



County Council of Beaufort County Communications and Transparency Committee Meeting

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Communications and Transparency Committee Agenda

Monday, December 16, 2019 at 3:00 PM

Council Chambers, Administration Building

Robert Smalls Complex 100 Ribaut Road, Beaufort

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. FOIA – PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISH, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. CITIZEN COMMENTS (*Comments are limited to 3 minutes*)

DISCUSSION ITEMS

5. CABLE/INTERNET PROVIDER UPDATE - Century Link, Comcast and Hargray
6. COMMUNICATIONS AND TRANSPARENCY COMMITTEE DRAFT RECOMMENDATION REPORT
7. PUBLIC COMMENT ORDINANCE GUIDANCE
8. ADJOURNMENT



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Internet / Cable Providers Discussion regarding opportunities in our Rural Areas

Council Committee:

Communications and Transparency Committee

Meeting Date:

December 16, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Century Link
Derek Kelly, SC Government Affairs Director
James Burke, Region Operations Manager

Comcast Cable Communications, Inc.
Ronald McGee, Sr. Manager Government Affairs for Savannah – Augusta - Charleston

Hargray (Chris McCorkendale)

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Recommendations Report for the Communications and Transparency Task Force

Council Committee:

Communications and Transparency Task Force committee

Meeting Date:

December 16, 2019

Committee Presenter (Name and Title):

Chris Inglese, Deputy Administrator; Sarah Brock, Clerk to Council; Bill Lisbon FOIA Specialist

Issues for Consideration:

The attached is a recommendation report for the Task Force's consideration and adoption.

Points to Consider:

There have been a few meetings and the draft outline summarizes the substance of the discussions thus far. We intend to invite the internet providers to make presentations in December about internet/cable service in rural areas and emerging technologies for providing internet/cable services.

Funding & Liability Factors:

The recommendations include funding staff positions for implementation and management of the identified tasks.

Council Options:

Recommendation:

Provide comments and feedback so that staff can continue perfecting the recommendation report.

COUNTY COUNCIL OF BEAUFORT COUNTY

**COMMUNICATIONS AND TRANSPARENCY
RECOMMENDATION REPORT**

DECEMBER 16, 2019

BACKGROUND

IN JULY 2019, BEAUFORT COUNTY COUNCIL ESTABLISHED THE COMMUNICATIONS AND TRANSPARENCY COMMITTEE FOR THE PURPOSE OF REVIEWING BEAUFORT COUNTY GOVERNMENT'S PRACTICES, PROCEDURES AND POLICIES TO COMMUNICATE WITH COUNTY CITIZENS AND TO ENSURE THE TRANSPARENCY OF COUNTY GOVERNMENT.

SCOPE

THE FOLLOWING REPORT IDENTIFIES KEY AREAS OF CONCERN WITH BEAUFORT COUNTY GOVERNMENT'S COMMUNICATIONS AND TRANSPARENCY PRACTICES AND PROVIDES RECOMMENDATIONS TO IMPROVE THESE AREAS.

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FOIA / ELEVATION CERTIFICATES

SITUATION: APPROXIMATELY 70% TO 75% OF ALL RECORDS REQUEST MADE UNDER THE FREEDOM OF INFORMATION ACT INCLUDE A REQUEST FOR ELEVATION CERTIFICATES (EC). ECs ARE TYPICALLY FILED WITH THE COUNTY DURING CONSTRUCTION OF NEW STRUCTURES LOCATED IN FLOOD ZONES A OR B WITHIN THE UNINCORPORATED PORTIONS OF THE COUNTY. HISTORICALLY, ECs HAVE BEEN FILED ALONGSIDE OTHER BUILDING PERMIT-RELATED DOCUMENTS IN ONE FILE. THE COUNTY MAINTAINS AS MANY AS 200,000 INDIVIDUAL BUILDING INSPECTIONS DEPARTMENT FILES, MOST OF WHICH ARE SCANNED AND IN DIGITAL FORMAT, ALTHOUGH SOME ARE STILL ON MICROFICHE. IT IS NOT UNCOMMON FOR PERMIT FILES TO BE INDEXED UNDER OUTDATED PARCEL IDENTIFICATION NUMBERS AND STREET ADDRESSES THAT WERE CURRENT AT THE TIME THE PERMIT WAS ISSUED. FOIA REQUESTS FOR ECs CURRENTLY REQUIRE A MEMBER OF COUNTY STAFF TO SEARCH EVERY BUILDING INSPECTIONS FILE PERTAINING TO THE REQUESTED PROPERTY TO LOCATE THE ECs, IF ANY EXIST. TYPICALLY, THIS PROCESS TAKES 10 MINUTES OR LESS PER PROPERTY, AND FOIA REQUESTS FOR ECs ARE USUALLY RESPONDED TO WITHIN A DAY OR TWO AFTER THEY ARE MADE AND AT NO CHARGE.

DISCUSSION: IN ORDER TO PLACE ALL ECs ONLINE, AT LEAST TWO DEDICATED STAFF MEMBERS WOULD NEED TO BE HIRED, TRAINED AND EMPLOYED FOR A PERIOD OF NO LESS THAN TWO YEARS TO SEARCH EVERY BUILDING INSPECTIONS FILE, LOCATE AND EXTRACT THE EC, VERIFY ITS CORRESPONDING ADDRESS AND INDEX IT ACCORDING TO CURRENT PROPERTY ID NUMBERS AND STREET ADDRESS IN ORDER FOR IT TO BE SEARCHABLE TO THE PUBLIC. BY COMPLETING THIS PROJECT, BEAUFORT COUNTY WILL LIKELY REDUCE THE NUMBER OF FOIA REQUESTS BY AT LEAST 50%.

RECOMMENDATIONS:

- FUND AND HIRE TWO EMPLOYEES ON A TEMPORARY (2 YEARS) BASIS TO WORK WITHIN THE RECORDS MANAGEMENT DEPARTMENT TO WORK SOLELY ON THE EC PROJECT.
- DEVELOP PROCEDURES TO SCAN/INDEX ALL FUTURE ECs FOR POSTING ONLINE.
- DEVELOP A SEARCHABLE PORTION OF THE COUNTY WEBSITE TO HOST ECs.

