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**TOWN OF RICHMOND**  
**MEMORANDUM**

TO: Members of the Town Council  
FROM: Karen Ellsworth, Town Solicitor  
DATE: 20 October 2023  
RE: Conduct of Town Council meetings

I have been asked whether a Town Council member has the right to speak from the podium as a private citizen during the public forum portion of a Town Council meeting.

My opinion is that a Town Council member does not have the right to use the public forum to address his or her fellow Council members or the public.

There is no requirement under the Open Meetings Act that a town council provide a public forum for citizens' comments. R.I. Gen. Laws § 42-46-6(d); Chiaradio v. Westerly School Committee (OM 22-01); Fiero v. Rhode Island Department of Education Council on K12 (OM 20-49); Neill v. Nasonville Fire District Board (OM 19-01). Therefore, no person has the right to speak during a Town Council meeting unless he or she is permitted to do so by the person presiding over the meeting.

In Castelli v. Coventry Town Council, the Attorney General's Office found that § 42-46-6(d) does not prohibit members of a public body from responding to a comment during the "public forum" portion of a meeting, even if the subject matter of the comment was not on the meeting agenda, but that the right to initiate discussion of a matter that is not on the agenda does not extend to members of the public body. R.I. Gen. Laws § 42-46-6(d) explicitly states that "No public body, or the members thereof, may use this section to circumvent the spirit or requirements of this chapter." That is why the Town Council Rules of Procedure says that "town council members may not initiate discussion of a matter not on the agenda" during a public forum.

A Town Council member cannot "recuse" himself or herself in order to speak during public forum. To "recuse" is to voluntarily refrain from discussing or voting on a matter before a public body. Since the Open Meetings Act prohibits a public body from discussing or voting on any matter raised during a public forum, it would be pointless for a Town Council member to recuse himself or herself during public forum. A Town Council member is not a member of the public for the purposes of the Open Meetings Act, and cannot become a member of the public simply by "recusing."

The purpose of the Open Meetings Act is to insure that "public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy." R.I. Gen. Laws § 42-46-1. A meeting is "the convening of a public body to discuss and/or act upon a

matter over which the public body has supervision, control, jurisdiction, or advisory power.” R.I. Gen. Laws § 42-46-2(1).

In my opinion, the Open Meetings Act is intended to limit discussion during Town Council meetings to matters directly related to government administration, and that it is improper for any Town Council member to discuss his or her opinion about the conduct of other Town Council members or any other personal issue during a public meeting. There are other ways for a member of a public body to make constituents aware of his or her personal views and opinions.

The purpose of posting an agenda for a Town Council meeting is to tell members of the public what will be discussed. As the presiding officer, the Town Council President has the obligation to make sure that a public meeting is conducted in an orderly manner and that Council members discuss matters that are within their jurisdiction. For that reason, the Town Council President has the right to prohibit any speaker, whether a member of the Town Council or a member of the public, from making disparaging personal remarks. *See* R.I. Gen. Laws §§ 42-46-5(d), 45-3-18, 45-3-19.