

TRRG  
*(Tucson Residents for Responsive Government)*

**A Report on Public Participation at  
Mayor and Council Meetings**

*April 2016*

**INTRODUCTION**

As is well publicized because of our presidential races' news coverage, there is a serious political discontent, a distrust of all government, across the country. Tucson is not immune from that distrust. Some sectors are more distressed than others. Perhaps as part of this unrest, Tucson residents have expressed frustration with the way the Tucson City Council holds the "Call to the Audience" (CTA) during City Council regular meetings, and how it conducts Public Hearings (PH). The way in which these processes are handled can add to Tucsonans' distrust, enhancing their perception that our governing bodies do not care to listen to their concerns.

TRRG initiated a brief study of these topics, as part of the TRRG goal of ensuring that all the City of Tucson processes reflect: integrity, transparency, accountability, collaboration, and sensitivity to quality of life. For the topics of this study, we also looked for adherence to the constitutional first amendment right of citizens to petition their government, and to the requirements that the Open Meetings Law places on all meetings of public officials.

This report is arranged by type of segment of Mayor and Council public meetings. The segments of interest are: Call to the Audience, Public Hearings and Study Sessions. We first establish what current practice is, do some analysis of the current system, then discuss the various options for change and recommendations for improvement that could be implemented, as well as the rationale for selections among these options.

## CURRENT SYSTEM AND FORMATIVE DATA

Our findings are based on a series of interviews conducted with the current Mayor, a past Mayor, and several current and past City Council members. We also briefly examined a sample of the substantial literature on this subject. In the interviews, we were consistent in asking the same series of questions to all interviewees. Findings from the interviews, an analysis of CTA records for all of one year's meetings, information about how some other cities in Arizona deal with public participation in their City Council meetings, are followed by some options available which may (or may not) enhance Tucson's moving towards more responsive governance. As stated earlier, CTA and PH are held for different reasons, so they are treated separately, although some of the issues overlap.

We had intended to interview all current Council members, the current Mayor, some past Council members and Mayors. But we soon learned that we had arrived at a clear definition of the current processes, and actual conduct, through the interviews we had already done, so we stopped the interviews short of talking to everyone on our list. We of course had all observed in person and participated in multiple Call-to-the-Audiences and Public Hearings.

The current rules for these processes are contained in the document: "Rules and Regulations" of the City of Tucson Mayor and Council, found on the City's website (Reference 3). Sections M and N of that document state the current rules for the participation of the public at Mayor and Council regular meetings.

For charter cities in Arizona, the rules for conduct of the meetings are set forth in the Charter. The Legislature does not set rules concerning the conduct of meetings for charter cities. The only *procedural* requirements imposed by the State are associated with the Open Meetings Law. [The State does require Public Hearings for certain actions by charter cities.]

Tucson's Charter (Reference 3) empowers the Mayor and Council to determine the manner and time for conducting meetings of the Mayor and Council, which are done by ordinance or resolution (see Chapter IX, Section 4 of the Charter). The current regulations cited above were adopted via ordinance by Mayor and Council; the current full ordinance dates back to 1968, with the most recent amendments to the public participation sections being in 2004 and 2012.

### Call to the Audience (CTA)

The current CTA is conducted in regular City Council meetings as the sixth item in the agenda. The Mayor announces that this is the time for CTA and that a 30 minute time period is allotted to this part of the agenda, with each speaker having no more than 3 minutes. People wishing to speak have filled out in advance a card with their name, address, and topic they wish to talk about. Our study of these cards, in Appendix A, shows that only a few people actually indicate what they want to talk about. These cards are turned into a city clerk who hands them to the Mayor. The Mayor then calls on participants, in the order he chooses. He explained he tries to select a variety of issues and points of view.

If there are people who come to speak nearly every meeting, the Mayor puts them last. If there are 10 or fewer cards, there is no problem and everyone gets to speak. The speakers are electronically timed, and a light on the dais goes from green to yellow when 30 seconds are left and goes to red when the time is over. If the speaker does not finish up rapidly, he or she will be interrupted by the Mayor and told time is over. If the speaker still does not stop, the mike may be turned off. Problems may arise when there are more than 10 speakers, so that everyone will not get to speak. The Mayor can extend the time at his discretion.

