FIRE
Foundation for Individual Rights and Expression

May 6, 2026

Plattsburgh Common Council
c/o Justin R. Meyer, Esq.
Corporation Counsel
City of Plattsburgh
1 Cumberland Avenue
Plattsburgh, New York 12901

Sent via U.S. Mail and Electronic Mail (meyerj@cityofplattsburgh-ny.gov)

Dear Council Members:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech nationwide, is concerned by the Plattsburgh Common Council's rules for public comment and their enforcement against resident April Wood. As the First Amendment bars public bodies adopting or enforcing vague, unreasonable, or viewpoint-discriminatory rules that infringe citizens' rights to speak freely and criticize government officials, FIRE urges the Common Council to bring its policies and practices into constitutional compliance.

Our concerns arise from the Common Council's May 15, 2025, meeting, at which April Wood appeared during the public comment period to oppose the nomination of then-Lieutenant Jarrod Trombley before the Council voted on his confirmation as chief-of-police.[1] Ms. Wood relayed information from a packet she obtained through a public records request, stating:

> This packet includes, in order, the formal Section 75 charges filed against Jarrod Trombley, to include charge one: misconduct, incompetence, and insubordination for failing to follow city and department procedures. Charge two: falsifying documentation of worked hours.

She then cited further allegations of misconduct against Mr. Trombley. When she referred to a memo "placing Trombley on administrative leave," Mayor Wendell Hughes interrupted and ordered her to "direct your comments to the Council," adding that "personal remarks are out of order." When Ms. Wood asked for clarification about what qualifies as "personal remarks," Corporation Counsel Justin Meyer appeared to respond that she could not "address employee" by name. When Ms. Wood mentioned Mr. Trombley's name again, Mayor Hughes again warned

[1] City of Plattsburgh, N.Y., *Common Council Meeting – May 15, 2025*, YouTube (May 15, 2025), at 10:53, https://www.youtube.com/live/Btb0DduhX4g?t=653s.

her that "personal comments are not allowed." The third time Ms. Woods mentioned Mr. Trombley's name, Mayor Hughes ordered her to leave the podium. Ms. Woods suffered this treatment even though, while the Council's rules for public comment require speakers to "observe the commonly accepted rules of courtesy, decorum, dignity, and good taste," they do not expressly ban "personal remarks," "personal comments," or mention of a city employee.[2]

Both the Council's curbing of Ms. Wood's remarks and its public comment rules raise serious constitutional concerns. The First Amendment protects speech by members of the public at government meetings.[3] By their nature, public comment periods are, at minimum, limited public forums where the government may impose only viewpoint-neutral restrictions that are reasonable in light of the forum's purpose,[4] such as time limits or rules prohibiting actual disruption. The Council's policies and actions fall short of this constitutional standard.

The Council's Suppression of Ms. Wood's Comments is Unlawful Viewpoint Discrimination

The Council appears to have singled out Ms. Wood's comments for their critical perspective about an individual under consideration for a high-ranking government position. That is textbook viewpoint discrimination. The Council may not restrict comments because they are critical of government officials or employees, or "when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction."[5]

The First Amendment reflects a "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and . . . may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."[6] Federal courts across the country have invalidated rules banning "personal attacks"

---

[2] City of Plattsburgh Common Council, Rules for Public Comment, Jan. 2, 2025, https://www.cityofplattsburgh-ny.gov/sites/cityofplattsburgh.com/files/mayors-office/RULES%20PUBLIC%20COMMENT%20%2001022025.pdf.

[3] *City of Madison, Joint Sch. Dist. No. 8 v. Wisc. Emp. Rels. Comm'n*, 429 U.S. 167, 174–76 (1976).

[4] *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829 (1995).

[5] *Id.*

[6] *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964); *see also Snyder v. Phelps*, 562 U.S. 443, 452 (2011) ("[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.").

or "antagonistic," "abusive," "derogatory," "offensive," "rude," "insulting," or "personally directed" comments.[7] A public body cannot allow officials to "be praised but not condemned."[8]

It is highly doubtful Ms. Wood's critical viewpoint played no role in the Council's decision to suppress her comments. The circumstances strongly suggest an effort to stifle criticism of an individual the Council planned to appoint to an important position in city government. If the Council has allowed other speakers to refer to city employees in a positive or neutral manner, that would further undermine any claim it interrupted and removed Ms. Wood for viewpoint-neutral reasons.

Even if the Council's actions reflected viewpoint-neutral enforcement of a ban on mentioning city employees by name, that rule would itself be unconstitutional. A flat ban on merely mentioning city officials or employees is unreasonable, and thus unconstitutional, for a forum designed to allow the public to express concerns about city affairs.[9] Here, Ms. Wood's remarks about Mr. Trombley's record bore directly on the Council's pending vote on his confirmation as Chief of Police. Members of the public cannot meaningfully comment on government actions without referencing the officials or employees involved. Although the Council may prohibit genuinely disruptive conduct, it may not conflate pointed criticism with disruption.

