



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

### **RE: 2022-162**

Thursday, April 7, 2022  
1:30 PM

**Location:** Don Davis Room, City Hall

### **Attendees:**

CM Matt Carlucci	Trista Carraher	Sheri Webber
Jon Phillips	Carlo Fassi	Carnell Oliver
Peggy Sidman	Kenneth Browning	Stanley Scott

**Materials distributed:** 2022-162 Substitute

**Audio Link:** [https://www.coj.net/getmedia/Odd849a0-ac79-4f95-bfaa-17516d5a6b59/20220407-Audio-Notice-Mtg-CM-Carlucci-RE-2022-0162\\_DonDavis.aspx](https://www.coj.net/getmedia/Odd849a0-ac79-4f95-bfaa-17516d5a6b59/20220407-Audio-Notice-Mtg-CM-Carlucci-RE-2022-0162_DonDavis.aspx)

**Meeting Convened:** 1:32 PM

CM CARLUCCI

So, I'll probably keep this short, but I have a substitute to what Council President Newby was introducing. And this is not, in any way, a criticism of what the Council President wanted to accomplish, by any means. It's just something that I think might be a little shorter but encapsulate everything he's trying to capture. And so, I want to make sure I preface that because I know the Council President has worked with General Counsel and he's worked with the Sheriff's office. And so, I want to preface everything I say with that.

But his bill goes into a good number of different types of behavior that, you know, might not be appropriate or wouldn't be appropriate at a Council meeting. Maybe dancing and singing, occasionally, if something great happens. But I think the idea is to make sure that the Council President has control over any type of disruption that might happen.

So, starting on line 29. This is part of the Council President's amendment, if I'm not mistaken. Peggy, you can correct me. It says, "Any person who disrupts a Council meeting may be forthwith barred, removed, or otherwise rejected at the discretion of the presiding officer from further attendance at that meeting, if necessary, due to the nature of the disruption. The audience may be cleared from the Council chambers, or meeting location, at the discretion of the presiding officer." Then what I added here was, "Furthermore, the presiding officer shall expect audience members and speakers to conduct themselves with civility and refrain from threatening behavior or language. And the presiding officer shall exercise



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

his/her discretion based upon this expectation.” And then his language picks back up and says, “The presiding officer may call upon the sergeant of arms to enforce directions given by the presiding officer to address violations of this...” and then I just included “expected decorum.”

And I’m just throwing this out because his original bill has so many different things in it. I mean, what if we left something out? I don't know. I'm just throwing this out as an alternative, which might be a little simpler. I was not at Rules Committee. But my Council aide watched Rules Committee, and anyway, I picked up where there was quite a bit of discussion. And so that's why I was wanting, you know, Council President Newby and Council Vice President Freeman to be here as well. Because he'll be inheriting this new rule. And if my attempt to shorten but keep the same expectations as what is in his bill is not going to give the Sheriff's office or the General Counsel's office the tools necessary, then I won't even bother putting it forth. But actually—if you really get down to my base—I really feel like the first lines through 28 was pretty inclusive, but I didn't suggest doing anything with that except leaving it as the Council President wanted.

So, you know, Jon or Peggy, do y'all have any comments that you'd like to put forth? And I don't want to put y'all in a bad spot.

SIDMAN:

No, no. This is great. So, a couple of things. I think you were on the Rules Committee last year. Either last year or the year before where we had everyone assigned a rule. And the rule was then brought forth to the Rules Committee and sometimes the Rules Committee said, “Yeah, we like that change that you're suggesting.” And then there were other times when the Rules Committee members couldn't agree or just said no, and it was left the same.

So, I want to say this in talking about this particular rule. This is a rule that's currently existing. You can see what's existing in the Council rules presently 4.505 because it's what's been stricken. At the Rules Committee on Tuesday, there were a number of people who said, “Okay, listing everything out... then what about the stuff you don't list?” And of course, that was addressed. And whenever we do a rule, we always want to make sure that it is legally defensive. That it's legal and legally defensible. And so, what we'll guard against, and I'm sure Jon will talk about this if he's afforded the opportunity, is that, you know, we don't want anything that's overly broad or vague. And that's what we'll have to defend for the Council when, or if, this were ever brought to bear in in a court of law.

So, there's a balancing act. There's the one side to make sure that everyone understands what the rules are and what the standards are, and then there's the other side that, you know, you don't want to list everything and so on. So that was the debate—a little bit of the debate—that took place at the Rules



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

Committee the other day, and then also just the legal standard. And if, you know, as I mentioned initially, if this rule that the Council President put forth is not, you know... if you'd like to come up with a substitute, we certainly would work with you on, you know, the legal elements, to make sure that we're getting it more in line with what your intent is. And so, I will just give that by way of background, and if you wanted to ask Mr. Phillips anything, that would be great.

CM CARLUCCI

Yeah, and I'll throw one other thing out because that was my kind of my read, as well, when I saw all of these different things listed. It begs the question, "Well, what did we leave out?" And if we need to leave those things in it might be well to still put in the language that I have that kind of covers just about anything else that can happen which is threatening behavior. Because that's the concern, I think, and I appreciate the Council President wanting to keep decorum and wanting to make sure everybody's protected like that. And so, I've always given the Council President high marks for that.

