



**CITY OF MERCER ISLAND, WASHINGTON**  
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## **Campaigning Prohibited During Public Appearances at City Council Meetings**

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Following the Council meeting on Monday, March 7, 2016, a question arose as to whether or not individuals may speak in support of, or in opposition to, the so-called “Parks Initiative” during the “public appearances” (citizen comment) portion of the meetings.

### **The City Must Comply with RCW 42.17A.555**

The Public Disclosure Commission (“PDC”), which is the state agency that has established guidelines for local governments in election campaigns, confirmed that city councils may not allow campaign-related public comment during a council meeting under RCW 42.17A.555.

- RCW 42.17A.555 prohibits an elected official or City employee from authorizing the use of public facilities to directly or indirectly assist a personal campaign for election or to promote or oppose a ballot proposition.
- Public facilities include city equipment, supplies and employee work time. RCW 42.17A.555.
- The Parks Initiative is considered a ballot proposition under state law. A ballot proposition is defined as any initiative proposed to be submitted to the voters after it has been initially filed and “before its circulation for signatures.” RCW 42.17A.005(4).

Because state law is directed at elected officials and employees, the Mayor will announce at the next regular Council meeting that based upon the PDC’s guidance, the use of City meeting time and other resources for campaign-related purposes is an unlawful use of a public facility under RCW 42.17A.555. The Mayor must also monitor statements made during public appearances to prevent comments from straying into campaign-related matters.

### **Limiting the Use of Public Facilities for Campaign-Related Speech Does Not Violate the First Amendment**

City Council meetings are considered limited public forums. As a result, restrictions on speech are not subject to strict scrutiny, and restrictions must instead be viewpoint neutral and reasonable.

- Preventing all campaign-related speech at public appearances is viewpoint neutral because supporters and opponents are equally restricted.
- Restricting all campaign-related speech is also reasonable insofar as it is required by RCW 42.17A.555.

### **Public Comment Opportunities**

If the required number of signatures are gathered, then the Council must consider whether to (1) adopt the ballot proposition by ordinance; (2) reject the ballot proposition, in which case the proposition would go to the voters; or (3) adopt an alternative to the ballot proposition, in which case both the original and the alternative propositions would go to the voters. In this event, the Council may hold a public hearing to allow the public to comment on the Initiative prior to the Council’s consideration of, and vote on, the various options, consistent with RCW 42.17A.555.

Also, the limitations on public comments at council meetings do not affect other opportunities to provide input to the City Council on this matter. For example, comments may be submitted via email to: [council@mercergov.org](mailto:council@mercergov.org) or hand-delivered or mailed to: City Council, 9611 SE 36<sup>th</sup> Street, Mercer Island, WA 98040.