PUBLIC INFORMATION OFFICER / PUBLIC INFORMATION DEPARTMENT

SITUATION: THE COUNTY DOES NOT HAVE A PUBLIC INFORMATION OFFICER (PIO) NOR A DEDICATED PUBLIC INFORMATION DEPARTMENT. THE COUNTY DOES NOT HAVE A DESIGNATED SPOKESMAN OR LIAISON WITH THE NEWS MEDIA; REPORTERS CONTACT MEMBERS OF COUNTY STAFF DIRECTLY OR SUBMIT FOIA REQUESTS FOR PUBLIC RECORDS. THE CREATION AND DISTRIBUTION OF INTERNALLY PRODUCED CONTENT, SUCH AS PRESS RELEASES AND SOCIAL MEDIA POSTS, TYPICALLY HANDLED BY PIOS IN OTHER COUNTIES, IS CURRENTLY OVERSEEN BY THE ASSISTANT COUNTY ADMINISTRATOR FOR CIVIC ENGAGEMENT & OUTREACH AND PERFORMED ON BEHALF OF THE COUNTY BY STAFF FROM SEVERAL DEPARTMENTS (BROADCAST SERVICES, COMMUNICATIONS & ACCOUNTABILITY, OTHERS) OR, IN SOME CASES, BY VARIOUS DEPARTMENTS THEMSELVES (E.G. LIBRARY, PARKS & RECREATION, ANIMAL SERVICES, OTHERS?). THE COUNTY DOES NOT HAVE A STRATEGIC COMMUNICATIONS PLAN OR INTERNAL POLICIES REGARDING PUBLIC INFORMATION PRACTICES, SUCH AS CONTENT CREATION, DISTRIBUTION AND SOCIAL MEDIA ENGAGEMENT.

DISCUSSION: THE LACK OF A PIO, PUBLIC INFORMATION DEPARTMENT AND/OR PUBLIC INFORMATION PLANS, POLICIES AND PROCEDURES HAS CONTRIBUTED TO AN ADVERSE RELATIONSHIP BETWEEN THE COUNTY GOVERNMENT AND THE LOCAL NEWS MEDIA AND THE GENERAL PUBLIC. AN EXPERIENCED PIO IS CAPABLE OF ADVISING COUNCIL, ADMINISTRATOR AND STAFF ON PUBLIC AND MEDIA RELATIONS, RESPONDING TO MEDIA REQUESTS AND SERVING AS A SPOKESPERSON, CREATING POLICY AND PROCEDURES, AND COORDINATING CONTENT CREATION AND DISTRIBUTION THROUGHOUT THE COUNTY.

RECOMMENDATIONS:

- REORGANIZE COUNTY STRUCTURE TO CREATE A PUBLIC INFORMATION DEPARTMENT, ENCOMPASSING THE FOLLOWING FUNCTIONS: CONTENT CREATION AND DISTRIBUTION, WEBSITE CONTENT MANAGEMENT, APPLICATION DEVELOPMENT AND CONTENT MANAGEMENT, MEDIA RELATIONS TO INCLUDE SPOKESPERSON, ADMINISTRATION OF FOIA PROGRAM, PUBLIC INFORMATION/PUBLIC RELATIONS POLICY AND PROCEDURE DEVELOPMENT.
- FUND AND HIRE A PIO TO SERVE AS PUBLIC INFORMATION DEPARTMENT HEAD.

AUDIT/REVIEW OF WEBSITE CONTENT

SITUATION: THE COUNTY OPERATES A CENTRAL PUBLIC WEBSITE (AT [HTTP://WWW.BEAUFORTCOUNTYSC.GOV](http://www.beaufortcountysc.gov)) FOR BEAUFORT COUNTY GOVERNMENT. (ADDITIONAL WEBSITES/DOMAINS ALSO EXIST FOR SOME COUNTY GOVERNMENT DEPARTMENTS (E.G. LIBRARY, PARKS & REC, OTHERS?) AND ELECTED OFFICIALS (E.G., SHERIFF, TREASURER, OTHERS?)). AMONG COUNTY DEPARTMENTS, THE CONTENT ON BEAUFORTCOUNTYSC.GOV IS INCONSISTENT AND, IN SOME CASES, NOT ORGANIZED IN A USER-FRIENDLY MANNER OR LACKS COMMONLY REQUESTED INFORMATION. CURRENTLY, EACH DEPARTMENT'S CONTENT IS DETERMINED AT THEIR DISCRETION AND MAINTAINED BY A STAFF MEMBER IN EACH DEPARTMENT USING WEB-EDITING SOFTWARE (I.E., CASCADE). THERE IS ALSO NO PROCEDURE OR REQUIREMENT FOR DEPARTMENTS TO REVIEW/UPDATE THEIR CONTENT ON A ROUTINE BASIS. THERE IS NO MINIMUM STANDARD FOR CONTENT FORMAT/STYLE/ORGANIZATION ON EACH DEPARTMENT'S WEBPAGE (ARE THE PAGES BEING REVIEWED BY ANYONE OUTSIDE THEIR DEPARTMENT BEFORE THEY GO LIVE?).

(CASE IN POINT: THE BUILDING INSPECTIONS DEPARTMENT PAGE USES AT LEAST THREE DIFFERENT NAMES FOR THE DEPARTMENT: "BUILDING CODES," "BUILDING INSPECTIONS" (PLURAL) AND "BUILDING INSPECTION (SINGULAR) AND CODE ENFORCEMENT DEPARTMENT" (WHICH IS CONFUSING SINCE YOU HAVE A SEPARATE CODE ENFORCEMENT DEPARTMENT). THE PAGE ALSO INCLUDES NO INFORMATION ON HOW TO REQUEST BUILDING RECORDS, ALTHOUGH THIS IS THE MOST COMMON TYPE OF RECORD REQUESTED UNDER FOIA, OR USER-FRIENDLY INFORMATION ON FLOOD ZONES/ELEVATION CERTIFICATES.)

