetings. Public notice of any special meeting or of any reconvened meeting shall be given before such meeting and whenever practicable, upon no less than twelve (12) hours written notice to each member of the council.

(d) Public notice shall be given by posting a copy of the notice at City Hall. The City shall supply copies of the notices of its meetings to any local newspaper of general circulation, or any local radio or television station that has filed a formal request with the City Clerk for such notice.

SECTION 4. AGENDAS, REPORTS, AND MINUTES,

(a) The City Clerk shall prepare an agenda for all regular and special meetings of the City Council. The agendas for all meetings will be prepared and made available to the public, the press and to each Councilmember on the Thursday preceding each regular meeting providing; however, when Council meeting dates have been changed due to holidays, or otherwise, the preparation and distribution of the agenda shall be adjusted accordingly. Copies of the agenda shall be available for public distribution in the meeting room or place prior to the commencement of such meeting.

(b) All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the City Council shall be approved by the City Manager and upon approval, delivered to the City Clerk, whereupon the City Clerk shall appropriately agenda such matters according to the order of business. No matter shall be considered by the City Council at any meeting unless it shall have been first submitted to the City Clerk and placed upon the agenda as provided in this section; unless, for emergency matters, such requirement is waived by the unanimous consent of the councilmembers.

(c) Minutes identifying all matters coming before the Council and setting forth the action, if any, thereof, shall be promptly recorded and transcribed by the City Clerk and such records shall be open to public inspection.

SECTION 5. PRESIDING OFFICER

The Mayor shall preside at all meetings, if present, and if absent, the Vice-Mayor of the Council shall preside.

SECTION 6. ORDER OF BUSINESS

All meetings of the Council shall be open to the public promptly at the hour set on the date of each meeting. The members of the Council, City Manager, City Clerk, and City Attorney shall take their regular stations and the business of the Council shall be taken up for consideration and disposition in substantially the following order:

- (a) Meeting called to order.
- (b) Pledge of Allegiance
- (c) Invocation.
- (d) Roll call.
- (e) Additions or deletions to agenda and approval of agenda.
- (f) Proclamations and special presentations.
- (g) Approval of consent agenda.
- (h) Public to be heard.
- (i) Old Business
- (j) New business.
- (k) Departmental Administration

(l) Comments by Council Members

(m) Adjourn.

The above form the agenda headings for regular meetings. Staff and Council members desiring to have a particular subject matter placed upon the regular meeting agenda may make a request as prescribed in Section 4. Members of the public must have a Councilmember or the Mayor agree to sponsor their request before submission for agenda. All requests shall be accompanied by any information or documentation supporting the subject matter of the request and shall indicate the approximate length of time required for any presentation to the Council. Except in unusual circumstances, no item shall be placed on the meeting agenda until the subject has been referred for comment to the appropriate city department, advisory board or combination of those having interest in the subject matter. Any such request shall be promptly considered and placed upon the agenda without undue delay.

SECTION 7. PREPARATION OF ORDINANCES, RESOLUTIONS

(a) No ordinance shall be prepared for presentation to the Council unless directed by a majority of the Council, requested by the City Manager, or prepared by the City Attorney on his own initiative, unless otherwise provided by ordinance or by the City Charter.

(b) All ordinances and resolutions shall, before presentation to the Council, have been approved as to form by the City Attorney, or his authorized representative. All those instruments shall first be referred to the head of the department under whose jurisdiction the administration of the subject matter of the ordinance or resolution would be involved and shall be approved by the department head. If department head approval is not given, then the instrument shall be returned to the City Manager with a written memorandum of the reasons why approval is withheld. In the event the questioned instrument is not redrafted to meet a department head objection or the objection is not withdrawn and approval in writing given, then the City Manager shall so advise the Council and give the reasons advanced by the department head for withholding approval.

SECTION 8. VOTING

(a) When a motion that is in order has been made and seconded, the Mayor formally places it before the Council by having the Clerk read the exact motion into the record. Thereafter the motion is open to debate.

