

PUBLIC COMMENT AND FIRST AMENDMENT RIGHTS

OFFICE OF EL PASO COUNTY ATTORNEY

EL PASO COUNTY COMMISSIONERS COURT

SEPTEMBER 19, 2019



PUBLIC COMMENT POLICY



- ADOPTED MARCH 18, 2019
- ALLOWS MEMBERS OF THE PUBLIC A FORUM TO MAKE PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS
- TIME LIMIT FOR AN INDIVIDUAL IS 5 MINUTES
- A SPEAKER MUST SIGN UP TO SPEAK PRIOR TO THE START OF THE MEETING
- NO THREATS OR DISRUPTIVE BEHAVIOR ARE ALLOWED

PUBLIC COMMENT IS MANDATORY



- EFFECTIVE SEPTEMBER 1, 2019, THE COMMISSIONERS COURT IS **REQUIRED** TO ALLOW ANY MEMBER OF THE PUBLIC WHO WISHES TO ADDRESS THE BODY REGARDING AN ITEM ON THE AGENDA FOR THE OPEN MEETING BEFORE OR DURING THE CONSIDERATION OF THAT ITEM.
- THE COMMISSIONERS COURT CANNOT PROHIBIT CRITICISM OF THE COURT UNLESS THE CRITICISM IS OTHERWISE PROHIBITED BY LAW.
- THIS NEW LANGUAGE AMENDS TEXAS GOVERNMENT CODE SEC. 551.007, THE PUBLIC TESTIMONY PORTION OF THE OPEN MEETINGS ACT

FIRST AMENDMENT LEGAL OVERVIEW



- **TIME** – IT IS PERMISSIBLE TO PLACE A TIME LIMIT ON A PUBLIC COMMENT PERIOD AND ON THE TIME EACH MEMBER OF THE PUBLIC IS ALLOWED TO SPEAK.
- **PLACE** – IT IS PERMISSIBLE TO ALLOW PUBLIC COMMENT ONLY DURING A PORTION OF THE MEETING (E.G. BEGINNING, MIDDLE, END) AND PROHIBIT PEOPLE FROM TRYING TO SPEAK AT ANY OTHER TIME.
- **MANNER** – IT IS PERMISSIBLE TO REQUIRE MEMBERS OF THE PUBLIC TO SIGN IN PRIOR TO THE MEETING. IT IS ALSO PERMISSIBLE TO LIMIT SPEECH TO SPECIFIED SUBJECT MATTERS (E.G. AGENDA ITEMS ONLY)

FIRST AMENDMENT LEGAL OVERVIEW



- POLITICAL SPEECH IS PROTECTED BY THE FIRST AMENDMENT AND ANY GOVERNMENT REGULATION ON IT MUST PASS A COURT'S "STRICT SCRUTINY" TEST
 - STRICT SCRUTINY – SPEECH RESTRICTION MUST BE IN FURTHERANCE OF A COMPELLING GOVERNMENT INTEREST AND GO NO FURTHER THAN NECESSARY IN IMPEDING FIRST AMENDMENT RIGHTS



- QUESTIONS?