DISCUSSION: FOR THE LAST TWO DECADES, A GOVERNMENT ENTITY'S WEBSITE HAS BEEN A KEY TOOL FOR PROVIDING INFORMATION TO THE PUBLIC AND BEING TRANSPARENT. IN GENERAL, A ROBUST WEBSITE REDUCES WORK FOR COUNTY EMPLOYEES BECAUSE IT PROVIDES INFORMATION TO THE PUBLIC IN A "SELF-SERVE" MANNER. TO MAXIMIZE TRANSPARENCY AND SERVICE TO THE CITIZENRY, THE WEBPAGE MUST BE CONSISTENT, EASILY COMPREHENSIBLE, WELL-ORGANIZED AND WELL-STOCKED WITH AS MUCH INFORMATION AS POSSIBLE. A DOMAIN-WIDE REVIEW/AUDIT OF THE SITE WOULD IDENTIFY INCONSISTENCIES AND DEFICIENCIES IN ITS CURRENT CONTENT AND ORGANIZATION. THE REVIEW/AUDIT SHOULD INCLUDE INPUT FROM OBJECTIVE POINT OF VIEWS, SUCH AS A PANEL OF COUNTY RESIDENCE OR A PROFESSIONAL CONSULTANT.

RECOMMENDATIONS:

- FUND AND HIRE CONSULTANT TO CONDUCT A REVIEW OF COUNTY'S WEBSITE(S) AND IDENTIFY INCONSISTENCIES/DEFICIENCIES.
- DEVELOP STANDARD REQUIREMENTS FOR ALL DEPARTMENT WEBPAGE CONTENT.
- DIRECT STAFF TO PROVIDE ADDITIONAL CONTENT AS NECESSARY (E.G., REPORTS, CONTRACTS, FORMS, ETC.).

COUNTY CHANNEL / PUBLIC MEETING AVAILABILITY/VIEWING

SITUATION: FOIA LAW REQUIRES ALL MEETINGS OF PUBLIC BODIES TO BE OPEN TO THE PUBLIC, ALTHOUGH IT DOES NOT REQUIRE THAT THEY BE BROADCAST OR RECORDED. THE COUNTY CHANNEL BROADCASTS ALL COUNCIL AND COMMITTEE MEETINGS AND SELECT BOARD AND COMMISSION MEETINGS, AS WELL AS OTHER COMMUNITY EVENTS AND INTERNALLY PRODUCED CONTENT. THE COUNTY CHANNEL'S PROGRAMMING IS ACCESSIBLE VIA THE COUNTY'S WEBSITE (BOTH LIVE AND ON-DEMAND) AND THROUGH LOCAL CABLE TELEVISION SERVICE PROVIDERS (E.G., HARGRAY, COMCAST, SPECTRUM). IT IS NOT AVAILABLE VIA SATELLITE SERVICE PROVIDERS (DIRECTV, DISH NETWORK). THE COUNTY DOES NOT BROADCAST MEETINGS VIA OTHER METHODS, SUCH AS FACEBOOK LIVE, NOR ARE THEY CURRENTLY STAFFED TO. THE COUNTY CHANNEL DOES NOT HAVE A TV CHANNEL APP (USED VIA NEWER TELEVISION STEAMING TECHNOLOGIES SUCH AS AMAZON FIRE STICK, APPLE TV, ROKU, ETC.) THE COUNTY DOES NOT HAVE A MEANS FOR PUBLIC COMMENT VIA REMOTE ACCESS.

DISCUSSION: THE COUNTY IS PROVIDING ALREADY UNLIMITED ACCESS TO ITS MEETINGS BY PROVIDING LIVE FEEDS AND RECORDINGS OF PUBLIC MEETINGS VIA ITS WEBSITE. VIRTUALLY EVERYONE HAS SOME FORM OF ACCESS TO THE INTERNET—AT THE VERY LEAST IT IS AVAILABLE FOR FREE AT ALL BEAUFORT COUNTY LIBRARIES—WHILE MORE TRADITIONAL VIEWING OF CABLE OR SATELLITE TV IS IN STEADY DECLINE. STILL, GIVEN THAT SIGNIFICANT PORTIONS OF BEAUFORT COUNTY'S POPULATION STILL USE THESE TECHNOLOGIES, AS WELL AS TV CHANNEL APPS BECOMING MORE PREVALENT, THE COUNTY SHOULD EXPLORE EXPANDING TO SATELLITE AND APPS AND ASSESS THE COST/BENEFIT RATIO OF EACH TO ENSURE IT IS AN EFFECTIVE USE OF COUNTY FUNDS.

RECOMMENDATIONS:

- RESEARCH THE NECESSARY STEPS TO BROADCAST THE COUNTY CHANNEL VIA MOST WIDELY USED SATELLITE SERVICE PROVIDERS IN THE COUNTY AND PERFORM A COST/BENEFIT ANALYSIS.
- RESEARCH THE NECESSARY STEPS TO DEVELOP A TV CHANNEL APP FOR THE COUNTY CHANNEL AND PERFORM A COST/BENEFIT ANALYSIS.
- RESEARCH WAYS TO FACILITATE PUBLIC COMMENT FROM A REMOTE LOCATION.
- BEGIN USING FACEBOOK LIVE FEATURE TO BROADCAST COUNCIL AND COMMITTEE MEETINGS.

INTERNET ACCESS IN REMOTE AREAS

SITUATION: TBD

VERIFY: CABLE TELEVISION/INTERNET SERVICE IS NOT AVAILABLE IN ALL PORTIONS OF BEAUFORT COUNTY. AREAS NOT COVERED BY CABLE ARE POTENTIALLY COVERED BY SATELLITE OR CELLULAR SERVICE. HIGH-SPEED WIRELESS CELLULAR SERVICE (I.E., 3G OR HIGHER WHICH ENABLES INTERNET ACCESS VIA CELLPHONES) IS NOT AVAILABLE IN ALL PORTIONS OF BEAUFORT COUNTY.

DISCUSSION: TBD

RECOMMENDATIONS:

- TBD (PENDING CSP/ISP PRESENTATIONS IN DEC.)

SOCIAL MEDIA USAGE / POLICY

SITUATION: BEAUFORT COUNTY GOVERNMENT HAS PROFILES ON THE FOUR MAJOR SOCIAL MEDIA PLATFORMS, FACEBOOK, TWITTER, INSTAGRAM AND YOUTUBE. DEPARTMENTS AND ELECTED OFFICIALS ALSO MANAGE OTHER PROFILES INCLUDING EMERGENCY MEDICAL SERVICES, LIBRARY, PARKS AND RECREATION, ANIMAL SERVICES, VOTER REGISTRATION, INDIVIDUAL COUNCIL MEMBERS, SHERIFF, EMERGENCY MANAGEMENT DIVISION, TREASURER AND AUDITOR.