(b) Voting on all motions, resolutions and ordinances, except adjournment, shall be by "yes" and "no" upon call of the roll of members by districts. Any comments

by Councilmembers as to the subject matter of a motion should be made during the debate thereon rather than at the time the Councilmember's vote is cast so that other members of the Council may have the benefit of those comments during the debate and before their vote is cast.

SECTION 9. CONDUCT OF MEETING

(a) The presiding officer shall preserve order and decorum at all meetings.

(b) When considering matters noticed for a public hearing, the applicable ordinances or resolution shall first be read by its title only. The presiding officer shall declare the public hearing open and receive comments from the public.

(c) During Council meetings, Councilmembers shall maintain order and decorum. Every Councilmember desiring to speak shall address the chair and, upon being recognized by the chair, shall confine himself to the question under debate. Each Councilmember desiring to speak shall be recognized once before a Council member shall be recognized a second time. Every Councilmember desiring to question the administrative staff shall address his question to the City Manager or attending Department representative. During Council discussion, Councilmembers may also, with leave of the presiding officer, direct questions to others in attendance at the Council meeting. A Councilmember once recognized shall not be interrupted while speaking unless called to order by the presiding officer, unless a point of order is raised by another member, or unless the speaker chooses to yield to questions of another member.

(d) City staff and citizens must be recognized by the Mayor before speaking or asking questions. The purpose of this requirement is so that there is order and so that the recording equipment will properly record all comments made by individuals wishing to comment on a specific subject.

(e) All comments must be made from the podium which is located at the front of the City Council Chambers or by other reasonable accommodations and shall address the subject of the agenda item. Individuals that appear before the City Council are required to state their name and their address for the public record. The purpose of this requirement is so that they are properly reflected in the Council minutes and are available for future reference.

(f) At the discretion of the presiding officer or at the direction of a majority of the City Council, public comments will be limited to five (5) minutes per person so that all may be heard on the matter and the presiding officer, or his designee, shall in such instances monitor the timing and give the speaker a thirty (30) second notice prior to the

expiration of the time allotted. The presiding officer may, at his discretion, or at the direction of a majority of the Council, extend the time allowed for an individual to speak or to allow a speaker a single opportunity to rebut comments made by another speaker. Any such rebuttal shall be limited to three (3) minutes. After receiving public comments as provided herein, the public hearing shall be closed and all further discussion on the matter shall be limited to members of the Council. One participant's allotted time for addressing the Council may not be donated to another participant.

(g) As the Council considers agenda items, other than items noticed for public hearing, the presiding officer may, at his discretion, or at the direction of a majority of the Council, accept comments from those in attendance.

(h) When considering the first reading of an ordinance, the Council will accept comments from those members of the public who have indicated their desire to address the Council concerning such ordinance by signing up at the commencement of the meeting on the participation cards provided by the City Clerk.

(i) The Council shall follow the order of business as established by the agenda for that meeting; however, in the event a Council meeting continues past the hour of 11:00 o'clock p.m. it shall be the policy of the Council to complete, if possible, the item then under consideration and thereafter table all other agenda items scheduled for that meeting to a meeting to be scheduled by the City Council for the purpose of completing those agenda items or, if the Council is unable to convene such a meeting, then the Council shall table the remaining agenda items to the next regularly scheduled Council meeting.

(j) The Council may reconsider an item, that is, bring back for further consideration, a motion which has already been voted on. To provide usefulness, and protection against abuse, the motion to reconsider can only be made by a Councilmember who voted on the prevailing side of the original motion.

SECTION 10. PUBLIC PARTICIPATION

Avenues for Citizens to Participate in Decision Making Process:

- Public to be Heard
- Submission of Petitions
- Citizen Agenda Items
- Public Hearings
- Regular Agenda Items

- City Council Discussion items

(a) Public to be heard

1. The City Council allocates up to 30 minutes at the beginning of each City Council meeting for citizens who wish to appear before the City Council to make a request of the City Council, voice a complaint or concern, express an opinion, or for some other type of recognition. The Mayor will divide the time equally between all who have signed up to speak; but in no case may a citizen speak longer than five (5) minutes.