What do you think, Jon?

PHILLIPS

Well, I guess to cut to the chase... or what I think may be the best way for me to answer your question is to cut to the chase. Is that okay?

CM CARLUCCI

Sure. Yes, sir. I'm a big boy.

PHILLIPS

So, the language that you've added, the sentence on page two with "Furthermore" up to "upon this expectation," perfectly fine. I think, actually, that would be a good addition to the current draft.

CM CARLUCCI

Everything in red there, you mean?

PHILLIPS

I'm not sure if I have it in red. Here. Ah, yes, yes, I have it. So, everything in that one sentence in red, I don't have any problem with it all. I actually think that it's not a bad idea. I think it's a good idea. I think I'd prefer to leave "rule" in place, rather than "expected decorum." And then I think it would be our, or my, preference, at least—and I'll tell you why—to leave the specific list in.



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

So, the reason that we were asked to do this is because it was felt that the previous rule might be a little vague. And a modern trend in the First Amendment jurisprudence, the way things are going, is that there are lots of things that are getting thrown out because they're overbroad or vague. And in fact, there was a 11th circuit case that just came out on April Fool's Day. And it was a slightly different context, but it was a fire department's social media policy, and what two firefighters could say or do, and they ended up suing and winning because the 11th Circuit said that the policy was unconstitutionally overbroad. And what the policy said is that it prohibited what could reasonably be interpreted as having "an adverse effect upon fire rescue morale, discipline, operations, the safety of staff, or the perception..."

So, you know, they had a policy that was basically simple, but the 11th circuit felt that doesn't give people notice of what is prohibited. And so to get around the possibility of... and of course, let me back up and say, of course, there's no way to ever guarantee that somebody won't sue over this. But to get around the possibility that people would say, "This is just too vague." You can say, "What's civility?" or "What's disruption of a meeting?" So by describing the behaviors that include disruption of a meeting, you're giving people specific notice that if you do these things, you could be asked to leave the meeting. And of course, as was pointed out earlier, dancing and singing could be appropriate under certain circumstances. That's why it's tied directly to impeding the orderly progress of the meeting.

CM CARLUCCI

Well, and "in his discretion or her discretion."

PHILLIPS

Sure. I mean, sometimes clapping is fine, because you're applauding, you know, somebody getting an award. But other times people start clapping to keep y'all from talking.

CM CARLUCCI

Yes, sir. Well, so maybe to sum it up then... and that's why I thought those specific behaviors were probably put in there. And I have no problem with that. My only problem is what did we leave out, and I thought perhaps the language that we put in, and maybe we just did this by amendment, might help cover anything else that might have been left out.

PHILLIPS

And I can tell you where these came from. This list is a combination of things that make it more specific about certain things that have disrupted meetings in the past that weren't specifically prohibited. So that we're now addressing those specific behaviors to make sure that they're not repeated, and the other parts of it are all from other 11th circuit cases where they've upheld restrictions by the chair for



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

doing what's there. So, for example, that political campaigning thing. There's an 11th circuit case right on point where a guy got thrown out of a meeting because he came to speak at public comment wearing a campaign t-shirt for an ongoing election. So that way people know, you know, you can't do that. You can't come to a meeting while you're talking about, you know, an ordinance you're about to pass and start talking about whether, you know, the president should be re-elected or not.

And then we also drafted them in a way that's specifically to meet the requirements of the case law that it prohibit viewpoint discrimination. So, you can regulate content based upon, "You can't talk about this subject in general," but you can't regulate content based upon the viewpoint. So, for example, if somebody came to the mic and advocated for not voting for Joe Biden and that was okay, and then somebody followed that speaker, advocating for voting for Joe Biden and then that guy got kicked out for politicking. That would be a violation. But this is content neutral. It just says you can't campaign, period, about anything.

CM CARLUCCI

Well, so let me ask you this: I think the language that we've put together—and I understand that taking out decorum and putting back in "rule"—but the language from I guess, on page two, line two, where it says "Furthermore," it runs through line six, and then a little bit to line eight. Should we propose, or would that be better proposed as an amendment to the bill?

PHILLIPS

I think the answer to that is yes. But I'd certainly defer to Peggy.

SIDMAN

Yes, we can just prepare it. You don't need to do a substitute, I mean, in either regard, but I'd be happy to just prepare it as an amendment to the bill. And then I'm assuming you'd be there, too.

CM CARLUCCI

I think it just throws a little bigger blanket on it, but I understand the specifics as well. So that's all I wanted to do. And when I looked at it, I just wanted to make sure we would cover what perhaps might have been left out because I've understood there's been some things done at Council meetings that really is hard to describe in a particular way. And I just think it's awful, but that's the world we live in today.

PHILLIPS

And from the presiding officer's point of view in those circumstances...



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

CM CARLUCCI

Oh, let me say one other thing. One of the things that I heard happen was threatening.

PHILLIPS

Yes, and that's why I think that what you've added in lines two through six is a good thing. I mean, we talked about threatening in this specific risk, but it doesn't hurt to reinforce the idea that threatening behavior is completely unacceptable.