THE COUNTY POSTS INTERNALLY PRODUCED CONTENT, SUCH AS PRESS RELEASES, PHOTOS AND VIDEOS, TO THESE PLATFORMS ON A REGULAR BASIS, AND IT SHARES OTHER USEFUL INFORMATION FROM OTHER SOURCES.

THE COUNTY DOES NOT HAVE A WRITTEN POLICY FOR THE USE OF SOCIAL MEDIA IN OFFICIAL CAPACITIES, ALTHOUGH IT DOES HAVE A SOCIAL MEDIA POLICY REGARDING EMPLOYEES' USE OF SOCIAL MEDIA ON AN INDIVIDUAL BASIS (SEE EMPLOYEE HANDBOOK 3.14, AUG. 1, 2016 ED.).

DISCUSSION: SOCIAL MEDIA, REGARDLESS OF ITS PLATFORM, IS A MEANS FOR ORGANIZATIONS TO COMMUNICATE DIRECTLY WITH THE PUBLIC ON PLATFORMS THAT ARE NOW WIDE-SPREAD AND COMMONPLACE. SOCIAL MEDIA PLATFORMS ARE CONSTANTLY EMERGING WITH VARIED AMOUNTS OF SUCCESS. THE COUNTY IS CURRENTLY OPERATING ON THE RIGHT PLATFORMS TO ENSURE MAXIMUM COVERAGE. WHILE PLATFORMS SUCH AS SNAPCHAT OR LINKEDIN MAY BE POPULAR, THEY ALSO MAY NOT BE APPROPRIATE PLATFORMS FOR INFORMATION DISSEMINATION.

OPERATING MULTIPLE SOCIAL MEDIA PROFILES, BOTH ACROSS AND WITHIN PLATFORMS, FOR VARIOUS DEPARTMENTS/FUNCTIONS RUNS THE RISK OF BEING TOO DECENTRALIZED, REQUIRING THE PUBLIC TO IDENTIFY, SUBSCRIBE AND CONSTANTLY CHECK MYRIAD PROFILES TO RECEIVE COUNTY NEWS AND INFORMATION. ACCOUNTING FOR THESE SOCIAL MEDIA PROFILES AND ASSESSING THEIR USAGE AND FUNCTION, AS WELL AS ELIMINATING OUTDATED, UNNECESSARY OR "DEAD" ACCOUNTS WOULD ELIMINATE CONFUSION AND STREAMLINE SOCIAL MEDIA USAGE BY THE COUNTY.

POLICY AND PROCEDURES FOR OFFICIAL SOCIAL MEDIA USAGE WOULD ENSURE NEWS/CONTENT IS DISTRIBUTED ON A CONSISTENT, SYNCHRONIZED AND STRATEGICAL BASIS, AS WELL AS ENSURE COMMUNICATION TO THE PUBLIC VIA THESE PLATFORMS IS PROFESSIONAL AND MADE ON BEHALF OF BEAUFORT COUNTY GOVERNMENT.

RECOMMENDATION:

- DEVELOP POLICY AND PROCEDURES FOR OFFICIAL SOCIAL MEDIA USAGE BY BEAUFORT COUNTY GOVERNMENT AND OTHER COUNTY ENTITIES.
- ACCOUNT FOR ALL SOCIAL MEDIA PROFILES USED BY ANY/ALL BEAUFORT COUNTY GOVERNMENT DEPARTMENTS AND DETERMINE IF THEY ARE USED AND/OR NECESSARY. ELIMINATE UNNECESSARY AND OUTDATED ACCOUNTS.
- MONITOR TRENDS IN SOCIAL MEDIA TO ENSURE BEAUFORT COUNTY GOVERNMENT STAYS CURRENT, RELEVANT.

PUBLIC INFORMATION ACCESS TRAINING

SITUATION: BEAUFORT COUNTY GOVERNMENT MAKES AVAILABLE VAST AMOUNTS OF INFORMATION VIA ITS WEBSITE. THIS INCLUDES PROPERTY DATA, DEEDS, BUDGETS, SPENDING REPORTS, RESOLUTIONS, ORDINANCES AND MEETING AGENDAS AND MINUTES, AMONG OTHER TYPES OF INFORMATION. OTHER RECORDS ARE AVAILABLE UPON REQUEST (VIA FOIA OR FROM SOME DEPARTMENTS DIRECTLY, SUCH AS SOME COURT RECORDS). HOWEVER, FINDING THIS INFORMATION OR LEARNING HOW TO REQUEST IT IS SOMETIMES DIFFICULT FOR THE AVERAGE CITIZEN. BEAUFORT COUNTY CURRENTLY OFFERS NO TRAINING FOR ITS CITIZENS ON NAVIGATING ITS WEBSITE, USING VARIOUS SEARCH TOOLS OR SUBMITTING FOIA REQUESTS.

DISCUSSION: WHAT IS SOMETIMES CONSIDERED AS A LACK OF TRANSPARENCY IS ONLY A LACK OF AWARENESS OF ALREADY AVAILABLE PUBLIC RECORDS OR THE PROCEDURES INVOLVED IN OBTAINING THEM. PROVIDING FREE TRAINING ON A ROUTINE BASIS, SUCH AS MONTHLY IN A COUNTY FACILITY, WOULD BE A VALUABLE SERVICE TO BEAUFORT COUNTY RESIDENTS. TRAINING GEARED TOWARD SPECIFIC GROUPS WHO FREQUENTLY REQUEST RECORDS, SUCH AS REALTORS, PROPERTY OWNERS ASSOCIATIONS, INSURANCE, CHAMBERS OF COMMERCE, ETC. WOULD ALSO HAVE VALUE AND POTENTIALLY ELIMINATE UNNECESSARY FOIA REQUESTS.

RECOMMENDATIONS:

- DEVELOP A TRAINING COURSE BASED ON FREQUENTLY REQUESTED/ACCESSED INFORMATION.
- PROVIDE TRAINING COURSE ON A ROUTINE BASIS AT COUNTY FACILITIES (E.G. LIBRARIES).

