

March 16, 2023

Newburyport City Council

60 Pleasant Street

Newburyport, MA 01950

To the Newburyport City Council:

I recently attended the March 13, 2023 Newburyport City Council meeting and spoke during public comment. Every time a resident said a City Councillor's name at public comment, they were interrupted and told they could not say any Councillor's name. I had never before heard residents at public comment told they were not allowed to say Councillors' names. After the meeting, I read the City Council rules to try to understand why this is happening nowadays. City Council Rule 18, entitled "Public Comment," does not state anywhere the public cannot say the name of a Councillor. Only Rule 10c details Councillors should refrain from addressing fellow Councillors by their first and last names. That has nothing to do with public comment. If residents are strictly allowed two minutes to speak during public comment, a presiding officer interrupting them and warning them they're not allowed to reference any Councillor disrupts a person's train of thought, takes up valuable seconds and implies the resident is speaking inappropriately. How is the public supposed to understand what a resident is talking about if they are never allowed to reference a Councillor's proposals by name?

Is this prohibition on residents saying Councillors' names during public comment legal? No. In *Barron v. Kolenda*, the Supreme Judicial Court ruled that a resident has a constitutionally protected right under article 19 of the Massachusetts Declaration of Rights "to assemble, speak in a peaceable manner, and petition her town leaders for redress." Article 19, "which was drafted by John Adams with some assistance from his cousin Samuel Adams ... is directly applicable ..." The court specifies, "Under both articles 19 and 16, such civility restraints on the content of speech at public comment are forbidden. Although civility, of course, is to be encouraged, it cannot be required regarding the content of what may be said in a public comment session of a governmental meeting without violating both provisions of the Massachusetts Declaration of Rights, which provide for a robust protection of public criticism of governmental actions and officials." Residents are allowed to say Councillors' names during public comment, as it is protected speech under Massachusetts law.



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