2. If an item brought forward under Public to be Heard requires a longer presentation by the citizen or will require staff research or materials, the item may be scheduled by the Mayor for a future City Council meeting as an Agenda item. Citizens who signed up to address the City Council but were unable to do so because of the expiration of the thirty (30) minute limitation will be given an opportunity to address the City Council at the conclusion of the regular Council business agenda.

3. During this Item, citizens will not be permitted to address matters that are on the agenda for the regular portion of the meeting.

4. In order to speak during Public to be Heard, the appropriate participation card must be completed prior to the beginning of the City Council meeting and given to the City Clerk. The City Clerk will be responsible for making sure that cards are located at the entrance to the Council Chambers (or other meeting room) 30 minutes prior to the Council meeting. Citizens can also pick up cards during business hours prior to a Council meeting at the City Clerk's office. The City Clerk, or a person designated by the City Clerk, will be responsible for assisting individuals in completing the card and presenting the cards to the Mayor prior to convening the Council meeting.

5. During the Public to be Heard portion of the Council meeting, no dialogue will occur between Council members and the public. Council members may comment at the close of this item.

(b) Submission of Petitions to the City Council

1. When submitting petitions to the City Council, the petition should state clearly its purpose. The person presenting the petition must provide it to the Mayor at the beginning of the presentation and state a brief overview of its purpose. If not submitted on an item already on the agenda, the City Council will accept the petition and may schedule the item for discussion on the next available agenda.

2. When petitions are received by the City by mail, a copy of the petition will be presented to the City Council and it will be placed on the next available City Council Meeting for discussion by the City Council.

(c) Citizen Agenda Items

1. Agenda items proposed by citizens may be placed on the City Council Agenda under two (2) circumstances:

a. An item brought before the City Council during Public to be Heard and is unable to be presented within the five (5) minute time frame or needs additional research or materials so that the City Council can properly respond, may be rescheduled by the Mayor for a future City Council meeting as an Agenda item.

b. A citizen may request in writing to appear on the City Council Agenda and file such request with the City Clerk's office. The letter shall state the nature of the request and ask that the item be placed on an upcoming City Council Agenda. A copy of the letter will be provided to the City Council and City Manager on the day that it is received by Clerk's Office, but no action will be taken by the Clerk until said copy is endorsed or sponsored by at least one (1) council member or the Mayor. Thereafter, a copy of the letter will be provided appropriately to the proper City Department so that research can be completed and information provided to the City Council. The requestor will be informed of the City Council meeting date upon which the item will be heard.

2. Agenda items are to be considered like all other items on the City Council Agenda. The format for consideration will be as follows:

- Presentation by the individual asking to address the City Council
- Questions of the individual by the City Council
- Presentation by City staff, if necessary
- Questions of the City staff by the City Council
- Public comment
- Discussion by the City Council
- Motion and vote on the item, if necessary

(d) Public Hearings

1. Public Hearings are formal, legally-noticed hearings which the City Council conducts pursuant to State or Federal law. Some Public Hearings are advertised hearings for specific items scheduled on the City Council Agenda. Some

hearings are quasi-judicial, while others are legislative in nature. Some public hearings have specific formats that must be followed and are established by law. All Second Readings of Ordinances are conducted as formal public hearings as a normal agenda item. In those cases, the Mayor will announce that this is a public hearing.

2. The applicant may have as much time as necessary to make the presentation before the City Council. City staff may have as much time as necessary to make a presentation on the subject before the City Council. As with all agenda items, persons wishing to address the issue should have completed an appropriate participation card prior to the beginning of the meeting.