SPECIAL PURPOSE APPLICATIONS

SITUATION: THE COUNTY CURRENTLY USES THE FOLLOWING MOBILE APPLICATIONS (“APPS”) FOR DISTRIBUTING AND/OR RECEIVING INFORMATION TO/FROM BEAUFORT COUNTY RESIDENTS: BEAUFORT COUNTY CONNECT AND BEAUFORT COUNTY MOSQUITO CONTROL MOBILE REPORTING APP. (NOTE: NIXEL IS ONLY USED BY BEAUFORT COUNTY SHERIFF’S OFFICE.)

THE COUNTY CONNECT APP IS PRIMARILY USED TO REPORT ISSUES AND MAKE SERVICE REQUESTS (POTHOLE, DRAINAGE ISSUES, TRAFFIC SIGNAL OUTAGES, ANIMAL COMPLAINTS, AND OTHER NON-EMERGENCY REQUESTS) TO LOCAL GOVERNMENT, WHERE IT WILL BE ROUTED TO THE CORRECT DEPARTMENT. IT IS ALSO A PLATFORM TO VIEW PRESS RELEASES ISSUED BY THE COUNTY AND LINKS TO TRAFFIC CAMERAS OPERATED BY THE SHERIFF’S OFFICE.

THE BEAUFORT COUNTY MOSQUITO CONTROL MOBILE REPORTING APP ALLOWS PEOPLE SUBMIT SERVICE OR INSPECTION REQUESTS AND ACCESS OTHER INFORMATION.

BOTH ARE AVAILABLE TO DOWNLOAD FOR FREE VIA THE APP STORE AND GOOGLE PLAY.

THE COUNTY ALSO USES A SERVICE CALLED GOVDELIVERY (GRANICUS) TO DISTRIBUTE GENERAL NEWS AND INFORMATION AS WELL AS MEETING ANNOUNCEMENTS TO SUBSCRIBERS VIA EMAIL OR TEXT.

THE COUNTY USES A FEEDBACK BACK FEATURE ON ITS WEBSITE CALLED CITIZENGRAM, WHICH ALLOWS RESIDENTS TO SEND A MESSAGE TO MOST COUNTY DEPARTMENTS.

DISCUSSION: MOBILE APPS ARE USEFUL BUT CAN SOMETIMES BE SO NARROWLY FOCUSED IN FUNCTION THAT THEY ARE NOT USED. IT MAY BE BETTER TO HAVE WEBSITE-BASED FUNCTIONS RATHER THAN MYRIAD SPECIAL-PURPOSE APPLICATIONS.

RECOMMENDATIONS:

- RESEARCH USAGE OF THE MOSQUITO APP AND CONSIDER ENFOLDING ITS FUNCTION INTO THE COUNTY CONNECT APP.
- EXPAND SCOPE OF COUNTY CONNECT APP TO INCLUDE MORE INFORMATION, SUCH AS SCHEDULE OF UPCOMING PUBLIC MEETINGS.
- INCREASE PUBLIC AWARENESS OF THE COUNTY CONNECT APP, GOVDELIVERY AND CITIZENGRAM AS MEANS FOR THE PUBLIC TO COMMUNICATE WITH THE COUNTY AND VICE VERSA.

USE OF EXECUTIVE SESSION

SITUATION: A PUBLIC BODY IS MEETING. IT HAS COMPLIED WITH ALL THE REQUIREMENTS OF FOIA. IT WANTS TO GO INTO EXECUTIVE SESSION. CAN IT DO SO? IF SO, WHAT PROCESS MUST IT FOLLOW AND WHAT IF ANY LIMITATIONS EXIST?

DISCUSSION: EXECUTIVE SESSION ISSUES ARE CONTROLLED, GENERALLY, BY S.C. CODE ANN SEC. 30-4-70 (A) AND (B). SEC. 30-4-70 (A) ALLOWS PUBLIC BODIES TO ENTER INTO EXECUTIVE SESSION FOR THE FOLLOWING PURPOSES: (1) DISCUSSION OF EMPLOYMENT; (2) DISCUSSIONS OF CONTRACTS AND TO RECEIVE LEGAL ADVICE ON A HOST OF ISSUES; (3) DISCUSSION RELATING TO SECURITY PERSONNEL AND DEVICES; (4) INVESTIGATIVE PROCEEDINGS REGARDING CRIMINAL CONDUCT; (5) ECONOMIC DEVELOPMENT MATTERS AND ONE OTHER MATTER WHICH IS UNRELATED TO LOCAL GOVERNMENT WORK. SEC. 30-4-70(B) REQUIRES A PUBLIC BODY TO VOTE ON A MOTION TO ENTER INTO EXECUTIVE SESSION. IF THE MOTION IS SUCCESSFUL, THE PRESIDING OFFICE IS THEN REQUIRED TO ANNOUNCE THE SPECIFIC PURPOSE(S) OF THE EXECUTIVE SESSION. THE ONLY EXCEPTION TO THE 'SPECIFIC PURPOSE' REQUIREMENT APPLIES TO EMPLOYMENT OR PROPOSED ECONOMIC EXPANSION. DISCLOSURE OF THE INDIVIDUAL OR THE ENTITY UNDER DISCUSSION IS NOT REQUIRED TO BE DISCLOSED.

COUNCIL CAN DISCUSS THE ISSUES PRESENTED FULLY AND EXHAUSTIVELY, BUT IT CANNOT TAKE ANY ACTION AND IT CANNOT COMMIT THE BODY OR ITS MEMBERS TO ANY COURSE OF ACTION. LISTING OF EXECUTIVE SESSION ON AGENDAS IS PREFERRED UNDER FOIA BUT NOT REQUIRED. ENTERING INTO EXECUTIVE SESSION WHEN THE MATTER APPEARS ON AN AGENDA REQUIRES ONLY A SIMPLE MAJORITY VOTE. ENTERING INTO EXECUTIVE SESSION WHEN IT DOES NOT APPEAR ON AN AGENDA REQUIRES A MOTION, A TWO-THIRDS VOTE OF THE MEMBERS PRESENT AND VOTING, AND A STATEMENT OF THE PURPOSE OF THE EXECUTIVE SESSION.