Regardless of how others perceived them, Ms. Wood's remarks directly addressed city affairs. As such, they lay at the heart of the First Amendment's protection, and the Council lacked any constitutional basis to suppress them.[10]

The Council's Public Comment Rules are Unconstitutionally Vague

The Council's rule directing speakers to "observe the commonly accepted rules of courtesy, decorum, dignity and good taste" is unconstitutionally vague because speakers "of common intelligence must necessarily guess at its meaning,"[11] and it lacks "explicit standards" to

---

[7] *See, e.g.*, *Moms for Liberty — Brevard Cnty. v. Brevard Cnty. Pub. Schs.*, 118 F.4th 1324 (11th Cir. 2024) (restrictions on "abusive," "personally directed," and "obscene" public comments were unconstitutional); *Ison v. Madison Local Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 894–95 (6th Cir. 2021) (bans on "antagonistic," "abusive," and "personally directed" comments violated First Amendment as "impermissible viewpoint discrimination" by prohibiting nondisruptive speech "purely because it disparages or offends"); *Mejia v. Lafayette Consol. Gov't*, No. 6:23-CV-00307, 2025 U.S. Dist. LEXIS 52868, at *24–25 (W.D. La. Mar. 20, 2025) (library board had no authority to restrict public comments on grounds they were "vile," "derogatory," or "confrontational"); *Mama Bears of Forsyth Cnty. v. McCall*, 642 F. Supp. 3d 1338, 1350 (N.D. Ga. 2022) (school district protocol that "attacks of a personal nature . . . will not be allowed" reflected viewpoint discrimination).

[8] *Matal v. Tam*, 582 U.S. 218, 249 (2017) (Kennedy, J., concurring).

[9] *See, e.g., Pollak v. Wilson*, No. 22-CV-49-ABJ, 2024 WL 5164934, 2024 U.S. Dist. LEXIS 229713, at *30 (D. Wyo. Oct. 25, 2024) (A "restriction that allows the Board Chair to prevent any speaker from mentioning the name of any paid district employee for any reason does *not* serve the purpose of the Board meetings, nor does the Board have a legitimate interest in enforcing it.").

[10] *See Citizens United v. FEC*, 558 U.S. 310, 339 (2010) (political speech is "an essential mechanism of democracy, for it is the means to hold officials accountable to the people" and for the people "to make informed choices among candidates for office"); *Virginia v. Black*, 538 U.S. 343, 365 (2003) (political speech is "at the core of what the First Amendment is designed to protect").

[11] *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926).

prevent "arbitrary and discriminatory enforcement."[12] Even in a limited public forum, where "some degree of discretion in how to apply a given policy is necessary, 'that discretion must be guided by objective, workable standards' to avoid the moderator's own beliefs shaping" his enforcement.[13] Undefined terms in the Council's rule such as "courtesy," "decorum," "dignity," and "good taste" are "irreparably clothed in subjectivity" with interpretations varying from "speaker to speaker, and listener to listener."[14] It thus offers no "guidance or other interpretive tools to assist in properly applying" the rule, inviting enforcement based on officials' personal preferences or sensitivities.[15]

There is no written rule prohibiting references to city employees. If the Council relied on its vague decorum rule to silence Ms. Wood, nothing in that rule gave clear notice her comments were prohibited. The First Amendment requires standards fixed by clear and objective criteria, not by the shifting sensibilities of officials who may be tempted to silence speech they find objectionable or inconvenient. And, for reasons already explained, to the extent the decorum rule or any unwritten policy prohibits mentioning an employee by name, it is unreasonable and therefore unconstitutional.

Conclusion

When it comes to protected speech that some listeners may find objectionable, "the remedy to be applied is more speech, not enforced silence."[16] FIRE calls on the Plattsburgh Common Council to bring its public comment rules into compliance with the First Amendment. We stand ready to assist—at no cost—in crafting policies that respect constitutional limits while preserving order at meetings, as we have done with other local governments.[17]

We respectfully request a substantive response no later than May 20, 2026.

Sincerely,

M. Brennen VanderVeen

M. Brennen VanderVeen
Program Counsel, Public Advocacy

---

[12] *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

[13] *Marshall*, 571 F. Supp. 3d at 425–26 (quoting *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 21–22 (2018)). This "need for specificity is especially important where . . . the regulation at issue is a content-based regulation of speech," as vagueness has an "obvious chilling effect on free speech." *Id.* (quoting *Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 307 F.3d 243, 266 (3d Cir. 2002)).

[14] *Id.*

[15] *Id.*

[16] *Whitney v. California*, 274 U.S. 357, 377 (1927).

[17] *See, e.g.*, Carrie Robison, *VICTORY: Michigan city recognizes First Amendment right to 'demean' government officials*, FIRE (Jan. 17, 2024), https://www.thefire.org/news/victory-michigan-city-recognizes-first-amendment-right-demean-government-officials.