3. The order of a Public Hearing will be as follows:

- Presentation by City staff
- Questions of the City staff by the City Council
- Presentation by the applicant, if applicable
- Questions of the applicant by the City Council, if applicable
- Public comments
- Questions of citizens by the City Council or applicant
- Final Comments by applicant, if applicable
- Discussion by the City Council (City Council members may request additional information from both the applicant and staff during this phase of discussion)
- Decision by the City Council

(e) Regular Agenda Items

1. The City Council provides an avenue for citizens to address all other agenda items. This allows citizens to speak in favor of, in opposition to, or ask questions about a normal agenda item. If the item is on Consent Agenda, the City Council may withdraw the item from the Consent Agenda. If the item is on Consent Agenda, the citizen will need to complete the appropriate participation card and give the card to the City Clerk prior to the beginning of the meeting. The Mayor will inform the City Council that a citizen has requested that an item be removed from the Consent Agenda. If the City Council desires to remove the item from the Consent Agenda, the City Council will need to remove the item for discussion purposes. If the item is removed from the Consent Agenda, the citizen is allowed to address the item. When an item is removed from the Consent Agenda, citizens will be allowed five (5) minutes to comment

or ask questions about the item. If the citizen's questions cannot be answered quickly, the City Council may table the item and schedule it as a regular City Council Agenda item, or may take final action on the item.

2. If the item is on the non-Consent Agenda portion of the Agenda, citizens will be given up to five (5) minutes to comment or ask questions about the agenda item. The Mayor must recognize all who wish to speak and have signed participation cards.

3. The order of consideration of an agenda item that has been removed from the consent agenda and all other regular agenda items will be the same as a regular public hearing item, above.

(f) City Council Reports and Comments

At the conclusion of each City Council meeting, the City Council has scheduled an item where the Council reports on the various committees and groups on which they represent the City, and to make comments in general.

(g) Documents

All documents submitted to the City Council become public records when given to the City Council for their consideration and shall be maintained by the City Clerk in accordance with the public records law.

SECTION 11. DECORUM

The presiding officer shall preserve strict order and decorum at all meetings.

(a) In conducting the public's business, the City Council is committed to the principles of civility, honor, and dignity. Individuals appearing before the City Council are requested to observe the same principles when making comments on items and issues presented to the City Council for their consideration.

(b) Staff members and citizens are required to use proper language when addressing the Council or the audience. Staff members and citizens shall not use profanity or cursing, aggressive or threatening behavior when addressing the City Council or other participants. All comments are directed to the Mayor and not to individual members of the City Council or to the audience. Personal verbal attacks toward any individual will not be tolerated during the conduct of a City Council meeting. The Mayor or Chair may have individual(s) removed from the podium and/or City Council Chambers if such conduct persists after a warning has been issued.

(c) All members of the Council shall accord the utmost courtesy to each other, the City employees and the public members appearing before the Council and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. During Council meetings cell phones are to be turned off or silenced. Use of cell phones by Council members and City staff for talking, texting, emailing or otherwise will not be allowed during meetings while at the dais, except for emergency communications or while on breaks.

(d) In addition to the prohibitions in (c), above, Section 871.01, Florida Statutes declares that any person who willfully interrupts or disturbs any assembly of people meeting for any lawful purpose shall be guilty of a misdemeanor of the second degree, and may be arrested by police officers present. This may be done in the absence of the conduct being noted, or of the offender being called to order, by the presiding officer.

(e) Photo opportunities are allowed before and following a Council meeting. Photo opportunities during a Council meeting will be allowed only upon invitation of the Mayor or presiding officer.

(f) In the case that any person is declared out of order by the presiding officer and ordered expelled, and does not immediately leave the Council Chambers, the following steps shall be taken:

1. The presiding officer shall declare a recess.
2. The person shall be approached by a police officer and advised that he has been ordered expelled.
3. In case the person does not remove himself from the area he may be placed under arrest for violation of Section 871.01, Florida Statutes, should the person continue to willfully interrupt or disturb the meeting.
4. In the event any person who is ordered expelled leaves the Council Chambers voluntarily and then returns to the same meeting, he is subject to arrest for violation of Section 871.01, Florida Statutes, should the person continue to willfully interrupt or disturb the meeting.

The City Manager shall, during all public meetings, have the Police Chief or a uniformed certified law enforcement officer present.