NOTE, IF AN ITEM IS ONE WHICH WILL NOT APPEAR BEFORE THE BODY AGAIN AND WHICH THE PUBLIC WILL, THEREFORE, NOT HAVE AN OPPORTUNITY FOR PUBLIC COMMENT AFTER PRIOR PUBLIC NOTICE IN ACCORDANCE WITH FOIA, THEN IT CANNOT BE ADDED TO AN AGENDA FOR FINAL ACTION EVEN IF THE MOTION TO ADD IT RECEIVES A TWO-THIRDS VOTE UNLESS COUNCIL EXPRESSLY FINDS THAT AN EMERGENCY OR AN EXIGENT CIRCUMSTANCE EXISTS IF THE ITEM IS NOT ADDED TO THE AGENDA. THIS PROVISION IS NOT FOUND IN SEC. 30-4-70 BUT RATHER IN S.C. CODE ANN SEC. 30-4-80 WHICH DEALS WITH NOTICES OF MEETINGS OF PUBLIC BODIES. COUNCIL SHOULD ASSUME COURTS WILL GIVE SUCH ACTION STRICT SCRUTINY AND REVERSE THE ACTION TAKEN UNLESS IT MEETS THE STRINGENT REQUIREMENTS OF THIS CODE PROVISION.

THE LAW IS CLEAR: PUBIC BUSINESS MUST BE PERFORMED IN AN OPEN AND PUBLIC MANNER SO THAT CITIZENS ARE ADVISED OF THE PERFORMANCE OF PUBLIC OFFICIALS AND OF THE DECISIONS THAT ARE REACHED IN PUBLIC ACTIVITY AND IN THE FORMATION OF POLICY. SUCH IS THE FOUNDATION OF DEMOCRATIC SOCIETY. "EVERY MEETING OF ALL PUBLIC BODIES SHALL BE OPEN TO THE PUBLIC UNLESS CLOSED PURSUANT TO SECTION 30-4-70." WHEN IT IS APPROPRIATE, AND ONLY WHEN IT IS APPROPRIATE UNDER SECTION 30-4-70 (A), COUNCIL SHOULD ENTER INTO EXECUTIVE SESSION TO DISCUSS THE BUSINESS OF THE PEOPLE.

RECOMMENDATIONS:

- ENSURE PUBLIC BODIES ARE COMPLIANT WITH STATE LAW IN THEIR USE OF EXECUTIVE SESSION

TRANSPARENCY OF RURAL AND CRITICAL LAND PURCHASES

SITUATION: CURRENT PRACTICE UTILIZES EXECUTIVE SESSION FOR PRESENTATIONS ABOUT PROPOSED PURCHASES OF LAND FOR THE RURAL AND CRITICAL LANDS PROGRAM. THERE IS NO REQUIREMENT FOR THE USE OF EXECUTIVE SESSION. HOWEVER, SOMETIMES THE SELLER REQUESTS CONFIDENTIALITY. OTHER TIMES THE TERMS OF THE NEGOTIATION ARE SENSITIVE BECAUSE IF NEGOTIATIONS ARE PUBLIC, AN INTERESTED THIRD PARTY COULD OFFER A HIGHER PRICE RESULTING IN A LOSS OF THE PROPOSED PURCHASE.

DISCUSSION: THERE HAS BEEN SOME INTEREST IN AN OPEN PROCESS THAT WOULD INCLUDE PUBLIC COMMENT REGARDING POTENTIAL PURCHASES. ADMINISTRATIVE STAFF HAVE CONSIDERED THE REQUESTS FOR A MORE TRANSPARENT PROCESS AND CONCLUDED THAT GENERALLY, NEGOTIATIONS ARE SENSITIVE ENOUGH THAT IT IS APPROPRIATE TO USE EXECUTIVE SESSION DURING THE NEGOTIATING PHASE. HOWEVER, THE MATERIALS PRESENTED TO COUNCIL, IN EXECUTIVE SESSION, FOR THEIR DECISION TO APPROVE A PURCHASE OF LAND CAN BE IMMEDIATELY DISCLOSED AND AVAILABLE TO THE PUBLIC UPON A MAJORITY VOTE OF COUNCIL APPROVING THE PROPOSED PURCHASE. THE COUNTY'S AGENT FOR RURAL AND CRITICAL LANDS PURCHASES HAS BEEN INSTRUCTED TO CHANGE LANGUAGE IN THE PURCHASE AGREEMENTS TO INFORM A SELLER THAT INFORMATION REGARDING THE PURCHASE WILL REMAIN CONFIDENTIAL UNTIL A MAJORITY VOTE OF COUNCIL APPROVES THE PURCHASE, AT WHICH TIME THE MATERIAL WILL BE AVAILABLE TO THE PUBLIC. ADDITIONALLY, THE CLERK TO COUNCIL'S OFFICE HAS AGREED THAT MATERIALS PRESENTED IN EXECUTIVE SESSION REGARDING A PURCHASE OF LAND WILL BE IMMEDIATELY AVAILABLE AFTER A MAJORITY VOTE OF COUNTY COUNCIL APPROVING THE LAND PURCHASE.

RECOMMENDATIONS:

- DISCLOSE ALL MATERIALS PRESENTED TO COUNCIL IN EXECUTIVE SESSION, FOR THEIR DECISION TO APPROVE A PURCHASE OF LAND, TO THE PUBLIC IMMEDIATELY UPON A MAJORITY VOTE OF COUNCIL APPROVING THE PROPOSED PURCHASE.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

DISCUSSION REGARDING PUBLIC COMMENT ORDINANCE GUIDANCE

Council Committee:

Communications and Transparency Committee

Meeting Date:

December 16, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Currently the county only has Rules and Procedures when it comes to Public/Citizen Comment guidance. An ordinance is needed to further help structure public/citizen comment opportunities during committee and council meetings.

Points to Consider:

The attached document from the Citizen Advocacy Center addresses current public comment issues.

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

PUBLIC COMMENT:
MAY I ADDRESS THE ELECTED OFFICIALS AT MY PUBLIC BODY?

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This brochure is meant to provide a general guide to freedom of speech at public body meetings and should not be taken as legal advice.

Citizen Advocacy Center (CAC) is an award winning, non-partisan, 501(c)(3) non-profit, free community legal organization, founded in 1994, dedicated to building democracy for the 21st Century by strengthening the public’s capacities, resources, and institutions for self-governance.