If there are a number of speakers left that cannot speak due to the time limitation, then the Mayor may announce that if the speakers who are left come back to the next meeting (in two weeks, or, in the summer, in 1 month), and submit a card, the Mayor will call on him or her first. The Mayor said it happens occasionally that someone chooses to come back under those circumstances.

We learned that up to about 10 years ago, the CTA was held as the last item on the agenda and everyone was allowed to speak no matter how long it took. Then the time was moved to the beginning of the meeting so citizens did not have to wait during the whole meeting. The time was set for one hour (2004 amendments) and then was contracted to 30 minutes (2012 amendment). Participants were chosen in the order that they submitted cards, first come, first speaker. City Council meetings used to be held on the first four weeks of every month except summer (the City web page still states so), and now they are only held twice a month. Therefore, being asked to wait until the next meeting may result in a wait long enough that the topic is no longer appropriate.

According to the Open Meeting Law, ARS §§.38-431-431.09 (see Appendix C), all members of the public who wish to attend any public meetings of the Mayor and Council must be accommodated . Tucson uses the CTA as that time at which citizens may address the meeting on any topic not part of a Public Hearing scheduled later on the agenda of the same meeting. This includes bringing to the Council's attention problems with city staff actions or behavior. City Council members cannot address the topics raised. After the end of the CTA, any Council member can ask that a topic raised during the CTA be referred to the City Manager or City Attorney for investigation with a report to come back to the Council. The only time a Council member can respond directly to the comments is when the comments attack a Council member.

TRRG has done a study of the current practice for CTA, utilizing the MP3 recordings of the minutes for the 15 of the 25 City Council meetings, in the period 11/05/2014 through 11/17/2015, at which at least 10 people were allowed to speak. That study is reported in Appendix A. It also includes an analysis of the cards submitted by persons wishing to address Mayor and Council at each meeting in that period. One observation from that study is that the speakers are treated with courtesy and respect during the CTA, even when they spoke overtime or were discourteous. A second observation is that in 11 of the 15 meetings, the Mayor or a Councilmember asked that staff follow up on an item brought up by a CTA participant, implying that something new had been brought to their attention. A third point that emerged is that for 5 of the 15 meetings examined, there were more persons wishing to speak than were allowed in the time allotted, so that some residents wishing to speak appear to be denied an opportunity approximately 30% of the time.

A recent problem with the current situation occurred when the meeting room was filled early and people who came to speak at the CTA or a PH were not even able to get into the meeting room to submit a card. Therefore they were deprived of their opportunity to petition their government through the CTA.

When asked, all the City Council members, new and old, said that they did not often learn something new from the CTA, but felt it was a fundamental right in our democracy to have an opportunity for all citizens to address their government. One problem, they stated, is the people who come every time to CTA and use it to attack the Council, even on topics where the Council has no jurisdiction. Some of the people just like to see themselves on the TV and have their comments recorded. Our study seems to indicate that it does serve a purpose. As found in Appendix A: Mayor and Council do often ask staff to follow up on issues brought to them by residents at the CTA. In

fact, we found that only 26% of the time did Mayor and Council *NOT* refer some item to staff for comment or investigation.

It should be noted that CTA is the only public venue for addressing M&C on issues that do not have a Public Hearing. Some Arizona cities, whose interactions with their citizens we looked at (see Appendix B), allow residents' comments at the time on the agenda scheduled for discussion and vote on that item. This is preferable from a citizen's perspective, in that it is less likely that the Mayor and Council will have forgotten the comments when they are preparing to vote.

### **Public Hearings (PH)**

Some PHs are required by State statute and the Council sets others when they are making a difficult decision and many people care about the topic. Today, citizens have many ways to contact their council members; they telephone, write letters, send emails and meet for face-to-face meetings. The PH is the one opportunity that a Tucsonan has to address all the Council members and Mayor at one time on that topic.