CM CARLUCCI

Okay, thank you. Peggy, can you put that together? That might be your last amendment? I don't know. [laughter]

SIDMAN

Yeah, I'd be happy to do that for you and circulate it.

CM CARLUCCI

Thank you very much. Okay. Well, we have a couple of speakers. Is there anything else Peggy or Jon that you have for me? [nodding] Sheri, is that everything that you think we were trying to do? [nodding]

And I know that there's things happening that shouldn't be happening, and I know it from personal experience. I am concerned about some of these things that we're trying to address. We have a speaker's card for three minutes from Stanley Scott, and then we have one from Carnell Oliver.

SCOTT

Stanley Scott with the African American Economic Recovery Think Tank. My address is on file.

I'm a little confused with the information that you're making. I've been going here going a little over 30 years. We're talking about everything but ethics. Ethics apply to City Council members and applies to everybody in the room. I'm a little disappointed here because you're talking about disruption. But y'all the problem that causes all this disruption in this city. My main concern here is, when it come to City Council, you are breaking the law because y'all keep talking about, "address everybody at the Council," but the First Amendment, as long as I'm not slandering anyone, I can call out a City Council Member's name. When did the law change? When did the federal law change concerning that? We decided to allow that to happen, but no longer since y'all want to start changing the rules because y'all want to dictate the law the way y'all want to. We have the right to call out City Council members by their names and by their positions, and I have a problem with that because every time someone comes up and calls out a City Council member, y'all got a problem with that. Y'all are the ones breaking the law. Thank you.



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

CM CARLUCCI

Thank you, Mr. Scott. Appreciate you being here today. Mr. Carnell Oliver.

OLIVER

Ah, yes, Carnell Oliver. Address is on file. I think, when I look at... I'm just trying to get a good feel for Council President's bill, but I'm also looking at the amendment, and one of the things that I've heard is rules versus discretionary authority. I do recognize that dealing with discretionary, it's a double-edged sword and it's the fox guarding the henhouse. When I look at the amendment underneath line, underneath the substitute, line 15. One of the rules... making vulgar and offensive remarks or gestures is too broad. That needs to be broken down to what you consider vulgar and offensive. Anybody having a conversation, if it's not sweet-talk based and it's raw on a cut, somebody could use that authority as Council President to their best advantage.

So, for me, dealing with rule six on line 15, it needs to be broadened out and a little bit more technical to get a clear understanding of what offensive or vulgar language is. That's one of the key issues with me at this point in time as I look at this legislation. As I go to "impugning the progress" underneath line seven, rule two, "impugning the orderly process by means of shouting, yelling, whistling..." or anything of that nature. Is that gonna... I see that's still underneath rules, but I think that certain things need to be stripped out and given discretionary ability because it may give some positive sense. Just like really putting stuff like cheering, stuff like that, as the rule holds everybody to the same standards. I believe that you need to have some flexibility with that. And everything else I can live with, but it's just really line 15 that I'm most concerned about and I'm a little bit skeptical about line seven, rule two.

These are my two things that really are the biggest concern to me, and if y'all could break that down, be more technical, because I understand that in some instances. I got Council President right now down butting heads right now and he's trying to protect Terrance Freeman because of the simple fact that I contain to challenge the power and I hold people accountable for those seats.

CM CARLUCCI

Okay, thank you Mr. Oliver. To our wonderful security officer, Ken. Do you have anything you'd like to add?

BROWNING

Not really, sir. I appreciate the language that you're wanting to introduce, the "Furthermore" on line two. It complements what OGC has already done. These are the tools that we needed to enforce decorum for whenever the presiding officer decides we need to action. It gives clarity and that's we



## OFFICE OF THE CITY COUNCIL

**MATT CARLUCCI, SR.**  
COUNCIL MEMBER AT-LARGE, GROUP 4  
OFFICE (904) 255-5218  
ECA (904) 255-5159  
E-MAIL: mcarlucci@coj.net

117 WEST DUVAL STREET, SUITE 425  
4TH FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202

need if we have to do any kind of enforcement action [off mic, indecipherable]... I don't think anything has been updated on this for 20 years, and of course, audience behavior or conduct has changed quite a bit, and we want to keep decorum so y'all can do your business. And that's it.

CM CARLUCCI

Okay, well, thank you. And I always have a little bit of interest in any changes in Council rules because my dear old Dad wrote these rules almost 50 years ago. He wrote the Council rules. But there's always need for change and I appreciate the work that the General Counsel has put in and appreciate your comments. I'll propose my amendment just as a way to perhaps give it an umbrella of other types of things. And so, with that said, I guess our meeting is adjourned. Thank you.

Transcribed by <https://otter.ai>

**Meeting Adjourned: 1:56 PM**

Minutes: Prepared by Sheri Webber, Executive Council Assistant – At-Large, Group 4, 904-255-5159, [swebber@coj.net](mailto:swebber@coj.net)

The written minutes for this meeting are an approximation of what was discussed and are not legally binding. The audio-recording for this meeting is available on the City Council website. Remarks were transcribed by A.I. and may not be verbatim.