



Q Does a supervisor have authority to not recognize members of the public or board members who want to ask questions on agenda items at a board meeting or to add to the agenda?

It is a pretty universal aspect of parliamentary procedure that comments or questions are directed to the board, or to the audience, through the moderator. So yes, the supervisor does have the authority to not recognize someone who wants to speak, if it is out of turn or not an appropriate place in the agenda. And a supervisor should stop inappropriate interactions between the board and the audience, or between board members.

If a meeting is conducted appropriately to enable the township board to do its business in the only time and place that it is allowed by law to act as a board, then there really is no point in the meeting where there should be a back and forth between the board and the public, other than during a public hearing, or an open forum discussion, for example, that is on the board's agenda for that meeting.

It's a board meeting

Under the Open Meetings Act (OMA), the *only* place a township board can do its business is in a public meeting of the township board. Board meetings are the business meetings of the township board, and it's in the best interest of the township as a whole that the board conduct its business in an organized, productive and business-like manner.

The public, however, can interact with the township at *any* time, going to the township offices, phoning or emailing the township or specific officials or visiting the township website—even buttonholing board members at the grocery store.

Township board meetings are not “town hall meetings” where everyone has a say in the decisions, and they are not meant to be extended complaint sessions or arguments. This is something that many people, including township boards themselves, lose sight of, especially nowadays when national politicians regularly use the term “town hall meeting” to refer to a public forum. But that does not represent the form of local representative government that we have in Michigan.

A township board meeting is *not* a debate or equal time situation for the public or individual board members. The public does not have a vote in the board's decisions, and they have the legal entitlement to express their opinions at a board meeting only during the public comment period or a specific public hearing.

The idea that all concerns, complaints, opinions, etc., must be expressed at a board meeting is not mandated by law or recommended from a practical standpoint. By their nature, board meetings can put either “side” on the defensive in a very public place.

In reality, many issues the public bring to a board meeting are better handled—in the interests of the public—by township officials or staff in their offices. Comments or questions raised by the public at board meetings are, for the most part, not specific township business that must be transacted *by the board*. They are often issues involving administrative procedures, and there is no question that this is an important aspect of a township doing its business properly. But until or unless it rises to a level that must be addressed by the board, such a question or concern can and should be addressed by the appropriate township official or staffer following township policies and practices in a business-like and customer service-oriented approach. If it is appropriate for a board member or staff member to address a member of the public's concerns, then it's usually something best handled in the office, where officials or staff can meet with the person individually to respond to their concerns, with the appropriate resources or information at hand.

The public has a protected right to speak

Under the OMA, the public does have a legal entitlement to attend township board meetings, to see all actions taken by the board, to record the meetings, and to have one, “magic, free speech” public comment period (my description), sometime during the meeting:

MCL 15.263: “(1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. *However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.* [Emphasis added.]

The OMA allows a board to establish reasonable rules and regulations to enable it to do its business with a minimum of disruption. These include adopting rules of parliamentary procedure, such as *Robert's Rules of Order*, and limits on the amount of time individuals may speak during public comment.

Under township law and accepted parliamentary procedural practices, like *Robert's*, the supervisor is the moderator (chair) of the meeting, enforcing the reasonable rules and regulations, and ensuring that the board will have sufficient time to do its business during that meeting.

The supervisor recognizes the members of the public who wish to speak during public comment. Because the OMA requires that anyone who wants to speak during the public comment period be given an opportunity to do so, a supervisor should not prevent a member of the public from speaking during the one “magic, free speech” public comment period required by the OMA—as long as the person is following the board’s reasonable (and lawful) rules. Basically, the only time a person might not be allowed to speak during public comment is if that person has already had his/her one opportunity—there is no “rebuttal” or follow-up option required by law—or if they have begun to make personal attacks unrelated to the function of the government, at which point the supervisor may ask them to limit their comments.

The supervisor should not allow board members to interfere with the public’s right to speak during that public comment period. During public comment, the board listens to the public. Conversely, the public cannot demand that individual board members respond during public comment, and individual board members should not direct comments individually to members of the audience. If an immediate response is appropriate, questions are directed to board members by the supervisor. The board may also direct that specific staff or officials contact the person or meet with them at a break in the meeting, or initiate a response in the normal, business course.

Then when public comment is done, the board addresses the business on its agenda, and the public is able to watch the board do its business. They can only participate in the business portion of the meeting to the extent, if any, that the board, through the supervisor, seeks their comments. The supervisor should not recognize members of the public unless it’s in compliance with the board’s rules and agenda. Many boards do encourage and allow the public to comment on individual agenda items. That’s an individual board’s choice, which should be spelled out in policy for both the board and the public to understand what is allowed outside of the OMA-mandated public comment period.

Board members should support staying on track

The supervisor also recognizes the members of the board who wish to speak during the business portion of the meeting. The supervisor should treat all board members with respect, and fairly and consistently recognize all board members who wish to speak in compliance with the meeting’s agenda and the board’s rules regarding participation.

A board meeting is also not a platform for individual board member “agendas.” Individual board members who want to have their say on something not on the agenda or not involving specific township board business may use the “board forum” time on the agenda, if the board provides for one. But this should be done sparingly.

If something warrants board attention or action, it should be placed on the meeting agenda per the township’s procedures for setting board meeting agendas. This assists

the supervisor (or whoever establishes the tentative agenda in advance of the meeting) in arranging the agenda to ensure sufficient time to appropriately address the items, as well as giving the board members and staff time to consider information or materials prior to the meeting.

When board members wish to ask township staff a question from the head table during a board meeting, they should ask the supervisor for permission to address that staff person or to have that staff person speak to the board at that point in the agenda. This is not asking permission to talk to the staff person at all—it’s just following parliamentary procedure to ensure that the meeting does not get off track. Remember, board members can talk to staff outside of a board meeting. The best approach, if staff are going to be asked for information or asked questions in a meeting, would be to place the matter on the agenda—if only to give them notice to be prepared to provide the information being requested.

Hello, MTA ... ? provides general information on typical questions asked by township officials. Readers are encouraged to contact an attorney when specific legal guidance is needed. Member township officials and personnel may contact MTA Member Information Services with questions or requests from 8 a.m. to 5 p.m., weekdays, at (517) 321-6467 or fax (517) 321-8908.



Unparalleled service, exceptional value

In 1987 we first introduced our feature-rich software in our home state of Michigan. Today, 98% of municipalities across Michigan are running BS&A applications.

Municipalities throughout the country now use our financial management software. These national customers have discovered what Michigan communities have known for decades...our industry-leading applications provide innovative solutions backed by unmatched service and support. And though we continue to update our features to serve you better, we still offer exceptionally affordable pricing.



For more information:
(855) BSA-SOFT
www.bsasoftware.com