PUBLIC COMMENT: MAY I ADDRESS THE ELECTED OFFICIALS AT MY PUBLIC BODY?

Have you ever found yourself wondering, “Am I allowed to speak at a government meeting?” “When is it my chance to talk?” “Can the public body limit how long I speak or what I say?” “Is it ok for the public body to cut me off?” “What if I have something to say that isn’t popular?”

This “Tool To Use” is offered by CAC to provide background information regarding the right of an individual to speak at local government meetings as allowed under the Illinois Open Meetings Act and the First Amendment. It outlines reasonable government restrictions that a public body may implement. It also includes a sample public comment policy that evidences best practices.

BACKGROUND

Public comment provides one of the few avenues that the public has to make public statements to elected officials on matters of public concern. Prior to January 1, 2011, the Illinois Open Meetings Act (OMA) did not guarantee members of the public the right to address public bodies. Section 2.06(g) of OMA went into effect January 1, 2011 and requires that all public bodies subject to OMA provide an opportunity for members of the public to address public officials at open meetings. Under the OMA, when a majority of a quorum of public officials from a particular government body gather and discuss public business, those meetings must be convened openly, or in the public eye, unless there is a legally sufficient reason that permits the public body to meet in closed, or executive session.

The right to address public bodies at open meetings is not without limits. While the OMA is clear that the public has a right to speak during a meeting of the public body, that right is subject to *reasonable limitations* by the public body.

The law requires public bodies to publish their public comment rules. As such, many public bodies are in the process of drafting or revising their public comment rules of procedure. CAC routinely fields questions about public comment rules published in response to the “right to speak” provision of the OMA. Namely which rules are permissible, and which are not? What are reasonable limitations on the right to speak?

REASONABLE REGULATIONS

Although the OMA addresses the types of rules a public body may adopt, the general rule is that public bodies may only adopt “content-neutral” rules which are reasonable time, place, and manner restrictions necessary to further a significant government interest. Two questions come to mind: What is a significant governmental interest? And what can public bodies do to limit public comment?

Government Interest

Most time, place, and manner restrictions on public comment periods may be justified by the significant governmental interest of having efficient business meetings.

Time Restrictions

An example of time regulation is a protest in a busy city during rush hour traffic. The First Amendment protects the right to protest but the government may regulate the time period of that protest and weigh the right to protest against everyone else's right to travel roads and utilize sidewalks.

At an open government meeting, the public body will have a designated time(s) for the public to speak directly to the government body on the agenda. Members of the public should not yell out or interrupt the meeting from their seats (a possible consequence includes removal from the meeting). Rather, an individual should wait to be recognized by the meeting Chairperson and then address the public body during the specified time period. A public body has the authority to determine the time-frame during an open meeting for the public to speak. An example would be three minutes per speaker for a total public comment period of 30 minutes.

Place Restrictions

An example of a place restriction would be a protest in a bustling city where protesters are limited to certain spaces or prevented by barriers from jaywalking or crossing streets. When government restrictions on your speech are based on your physical location or based on the order of the agenda for a meeting, without regard to the content of your speech, this is called a place restriction.

In the context of an open government meeting, a government entity has the discretion as to where to place the public comment period: public comment may be near the beginning of the meeting, towards the end of the meeting, in both the beginning and end, or even multiple times throughout the public body's discussion of different agenda items.

Manner Restrictions

A classic example of a manner restriction is noise regulation. You have the right to speak at an open meeting, but you may not speak into a megaphone in making your public comment.

Public bodies may require you sign in for public comment and state your name before speaking. If you attend an open meeting, you will likely find a sign in sheet for public comment, or at the very least a copy of the agenda for the meeting with "Public Comment" listed as an item. Illinois public bodies *may not* require any speaker to state his or her physical or residential address. See *Illinois Attorney General Public Access Opinion 14-009*.

PROTECTED SPEECH

During public comment, your right to speak is protected by the First Amendment. What does this mean in practical terms? According to Constitutional law, a public body cannot limit your speech based on its content, meaning the members of the public body cannot limit what you have to say because:

- it's members do not like what you are saying;
- it's members "have already heard it"; or
- the speech is critical of government.

Federal law differentiates between the types of places in which individuals express themselves as well as the value of that expression. For example, common places for gatherings have always included parks and streets. These are considered public forums. Public forums are treated as arenas sacred to public discourse. In a public forum, the government may only impose reasonable time, place, and manner restrictions, also known as content-neutral restrictions, to further a significant government interest. Conversely, the government is prohibited from regulating the content of speech unless it can articulate a compelling government interest to do so, which is a very high standard and rarely met. National security is a prime example.

In Illinois, open meetings must set aside time for public comment. This is obligatory. The public body may not opt into or out of public comment at its discretion. The public comment period in Illinois is a type of “public forum” as described in First Amendment law; it is not like a sidewalk or a public park, but it is related in that a “designated forum” has been created. A designated forum is that which the government makes available to a class of speakers for the allowance of expressive activity. In other words, the government has specifically carved out a period of time for people in attendance to speak. Therefore the government cannot restrict the content of speech during the designated forum unless it can articulate a compelling governmental interest to restrict the content of speech. Under this standard, courts scrutinize the regulation at hand very closely and abide strictly with First Amendment principles.

Political Speech

The central feature of American democracy is an engaged public contributing to public debate. That is why political speech is special under First Amendment law and why public comments to a government body are considered political speech by nature. First Amendment law even protects people who are speaking out of hatred, although speakers need be wary of defamation and similar lawsuits. This was eloquently stated by former Supreme Court Chief Justice Rehnquist as follows:

Debate on public issues will not be uninhibited if the speaker must run the risk that it will be proved in court that he spoke out of hatred; even if he did speak out of hatred, utterances honestly believed contribute to the free interchange of ideas and the ascertainment of truth. Thus, while such bad motive may be deemed controlling for purposes of tort liability in other areas of the law, we think the First Amendment prohibits such a result in the area of public debate about public figures.

Hustler Magazine v. Fawell, 485 U.S. 46 (1988) (internal citations omitted).

Ultimately, as put by Justice Rehnquist, comments offered in critique of the public body or in broaching unpopular subjects contribute to the public debate. This means that a public body may not pre-empt your speech by forbidding you from making “critical” or “personal” comments, or place other content-based restrictions on your comments. While speakers must guard against defamation, they may certainly offer biting critiques of elected officials.

