

Leanne Scott <[scottl@rochesterhills.org](mailto:scottl@rochesterhills.org)>

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## Council Rules of Procedure

1 message

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**P. Daniel Christ** <[dchrist@hsc-law.com](mailto:dchrist@hsc-law.com)>

Fri, Feb 21, 2025 at 4:42 PM

To: "Scott, Leanne ([scottl@rochesterhills.org](mailto:scottl@rochesterhills.org))" <[scottl@rochesterhills.org](mailto:scottl@rochesterhills.org)>

Dear Leanne:

This communication is regarding Council's decision, at its last regular meeting, to place on its next regular meeting agenda consideration of a potential amendment to Article VIII, Section.05(a) and (b) of the City Council Rules of Procedure. It was presented and resolved by Council under Article IX Section .02(a) of its Rules of Procedure. Concerns had been raised as to a portion of the rules potentially being misconstrued as unduly restrictive of the public's First Amendment rights during public meetings. The ability to engage in public comment at public meetings constitutes protected conduct under the First Amendment. *Fritz v Charter Twp. of Comstock*, 592 F.3d 718 (6<sup>th</sup> Cir. 2010) (public comment at township meetings is protected conduct); *Briner v City of Ontario*, 370 F. App'x 682, 704 (6<sup>th</sup> Cir. 2010) (addressing council during public comment section of a meeting is protected conduct). After reviewing the language in Article VIII, I suggested a modest change in .05(a) to eliminate the word "personal and" concerning the nature of a person's remark toward Council, Mayor, Staff and other individuals. As slander in Michigan is still an actionable cause of action under MCL 600.2911 and potentially a violation of Michigan's penal code MCL 750.370, that language could remain. Additionally, in Article VIII Section .05(b), I suggested deleting "Continued inappropriate" be deleted and replaced with "disruptive". The heading for .05 "Personal and" should also be deleted.

A question was raised by Council as to the proposed word "disruptive" as compared to "inappropriate". I indicated that what language may be "inappropriate" was subjective to the listener whereas "disruptive behavior or comments is an adjective that describes something that causes or tends to cause disruption in this case the public meeting. If you have any questions or want to discuss in more detail please let me know.

Dan

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