SECTION 12. BOARDS AND COMMITTEES

Members of the City Council have the opportunity and responsibility to represent the interest of the City on various boards and committees that may, from time to time, be established. Participation in these boards and committees is an opportunity for the City

to present points of view that are beneficial to the City and an opportunity to participate in decision making processes that may be of significant importance to the City. The standing committees presently established wherein Councilmembers participate are:

1. Community Redevelopment Advisory Committee
2. Airport Committee
3. Utility Committee
4. Public Safety Committee
5. Beautification Committee

Each Councilmember shall be responsible to accept appointment to at least two (2) of these committees and, once appointed, shall attend duly called meetings of these committees and report back to the Council the activities of and actions taken by the respective boards and committees. The failure to fulfill committee responsibilities may result in censure against the Councilmember involved.

SECTION 13. ATTENDANCE

Three unexcused absences by a Councilmember during the current term of office of that Councilmember from meetings of the City Council, including regularly scheduled meetings and special meetings duly called and noticed, shall constitute grounds for forfeiture of the said Councilmember's office pursuant to Section 3.04 of the Charter of the City of Lake City. The City Council, at the conclusion of each meeting, may review any reasons or excuses presented by a Councilmember related to that Councilmember's absence at the next preceding meeting and by majority of the Council determine whether that absence should be excused.

Members in attendance at a Council meeting must be present when votes are taken and must cast a ballot or, pursuant to Section 28.012, Florida Statutes, declare that there is, or appears to be, a possible conflict of interest according to Florida law and thereupon comply with the disclosure requirements of Section 112.3143, Florida Statutes.

SECTION 14. COUNCILMEMBER CONDUCT

Members of the Council must at all times recognize that their actions, both public and private, may reflect upon the Council as a whole and further may reflect upon the City of Lake City. Conduct unbecoming of a public official may result in appropriate action taken by the City Council including, pursuant to Section 3.04 of the Charter of Lake City, forfeiture of the office of Councilmember.

SECTION 15. WAIVER OF RULES

The Council may, at any time, waive all or a portion of these rules of procedure during the course of a meeting. Provided, however, that any such waiver shall only be done upon a motion and majority approval of the waiver by members of the Council present and voting.

CITY CODE LANGUAGE NEEDING REVIEW

Sec. 2-42. Addressing the council.

Any person desiring to address the council shall first notify the City Clerk of such desire and state the purpose or matter he desires to bring before the council. The City Clerk shall place the request upon the agenda under its proper heading of business, provided the person seeking to address the council has made his request of the City Clerk six hours prior to the meeting; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified person may address the council without securing such prior permission:

- (1) *Written communications.* Interested parties or their authorized representatives may address the council by written communications in regard to matters then under discussion.
- (2) *Oral communications.* Taxpayers or residents of the city, or their authorized legal representatives, may address the council by oral communication on any matter concerning the city's business, or any matter over which the council has control; provided, however, that preference shall be given to those persons who may have notified the City Clerk in advance of their desire to speak in order that the same may appear on the agenda of the council.
- (3) *Reading of protests, petitions or communications.* Interested persons or their authorized representatives may address the council by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings; hearings on protests, appeals and petitions; or similar matters, in regard to matters then under consideration.

(Code 1968, § 2-12)

Sec. 2-43. Addressing the council after motion made.

After a motion is made by the council, no person shall address the council without first securing the permission of the presiding officer so to do.

(Code 1968, § 2-13)

Sec. 2-44. Manner of addressing council; time limit.

Each person addressing the council shall take a seat in front of the council, shall give his name and address in an audible tone of voice for the records, and unless further time is granted by the council, shall limit his address to 15 minutes. All remarks shall be addressed to the council as a body and not to any member. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer.



Bill Codifies Rules on Public Input at Local Government Meetings



BY KRAIG CONN
FLORIDA LEAGUE OF CITIES

CS/CS/SB 50 by Sen. Joe Negron, which passed during the 2013 legislative session, requires local governments, including appointed bodies, to provide members of the public with a reasonable opportunity to be heard on matters before the local government. Currently, the Florida Constitution and Florida statutes are silent concerning

whether the public has a right to be heard at a public meeting.