The Mayor opens the PH announcing that there is a one-hour time limit and each speaker will have 5 minutes. The position of the PH on the agenda is announced when the agenda is posted. People have filled in speaker cards with their names, addresses and position on the agenda item. These cards are given to a city clerk who gives them to the Mayor. The Mayor chooses the order to call up the speakers. Given the information on the card he tries to alternate pro and con speakers. The speakers are timed and the green light on the dais turns yellow when 30 seconds are left and turns red when time is up. The Mayor will interrupt those that go over their time and can turn the mike off if the speaker does not finish up. Only about 12 speakers can fit into the one-hour. If there are more than that wishing to speak, they are denied their opportunity to express their opinions at the public hearing. Additionally, there may be more positions or viewpoints than yes or no to the issue before the council.

Our interviewees said that not often do they learn something new from the Public Hearing because they have been doing their homework, reading the staff reports, letters and emails and talking to people. However, sometimes a speaker *will* present a new perspective and new information. The Public Hearing is also an opportunity to judge the number and intensity of public opinion. If the Council member has done his/her

homework, he or she probably has made a decision on how to vote before the PH or may go in with an open mind waiting to hear more about the issue that will convince him or her to vote yea or nay. There could be a problem if the Council member would like staff to provide more information on an aspect raised during the PH and a vote is scheduled for that meeting. Council members can ask for a PH to be continued to the next meeting.

From the interviews we learned that in the past some Mayors would set up the meeting with two microphones. Those that wanted to speak in favor of the item would line up at one and those against would line up at the other. The Mayor would call on people at one mike then the other. At about 1/2-2/3 of the way through the hearing, when it was clear that everyone wasn't going to get to speak, the Mayor might suggest that those with no new information could just say, I agree with speaker X or Y rather than repeating the argument. In this way more people got to express their opinions. A City clerk would collect the cards as a speaker spoke so there would be a record. There were also periods of time, under previous M & Cs, when all persons who wanted to speak got to do so, no matter how long the hearing took.

The current practice, particularly when there are more speakers than can be heard in the time allotted, is for the Mayor to sort the cards into pro and con, then select alternately (but not randomly) from these two stacks, until time runs out.

Usually after a PH the Council will move to a vote. If the Council moves immediately to vote without any discussion of their vote, or any expression of having heard the citizen's arguments, the public may feel the whole PH was a waste of time. Many have expressed their frustration that they took the time to prepare thoughtful comments and effort to come and speak to the Council, and they get no feedback from Council members. To those participants, it is as if the PH never happened.

The assessments we found in our interviews with selected new and old Mayor and Council Members mirrored well the assessments available in the literature on public participation in policy matters (see, for example, Reference 1). Many studies and analyses of such participation by the public indicate that although officials rarely learned something new from this public process, nor did it often change their minds on voting, they uniformly thought it important to have the process.

## INFORMATION FROM OTHER CITIES IN ARIZONA

A survey of Arizona cities shows a wide range of approaches to holding “Call to the Audience” and Public Hearings. See Appendix B for a table of the methods and cities. The method used does not seem to be related to population for cities (not true for towns, where the State statutes dictate more rules and details).

## OPTIONS FOR CHANGE

### Call to the Audience.

The first amendment to the Constitution of the United States states, in part: *“Congress shall make no law respecting... the right of people to petition the government for redress of grievances.”*

This applies to all levels of government. There is, however, no *direct requirement* by the State of Arizona for there to be any opportunity for the public to be able to address the Mayor and Council at a regular meeting. The perception of fairness in choosing speaker cards from those turned in is crucial to the credibility that a citizen’s speaking in a meeting of Mayor and Council will be taken seriously, or can have an effect. There was also a concern raised that this same selectivity with respect to speakers can be used to restrict the topics introduced and the tone of the discussion.

**We note: The opportunities offered currently to the public for addressing Mayor and Council as well as the public at large, other than in Public Hearings, have been *reduced to one fourth* of what they were 13 years ago (reduced from 1 hour to ½ hour per meeting, with Regular Meetings now occurring twice a month, instead of four per month.)** . If the public views this reduction of the opportunity to speak as a signal that CTA is merely a pro-forma exercise, and not valued by Mayor and Council, then it becomes a useless, empty gesture in the citizens’ eyes.

