

<b><u>REQUEST FOR COUNCIL ACTION</u></b>		<b>MEETING DATE:</b> 9/18/2017
<b>AGENDA SECTION:</b> Consent Agenda/Organizational Business	<b>ORIGINATING DEPT:</b> City Attorney	
<b>ITEM DESCRIPTION:</b> Ordinance Prohibiting Disturbance of Assembly or Meeting		<b>PREPARED BY:</b> Terry Adkins
<p>On Wednesday of last week, the Minnesota Supreme Court struck down that portion of the Minnesota Disorderly Conduct statute which prohibited one from disturbing a public assembly or meeting. The Court concluded the law was not restricted to conduct but could also be used to prohibit constitutionally-protected speech. As such, according to the Minnesota Supreme Court, the state law was too broad in its coverage and was unconstitutional.</p> <p>In the Court's opinion, there is some discussion as to how to fix this problem. I am hopeful that the 2018 Minnesota Legislature will take up this issue. In the meantime, I believe a Minnesota city can adopt its own ordinance that fixes the problem. I have prepared an ordinance that does just that. The enclosed ordinance prohibits one from disturbing an assembly or meeting, but limits the prohibition to conduct that is not protected by the federal or state Constitutions. The draft ordinance specifically excludes speech from its reach.</p> <p>I know of no instances when a City of Rochester assembly or meeting has experienced disorderly conduct to the point where the assembly or meeting is unable to carry out its duties or responsibilities. I do know of several instances in Minnesota when that situation has occurred. Indeed, the case that prompted this Minnesota Supreme Court decision concerning the Disorderly Conduct statute involved a bizarre disturbance at the Little Falls, Minnesota city council meeting where a citizen moved her seat to several locations within the council chambers in order to disrupt the meeting. Rather than wait to see if disruptive conduct ever happens here and then respond to the problem after it occurs, I suggest the proactive step of being prepared.</p> <p>For that reason, I recommend the Council adopt the enclosed ordinance.</p> <p><b><u>COUNCIL ACTION REQUESTED:</u></b></p> <p>Motion to direct the City Attorney to give the Disturbing an Assembly or Meeting ordinance its first reading.</p>		

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING AND ENACTING SECTION 85.065 OF THE ROCHESTER CODE OF ORDINANCES, RELATING TO DISTURBING AN ASSEMBLY OR MEETING.

THE COMMON COUNCIL OF THE CITY OF ROCHESTER DO ORDAIN:

Section 1. Section 85.065 of the Rochester Code of Ordinances is hereby amended and reenacted to read as follows:

85.065. Disturbing An Assembly or Meeting. Whoever does any of the following in a public or private place, including a school bus, knowing that it will, or will tend to, alarm, anger, or disturb others or provoke an assault or breach of the peace, is guilty of Disturbing An Assembly or Meeting:

- A. Disturb an assembly or meeting, not unlawful in its character, so long as such disturbance is caused by unprotected, nonexpressive conduct and not speech.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF ROCHESTER, MINNESOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
PRESIDENT OF SAID COMMON COUNCIL

ATTEST: \_\_\_\_\_  
CITY CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
MAYOR OF SAID CITY

(Seal of the City of  
Rochester, Minnesota)