To date, Florida courts have heard two cases directly addressing whether a member of the public has a right to be heard at a meeting when he or she is not a party to the proceedings. Both cases held that while the public has a

right to attend a public meeting, there is no requirement that the public be given an opportunity to speak or be heard at a public meeting.

Most, if not all, cities likely provide opportunities for the public to be heard at public meetings or on matters coming before the city. If your elected city commission or other appointed city boards or commissions do not already have a policy on speaking at public meetings, you should consider adopting one under the general guidelines within the bill.

The bill creates Section 286.0114, Florida Statutes, and states that a board or commission must provide members of the public with a reasonable opportunity to be heard on a “proposition” before the board or commission. “Board or commission” is broadly defined to include any agency or authority of a county, municipal corporation or political subdivision. The bill does not define “proposition,” but it is likely intended to be broadly applied to include all matters coming before the board or commission.

While the bill requires that members of the public be given a reasonable opportunity to be heard, the opportunity does not have to occur at the same meeting where the board or commission takes official action on an item, whether by formal vote or other final action. However, the opportunity to be heard must comply with the following provisions:

- ▶ The opportunity must occur at a meeting that is during the “decision making” process; and
- ▶ The opportunity must be within reasonable proximity in time before the meeting at which the board or commission takes the official action.

The bill does not specifically state that the opportunity to be heard must occur prior to the official action being taken on an item, but it does imply that this timeframe should apply.

The bill states that nothing in the new law prohibits a board or commission from maintaining orderly conduct or proper decorum in a public meeting. It also allows a board or commission to establish rules or policies on providing testimony. However, the rules or policies can only do the following:

- ▶ Provide guidelines regarding the amount of time an individual has to address the board or commission;
- ▶ Prescribe procedures allowing representatives of groups or factions to address the board or commission, rather than all of the members of the groups or factions;
- ▶ Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her position on a proposition; or to indicate his or her designation of a representative speaker; and

- ▶ Designate a specified period of time for public comment.

The requirement to provide a reasonable opportunity to be heard does not apply under the following circumstances:

- ▶ When an official act must be taken to deal with an emergency situation affecting the public health, welfare or safety, if compliance with the speaking requirements would cause an unreasonable delay in the ability of the board or commission to act;
- ▶ For an official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
- ▶ At a meeting during which the board or commission is acting in a quasi-judicial capacity with respect to the rights or interests of a person; and
- ▶ At a meeting that is exempt from the Sunshine or Open Meetings Law (Section 286.011, Florida Statutes).

The bill provides that if an action is filed against a board or commission to enforce the opportunity to be heard, a court is to assess reasonable attorney’s fees against the board or commission if it is determined that a violation occurred. The court can assess reasonable attorney’s fees against an individual filing an action if the court finds that the action was filed in bad faith or was frivolous. A court can also issue an injunction for the purpose of enforcing the opportunity to be heard.

CS/CS/SB 50 also provides that if a board or commission adopts rules or policies and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with the law. Significantly, the bill also specifically provides that any action taken by a board or commission that is found to be in violation of the opportunity to be heard is *not* void as a result of the violation.

Hopefully, CS/CS/SB 50 will not have a significant effect on the current operations of elected city commissions and city-appointed boards or commissions, as most of these bodies likely already provide opportunities for public input. If your city has not already done so, you may want to consider adopting rules or policies on public testimony that are applicable to meetings of both the elected and appointed entities. The bill is effective on October 1, 2013, and cities should use the next several months to review, and update if needed, current rules or policies on public testimony before city boards or commissions.

Kraig Conn is legislative counsel for the Florida League of Cities. ■

Just at a glance

Section 4. Agendas, Reports and Minutes

- I read this section to say the Clerk prepares the notices, agendas and minutes for only regular council meetings and special council meetings. What about all of the committee meetings? I may have missed it.

Section 12. Board and Committees

- All committees are Advisory Committees (Utility Advisory Committee, etc.)
- I assume their participation on “boards” would not be associated with city meetings