**The Arizona Attorney General’s website (Reference 2, and Appendix C) states that the Open Meeting Law provision for the public to have access to all public meetings is NOT met when the meeting room is too small to accommodate the reasonably anticipated number of observers.** In other words, too small a room is not an excuse.

The methods suggested in our interviews to fulfill the principles of citizen's rights, for choosing speakers and order in which they are called, are:

1. Mayor 's judgment.
2. Random choice - clerk randomizes the card order, and the Mayor selects in that new order.
3. Order in which cards were submitted

As to duration,

4. Adjust time allotted to the CTA so all get to speak (at least 3 minutes a person); avoid full repeats by requesting that speakers say "I agree with the previous statement by..."
5. Persons submitting cards dealing with that meeting's agenda, up to 20 cards, taken in the order submitted, are chosen to speak in a first CTA (lasting no more than one hour), at the beginning of the meeting (three minute limit); the rest can speak at the end of the meeting until all have spoken.
6. Have a very short CTA to bring forward non-agenda concerns only, and allow citizens to speak directly to agenda items at the time they are brought up to be voted on.

The TF recommends Option number 6, because it maximizes citizen participation, and in the majority of meetings, it will present no timing difficulties. We do understand, however, that this option may cause some meeting timing difficulties when controversial subjects arise. This is expressed as:

**Recommendation 1: Have a very short CTA to bring forward non-agenda concerns only, and allow citizens to speak directly to agenda items at the time they are brought up to be voted on.**

As a matter of principle, **the TF would like for everybody who wishes to petition their government to be able to do so.** We think citizens should be heard on an issue in a timely way before a vote is taken. But it is also possible for Options 4 or 5 to be made to work well.

We find it essential also that Options 2 or 3 regarding method of selection be used:

**Recommendation 2A: The speaker selection be random or in the order submitted.**

**Recommendation 2B: The method that is actually used for speaker selection needs to be made public in some detail.**

This is what transparency and fairness mean as applied to this situation. Making this information public will enhance the public's perception of being treated fairly. The result of a CTA has to be meaningful to all involved, otherwise there is no point in doing it.

### **Public Hearings**

Perceived fairness in choosing speaker cards from those turned in will be essential here also. Access to the chamber has been, however, a problem sometimes.

Suggested methods for choosing the speaker order, from our interviews and consistency with espoused principles:

1. Set up two microphones and have people line up, for one mike for pro and another mike for con. Mayor calls on people alternating mikes. If numbers *are* large, then, at the beginning of the hearing, ask that speakers please refrain from repeating, but instead, when it is their turn, to say "I agree with Mr. X or Ms. Y", and then sit down.
2. Mayor 's judgment
3. Random choice - clerk randomizes the cards and Mayor selects cards in the new order
4. Order in which cards are submitted

As to total time allotted:

5. Adjust time allotted to each speaker so all get to speak (at least 3 minutes a person)
6. Expand hearings so *everyone* gets to speak, with:
  - a) a 3 minute time limit, when a large number wish to participate;
  - b) request that speakers not repeat what was previously said, instead, simply stating agreement with those previous speakers, and
  - c) reduce the time *between* speakers by announcing the next speaker upcoming.
7. Call in to reserve a spot, rest first come, first served.

We believe that 1, 3, 4, 5, and 6 would be most likely to avoid instances of perceived unfairness.

Because the Mayor and Council most often vote immediately vote on the issues involved in the hearing without comment, it may seem to some persons that a Public Hearing is viewed by the Council as merely gesture, that they have decided how they will vote well ahead of time, and are just going through the motions to satisfy rules.

There is evidence, however, that there is some value to the PH for them. An analysis of the value of such participation is articulated in a study of city council meetings in California. (Reference 1)

This study, with the same outcomes we found in our interviews, indicated that these venues for public participation served significant functions for both the office-holders and the public: a) they can be a vehicle for providing information about the extent of support an issue has, as well as a conduit for education about an issue through the engagement of these persons; b) citizens can raise awareness of their issue by making statements about it at public meetings; c) the public official can also explain an issue from his perspective at the hearing.

