

The State of South Carolina



Office of the Attorney General

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November 30, 1987

The Honorable Derwood L. Aydlette, Jr.
Member, House of Representatives
Post Office Box 12136
Charleston, South Carolina 29412

Dear Representative Aydlette:

You have asked whether a citizen of a county who lives within a municipality of the county may be denied the opportunity to speak before county council because he is a citizen of the municipality. In particular, you were concerned about Charleston County.

Statutory Authority

Two statutes must be considered to fully respond to your inquiry. First, Section 4-9-110 of the Code of Laws of South Carolina (1976, as revised) provides in pertinent part that "[t]he [county] council shall determine its own rules and order of business." It is therefore necessary to examine whatever procedural rules may have been adopted by Charleston County Council.

The second, a portion of the Freedom of Information Act, is Section 30-4-70(c), which provides that "[t]his chapter does not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised." While you have not indicated that any individual was removed from a meeting of a public body due to disruptive behavior, this statute is mentioned as it could be a limitation on an individual's appearance before a public body.

Rules of Charleston County Council

We have been advised by Arthur Rosenblum, Esquire, Charleston County Attorney, that at the end of county council meetings (i.e., after business has been concluded but before the meeting has been adjourned), the meeting is opened to the public to receive comments by the public. No one wishing to speak at that

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time is denied the opportunity to speak due to his place of residence.

During meetings open to the public while business is being discussed, no one from the public would be permitted to speak except by unanimous consent of council members. Similarly, during meetings of council committee meetings, speaking to the committee by a non-member would be permitted only upon permission of or recognition by the committee.

Finally, a public hearing is for the purpose of letting the public present its views on a particular issue. At public hearings, anyone may speak, though speakers may be required to observe a time limit, as in situations in which time is limited and numerous people wish to speak.

Conclusion

Because it appears that Charleston County Council has adopted procedural rules pursuant to Section 4-9-110 of the Code and, further, since those rules do not appear to prohibit a resident of an incorporated area of Charleston County from speaking to Charleston County Council at an appropriate time during public meetings or public hearings, it appears that a citizen of Charleston County residing within a municipality of the county would not be prohibited from speaking at an appropriate time in a council meeting. An individual who feels that he has been denied an opportunity to speak before the Charleston County Council may wish to talk with Mr. Rosenblum to identify the particular problem and work toward its resolution.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

cc: Arthur Rosenblum, Esquire
Charleston County Attorney

REVIEWED AND APPROVED BY:

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