EXAMPLES OF UNCONSTITUTIONAL RESTRICTIONS ON SPEECH

Under the auspice of maintaining civility and an environment conducive to business, the following are examples of restrictions that a government body may try to impose during public comment (when the speaker is engaged in political speech) which impact the content of speech. One way to vet whether a restriction is a neutral or content-based is to ask if the speech used during public comment violate the restriction. Below are some common types of restrictions:

Viewpoint Restrictions

A viewpoint restriction is a type of content-based restriction, but is particularly anathema to the First Amendment because it blatantly favors or disfavors one point of view over another. For example, a public body is unreasonable if it only allows for “peaceful labor picketing” or “pro-union picketing” near schools but excludes picketing related to other issues in the same places based on content. (For more on this, read the 1972 Supreme Court case *Police Dep’t of Chicago v. Mosley*, which can be found at 408 U.S. 92.) As another example, a government may not allow only proponents of an issue to speak.

As an extreme example,

- “Only people who have good things to say about this public body may speak. No one may criticize the public body.

Maintaining Decorum - “Niceness” Policies

A decorum or “niceness” policy attempts to regulate the tenor of individual speakers and how they deliver a comment, forbidding speech that is “offensive” or “disrespectful.” They are also considered vague.

Here are some other examples of “niceness” policies:

- “Comments that are abusive and harassing, and/or state personal attacks will not be permitted.”
- “Speakers will not be permitted to make condescending comments and name call any board member.”
- “Speakers shall be courteous and cannot personally disrespect any board member.”

Repetitive Comments

Each member of the public has the same First Amendment freedom to speak. First Amendment freedoms are violated when a public body doesn’t allow each person the same opportunity as others to speak during a public comment period. When a public body attempts to restrict “repetitive comments” it deprives a show of strength in numbers and speech encompasses more than the words used; it includes mannerisms and individual styles of delivery. A limited time period per speaker prevents unduly repetitive comments.

Examples:

- “The presiding officer may limit public comment by speaker(s) who have voiced the same concerns publicly at previous meetings.”
- “At the presiding officer’s discretion, public comment may be limited if it is repetitive.”

Other Chair-Based Restrictions

Content-based restrictions might apply to any subject or content. As a general rule, public comment policies may limit comment to matters pertaining to the local government, but cannot decide that only some aspects of local government can be discussed and not others.

- “Speakers may express themselves only on the topic of school curricula, and not on the school administration or school faculty and staff.”

Unfettered Discretion

Unfettered discretion describes the broad authority that is given by law, regulation, or policy that permits a governmental official to restrict speech without benefit of unequivocal standards to enforce the law. Broad discretion gives too much latitude to a government official who exercises decisions based on personal opinion rather than on unequivocal standards.

As an extreme example:

- “The Chairperson may eject any member of the public from the meeting for any reason at any time.”

BEST PRACTICES

When public bodies write the rules that govern public comment periods, they need to remain aware of the First Amendment rights of those who wish to speak during public comment. While lawful public comment policies may vary, below are CAC recommendations for best practices for a welcoming public comment policy.

Protect Political Speech

The public comment policy must comport with the First Amendment and protect political speech. It will protect the right of the speaker to lawfully speak by being content-neutral and not authorizing any public official to silence someone based on what they are saying.

Limit Total Time Period and Time Per Speaker

CAC recommends that a public body limit public comment to both a specific time frame for the entire public comment period, and per speaker. CAC recommends that a public body adopt a rule that limits the total time period available for public comment at open meetings. CAC routinely sees 30 minutes periods offered, with allowance for extra time allocated for special circumstances involving controversial subjects. This allows the public an opportunity to comment but also ensures the public body’s ability to conduct the meeting and address other agenda items.

While practices vary, a usual time allotment per speaker is 3 minutes per public comment. Best practices require that the time allotment per speaker is uniformly enforced. If a public body does not uniformly enforce the time limit to all speakers, it risks using bias through imposing content-based restrictions on speech, e.g., allowing a commenter congratulating the public body to speak longer than one criticizing the public

body. Many public bodies will have a timer that will give a warning for the final 15 seconds and then buzz at the end of the public comment time period.

Sign in requirements

A public body may elect a first-come-first-serve basis, and require sign-up, but best practices dictate that after the public comment period the Chair ask if anyone wish to make a public comment that did not have a chance to sign-in.

Notice for Public Comment

Public comment must be noticed on a public body's meeting agenda. The public body has discretion in where it places public comment on its agenda, and best practices require that ample opportunities be provided for the public to speak at multiple times on the agenda and consistently allow for public comment at the same point at each meeting. Thus, a public body might place public comment routinely at the beginning of the meeting, at the end, or throughout the meeting as different agenda items are being deliberated. A usual practice is public comment placed at the beginning of the agenda, which provides the public an opportunity to make public comment in advance of votes on action items. Additionally, best practices dictate having an opportunity for public comment prior to any executive session.

Suggested language for a public comment policy:

You may address the public body on any matter during the public forum portion of the meeting. Please sign-in at the back of the Chambers before the start of the meeting and approach a microphone once you have been recognized by the Chair. If you did not have the opportunity to sign in prior to the meeting, the Chair will ask at the end of the public forum if there are any other speakers. Please raise your hand and the Chair will recognize you.

All meetings of the Board are open to the public, and public comment is accepted for a maximum of 30 minutes at each meeting. At the beginning of your comment, please state your name. There is a three (3) minute time limit for your remarks. Please be aware that the public body is not required to respond to your remarks during the course of their meeting.

Suggested Placement of public comment within the policy:

- Prior to executive session
- Prior to beginning public body business
- Prior to action items not on a consent agenda
- Prior to adjournment of the meeting

CAC is open for the public to obtain free civic resource materials, ask questions of our community lawyers on matters of public concern, engage in civic discussion, learn about local issues, attend training workshops, and develop skills for participating in civic affairs.

Please contact us if you are interested in learning more about us, becoming a volunteer or making a tax-deductible contribution.

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- PRO BONO LAWYERS MAY:
 - ✓ Assist Citizen Groups in Addressing Issues of Public Concern
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