One interesting suggestion we heard in our interviews was that, for Public Hearings on controversial issues, it might be useful to officially schedule the vote on the issue to occur at the next meeting (or at a special short meeting) after the public hearing, rather than voting on the same day as the Public Hearing. This would provide an opportunity to assimilate the issues brought forth by the public, resulting in a more deliberative approach.

These remarks led us to the following recommendations on Public Hearings:

The TF recommends alternative number 6 above, because it provides all members of the public who feel strongly about the issue involved in the hearing the opportunity to be heard:

**Recommendation 3: Expand the time for Public Hearings so *everyone* gets to speak, with:**

- a) a 3 minute time limit, when a large number wish to participate;
- b) request that speakers not repeat what was previously said, instead, simply stating agreement with previous speakers, and
- c) reduce the time *between* speakers by announcing the next speaker upcoming.
- d) A description of the method actually used for selection of speakers should be easily available to the public. That selection method should either be randomized or in the order submitted; any personal choice is very likely to be perceived as potentially biasing the commentary. Alternating between pro and con, with a time limit overall, leaves the impression that there are as many in favor as there are against the issue, which may distort the actual situation.

In the case of Public Hearings, TRRG believes that the residents' need to access their elected decision-making body in a timely fashion dictates that all who wish to speak be heard *before* a vote is taken.

**Recommendation 4: We believe it to be good practice, as well as a way to honor the time and effort citizens take to participate, that City Council members and the Mayor should briefly explain their vote on Public Hearing issues.**

### **Study Sessions**

While all meetings of Mayor and Council must be public meetings, meaning they are to be advertised appropriately and held in a place where the public can be present to observe, there need not be any opportunity for the public to provide input (see Appendix C). In Tucson, Study Sessions are conducted with active participation by members of the public by *invitation only*. The rationale for this is that these sessions are for the Council to have a chance to explore ideas and get briefings from staff to inform Mayor and Council on important and complex issues; they are not decision-making sessions. The idea is that the decisions, if any, on these issues will subsequently be made in Regular Meetings, where the public can comment. This rationale is not explained in the city code, but was related to us in our interviews.

Nevertheless, motions are made and voted on during Study Sessions; these motions are intended to give direction to staff on what to work on further concerning the ideas discussed. From our observations, these motions often take the form of directing staff to prepare information and an ordinance towards a given goal. Of course, this means that some form of decision has been made, and the public is placed in the position of only being able to approve of or oppose the proposed action in Regular Session, instead of having an opportunity to contribute towards a better solution before. **For this reason, some Council Members hold Ward Town Halls for their constituents, at which they can have discussions on these issues while the ideas are being formulated.**

## **Council Meeting Room**

The size of the current Council Chambers presents a growing issue. As the city increases in size and citizens continue to be active participants in their city government, there will be need for a larger meeting space. In the meantime, a systematic method of anticipating when Council Chambers will be too small to hold all who wish to attend needs to be developed, and an alternative to just closing the doors when the audience reaches room capacity must be found. The reason for this is the Arizona Attorney General's interpretation of the Open Meetings Law, as we stated earlier (see Appendix C). In the past, another room within City Hall was made available under overflow conditions.

**Other venues:** the Mayor and Council could request the Board of Supervisors to permit the use of their meeting room which is set up with microphones, recording devices and holds many more people. There are also arrangements for security. A third alternative is to use a room in the Tucson Convention Center. That is more problematic since it requires outfitting it with recording equipment, preparing it for broadcasting the meeting, and setting up security.

It is, of course, sometimes difficult to guess when a large group of citizens will show up. A cue might be how many emails the Mayor and Council get regarding the topic. Another might be intelligence that city staff or Council/Mayor staff gets regarding groups that are planning on coming. It is possible for groups to be asked that, if a large number is being organized to come, the group notify the City Clerk's office of the possibility of a large group so they can prepare the room to accommodate them.

