

First Amendment and Robert's Rules (14)

The Bethlehem Gadfly City government, Gadfly's posts, Serious Issues January 14, 2019
(14th in a series of posts on City Government)

Respectfully, again, this gadfly thinks that President Waldron's comments at the January 2 meeting on the relationship between the First Amendment and Robert's Rules are tricky.

Here's the primary source again: <https://youtu.be/RptHNnGbetk>

I also want to make a couple general remarks which I'm sure some other members of council will want to jump in on once we get to new business about some of the accusations of some of the rules of Robert's Rules, and my opinion on that. I spoke to Mr. Spirk about it, and I went back and did some research on some of the minutes and some of the things that were said by members of council and by members of the public, and I just don't see a lot there as far as violation of Robert's Rules. Personal attacks, I think, is a term getting thrown around for political reasons. I think there's a healthy debate, and I think there's respect for each another on Council. We may not agree with each other, and that's fine, and that comes down to the vote some times, and I like to think they we can move forward professionally. But I think there is a decorum here, and I don't think that there has been a lack of professionalism.

There's been calls for me to gavel down other members of Council when they are speaking, and I don't see myself doing that in 2019. I think that the First Amendment is strong and well in this room, and I have great respect for it to the point that I respect it over Robert's Rules. I think that people should have the ability to speak their mind as long as they are doing it in a respectful way, and I think that disagreement is good because it shows different points of view and perspectives.

Again, you may not agree with that assessment, and you might think that we should follow Robert's Rules to the "T," but my view is that we should be able to have a positive conversation in which we respectfully

disagree with each other. That is not prone to personal attacks just because we use each other's names. That doesn't mean that it is a personal attack. It's just a differing of opinion. . . . I give great respect to Robert's Rules, but I think the First Amendment, as Mr. Spirk would agree, in court rulings is that the First Amendment will trump Robert's Rules any day of the week. So if you want to point to Robert's Rules and say these are the rules we are supposed to be following, I do respect those, however, I think that a healthy dialog starts with the ability to express yourself, and if you don't like what someone else is saying, I don't think censoring their speech is the right thing. I think topping it with better speech, more accurate, or a different point of view is a fine thing to do, just like Mr. Antalics and I did this evening. And we can respectfully disagree on a different point of view, but that's part of the process, I think.

Here is the pertinent section from our [Rules of Council](#):

RULE 12. Robert's Rules of Order shall govern the proceedings of the Council on all matters not specially provided for herein.

President Waldron says, "you might think that we should follow Robert's Rules to the 'T'."

Pause there. Gadfly thinks the default answer from most of us would be "yes."

President Waldron, though, introduces a "but."

President Waldron: "but my view is that we should be able to have a positive conversation in which we respectfully disagree with each other."
[my emphasis]

President Waldron introduces a second "but" construction, here founded in authority from the solicitor and court precedent.

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As an inquisitive, curious, nerdy kind of scholar with too much time on his hands, Gadfly would be interested in reading a few such pertinent court cases. He asked the solicitor for references if there are specific cases involving Robert’s Rules or analogous situations but hasn’t heard back.

But the question is really moot. For President Waldron and I disagree at point one. I don’t see the “clueless” comment compatible with having “a positive conversation in which we respectfully disagree with each other.” He does.

So that’s not the point on which I would focus here.

Gadfly does not doubt the trumping power of the First Amendment, but the thing that’s bothersome to him here is the unilateral assertion by President Waldron of the subordination of “Rules of Council.”

If a rule of Council is to have a qualifier, should it not be explicit and adopted by majority of Council? Is such a judgment for the rest of 2019 as President Waldron is making a permissible part of presidential discretion and authority?

Just asking.

For the question is part of a bigger picture Gadfly has noticed – the valuing of personal viewpoint over, say, the Comprehensive Plan or a Zoning ordinance.

Gadfly never thought of himself as such a strict constructionist as over the last few months watching opinions and decisions in the 2 W. Market and 306 S. New controversies.

Gadfly has said that one of the functions he hopes to serve is helping to form better informed voters. It’s become clear to him that CW’s Negron and Van Wirt start their thinking on – for want of a better term – law,

whereas several, but not all, of the other Councilmen, seem to start their thinking on what they feel or believe, even to setting themselves up as authorities on neighborhoods they don't live in.

Worth noting. Worth thinking about.