**Recommendation 5: All persons who wish to attend a public meeting of M&C must be accommodated, and if there is a Public Hearing, all those wishing to speak to the issue of the Hearing should have access to be able to do so.**

**Recommendation 6: A procedure needs to be instituted to assure the public's access to speaker request cards when an overflow crowd is encountered. Fair access to the podium should not be limited because the room capacity has been reached.**

**Recommendation 7: TRRG recommends that M&C articulate, in the public meetings announcements or rules, what they intend to be the difference between a Regular Meeting and a Study Session.**

Specifically, we suggest the following, adapted from the Boulder, Colorado city website, but also mirrored by several cities in Arizona:

What's the difference between a Regular Meeting and a Study Session?

Study Sessions give City Council the chance to work on a particular issue or set of issues. While Council may give direction to city staff during a Study Session, no votes are cast during these meetings. Both Regular Meetings and Study Sessions are open to the public, but only Regular Meetings have open public comment through Calls to the Audience and Public Hearings.

**Reference 1.** Brian Adams, "Public Meetings and the Democratic Process", in *Public Administration Review*, 64 1, pp 43-64, Wiley, 2015

**Reference 2.** [www.azag.gov](http://www.azag.gov) The Attorney General's Agency Handbook, Chapter 7. Section 7.10.1 deals with the open meeting law's provision for access to public meetings.

**Reference 3.** [www.tucsonaz.gov](http://www.tucsonaz.gov), then view 'City Clerk', then 'Mayor and Council Meetings', then 'M & C Rules and Regulations'. The 'City Code' site on the Clerk's website also gives access to the City Charter.

**Persons Interviewed:** Mayor Jonathan Rothschild, Councilmembers Steve Kozachik and Paul Cunningham, former Mayor (and Councilmember) Tom Volgy, and former Councilmember Carol West.

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## APPENDIX A

### **Analysis of Call to the Audience for Tucson Mayor and Council Regular Meetings**

Oscar H. Gandy, Jr., Tucson Residents for Responsive Government (TRRG)

This report has been generated as a part of a project of the TRRG Task Force on Public Participation. An evaluation of the Call to the Audience (CTA) function within regular meetings of the Mayor and Council (M&C) was to be based in part on an evaluation of one year of M&C meetings. Minutes of M&C meetings from 11.05.14 to 11.17.15 were examined to determine which sessions were more likely to have problems with providing opportunities for the public to speak.

On the basis of the number of persons speaking at each meeting, it was determined that the average number of speakers was slightly less than 10, and as a result, all meetings during which 10 or more persons spoke were selected for detailed analysis [n=15/25]. It is important to note that the number of people who were allowed to speak does not necessarily represent the number of people who submitted cards expressing their wish to be heard.

MP3 audio recordings of fifteen meetings were downloaded from the City of Tucson (COT) website following instructions provided by the City Clerk's Office, and Channel 12.

Using a format developed by the Task Force, information about the speaker's name, their topic, whether their comments are focused on an agenda item, the time they began speaking, their emotional tone, responses from members of the Council M&C and analyst's descriptive comments for each CTA session was documented on individual Excel sheets.

The following observations are offered for consideration by the Task Force:

1. As has been mentioned during Task Force meetings, there are a number of speakers who participate quite frequently in CTA segments of the M&C.
2. Although these are only impressions, rather than a reliably confirmed assessment of whether or not the speaker's comments were focused on an agenda item, the overwhelming majority of speakers appear not to be limiting their contributions to those items. This would suggest that the opportunity for M&C to learn something new about public concerns is higher than one would expect if speaker attention had been limited to agenda items.

A somewhat unusual meeting on December 16, 2014 had 12 speakers, and each of them spoke on an item from the consent agenda dealing with the presence of police within the school system who were asking students about their immigration status.

There was another meeting on March 17, 2015 in which 7 speakers had comments about an item that had actually been pulled from the M&C agenda [urban camping, homelessness]. These were counted as being agenda items within the analysis.

4. A related measure for us to consider further was the number of times that the Mayor, or a Councilmember requests the City Attorney, or Manager to follow up in some way with regard to a speaker's concerns. This was a fairly common outcome in that only four of the fifteen meetings examined had no such requests. Again, this speaks to the importance of CTA. It is not known, of course, whether the meetings in the year that were not examined because they had fewer speakers were different in terms of their tendency to elicit responses from members of Council.

Arguably, we might expect a response from M&C members when a speaker raised a question in an area that was not already a part of the agenda. This would lend some support to the claim that CTA serves a positive function of bringing issues to the attention of the Council. By correlating the proportion of the speakers commenting on agenda items with responses from the Council, that question can be examined from a distance. A small negative correlation (-.131) suggests that speakers' topics *not* being on the agenda are associated with responses from the Council.

5. It is perhaps important for our final report to discuss the Mayor's performance in general, and with regard to specific cases. For example, on August 5, 2015, there were too many potential speakers (29 submitted cards, while 15 actually got to speak). The Mayor read into the record the names and concerns of 11 people that did not get to speak.

In general, the Mayor was quite patient with those who spoke at CTA, as well as those who participated as an attentive audience of observers that frequently provided extended applause after a speaker finished. The Mayor tended to allow the applause to decay toward silence before announcing the next speaker.

On one occasion (March 17, 2015) the Mayor responded to audience complaints about limitations on the number of speakers by allowing an additional three speakers to be heard on an especially popular topic (urban camping). Seven of

the fifteen meetings were marked by extended applause or requests to share speaking time on the same topic.

6. Speakers tended to speak longer than the allotted time. A bell would ring. If the Task Force determines that an actual measure of speaking time is of particular importance, a stopwatch could be used to see if speakers were being signaled at the end of three minutes, or at the end of the Mayor's patience. On several occasions, the bell was run two or three times, and on rare occasions, the Mayor would speak out to indicate that the time limit had been exceeded.

7. Although there were several occasions, often with the same speaker commenting on the same concerns at a subsequent meeting, references to the political or ideological identity of Latino council members or the City Manager were personally attacked through comments made by speakers. For example, several speakers made repeated reference to Aztlán, or other organizations or identities that the speakers perceived to be anti-American. Even though they had been accused by name in what seemed to be libelous in manner and intent, there were never any responses from M&C or staff to this particular category of attacks.

8. Speaker card images were obtained for the 15 M&C sessions that had at least 10 speakers between 11.18.14 and 11.17.15. There were 5 cases when the number of speaker card exceeded the number of speakers by more than 2 persons. This means that for as many as one third of the meetings when there were a large number of speakers, several people were denied the opportunity to speak.

Speaker cards include a space to allow requesters to indicate whether they supported, opposed, or were undecided regarding the issue being discussed. This feature seemed to be of little value to those seeking to speak, as the number of persons indicating level of support was quite low, with only three persons indicating their position out of the 29 indicating a desire to speak during the August 5, 2015 meeting.

A	B	C	D	E	F	G	H	I
Date	Issue(n)	Cards	Speakers	Agenda	M&C response	Comment	seriousl y unmet demand	Agenda %
11.18.14	sun tran (7)	11	11	2	3			0.18
12.16.14	schools (9)	13	12	12	0			1
3.3.15	bonds (3)	21	15	2	1	only 3 indicated level of support	*	0.133
3.17.15	urban camping (7)	15	11	7	3			0.636
5.19.15	budget(6), Broadway(3)	12	12	5	1			0.417
6.9.15	Himmel Pk (2)	10	10	0	3			0
6.23.15	urban camping (2) immigration (3) charter (3)	11	11	3	0			0.273
7.7.15	budget (5) bond (2)	12	12	0	0			0
8.5.15	buildings/planning (3)	29	15	3	1	only 3 indicated level of support	*	0.2
9.9.15	sun tran (4) homeless (2)	19	12	2	1	only 2 indicated level of support	*	0.167
9.24.15	police (6) homeless (2)	20	12	0	0	only 1 indicated level of support	*	0
10.8.15	homeless (3) veterans on patrol (3)	12	11	0	2			0
10.20.15	marijuana (3)	12	12	2	3			0.167
11.4.15	marijuana (2) vets on patrol (2) charter (3)	12	12	0	2			0.167
11.17.15	election (5) jobpath with many wishing to speak (2)	9	10	2	2	one card [Gerganoff, multiple names most didn't speak]		0.2
							corr: I,F	-0.1312332

## APPENDIX B

**TABLE B: Summary of Call-To-the-Audience (CTA) and Public Hearing (PH) Practices In Selected Arizona Cities**

Comparing selected Arizona Cities' approaches to citizen participation at meetings. The table below was compiled from the websites of the named cities. We have chosen a representative sample of the State's largest cities.

CITY Population	CTA Name	CTA Agenda Placement	CTA Total Time Allotted	CTA Time limit per Speaker	CTA Order of Selection of speakers	PH Total Time Allotted	PH Time Per Speaker	PH Selection of Speakers
Phoenix *1) 1,530,000	Citizen Comment	Before and at end of meeting	15 minute before; after?	3 Minutes	Order received	No limit stated	3 minutes	Order received
Scottsdale *1) 227,000	Public Comment	Before and after meeting	15 minute	3 minutes	No manner of selection	No limit stated	2 minutes	Order received
Glendale 235,000	Citizen Comment	End of meeting	9 Minutes		No manner of selection			
Mesa #2) 458,000	Citizen Participation	All during meeting			N/A	No limit stated		
Tempe 168,000	Public Appearances	Last item at end of meeting		3 minutes	Order received			
Tucson 536,000	Call to the Audience	Item #6	30 Minutes	3 Minutes	Mayor selects	1 hour		

\*1) Public Hearings are not singled out, as citizens can speak to any agenda item.

\*2) All items are on the consent agenda , and are only taken off at Mayor or citizen request.

## Appendix C

### Open Meetings Law

From the Arizona Attorney General's website, Agency Handbook, Chapter 7:

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#### 7.5 The Actions and Activities Covered by the Open Meeting Law.

##### 7.5.1 Generally...

All discussions, deliberations, considerations, or consultations among a majority of the members of a public body regarding matters that may foreseeably require final action or a final decision by the governing body, constitute "legal action" and, therefore, must be conducted in a public meeting or executive session in accordance with the Open Meeting Law. Ariz. Att'y Gen. Ops. 75-8, I79-4. See also A.R.S. §§ 38-431.01(A), -431(3) and Ariz. Att'y Gen. Op. I05-004. **Whether the matter to be discussed may foreseeably require final action is the key to this inquiry.** It is nearly impossible to establish a precise guideline as to when this foreseeability test has been met, and each case should be viewed on its own merits and all doubts resolved in favor of compliance with the Open Meeting Law. The safest course of action is to comply with the Open Meeting Law whenever a majority of the body discusses the business of the public body. It does not matter what label is placed on a gathering. It may be called a "work" or "study" session, or the discussion may occur at a social function. Ariz. Att'y Gen. Op. I79-4. Discussion of the public body's business may take place only in a public meeting or an executive session in accordance with the requirements of the Open Meeting Law.

#### 7.10 Public Access to Meetings.

##### 7.10.1 Public Participation and Access.

**The public must be allowed to attend and listen to deliberations and proceedings taking place in all public meetings, A.R.S. § 38- 431.01(A); however, the Open Meeting Law does not establish a right for the public to participate in the discussion or in the ultimate decision of the public body, Ariz. Att'y Gen. Op. 78-1.** Other statutes may, however, require public participation or public hearings. For example, before promulgating rules, state agencies must permit public participation in the rule making process, including the opportunity to present oral or written statements on the proposed rule. See Chapter 11. See also Section 7.7.7 for a discussion of the authorization (but not requirement) for public bodies to use an open call to the public. The public body must provide the public with access to all public meetings. See A.R.S. § 38-431.01(A). **This requirement is not met** if the public body invokes any procedure or device that obstructs or inhibits public attendance at public meetings, such as requiring persons to sign in before they are permitted to attend the meeting or holding the meeting in a remote location, **in a room too small to accommodate the reasonably anticipated number of observers**, in a place to which the public does not have access,

such as private clubs, or at an unreasonable time. The Open Meeting Law, however, does not prevent a public body from requiring persons who intend to speak at the meeting to sign a register so as to permit the public body to comply with the minute-taking requirements. See Section 7.8.2(5).

Arizona State Statutes:

38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.