

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

WESTON MERRIOTT,

*Plaintiff*

v.

CITY OF BOSSIER CITY; JEFFREY FREE, in  
his official and individual capacities; DAVID  
MONTGOMERY, in his official and individual  
capacities; JEFFERY DARBY in his official  
and individual capacities; and CHARLES  
JACOBS, in his official capacity as city  
attorney,

*Defendants*

CIVIL ACTION NO.:

SECTION:

DIVISION:

JUDGE:

MAGISTRATE JUDGE:

**COMPLAINT**

Plaintiff Weston Merriott brings this action for declaratory and injunctive relief, as well as for damages, for violations of his First Amendment rights under the United States Constitution as well as for violations of the Louisiana Constitution and Open Meetings Laws.

**INTRODUCTION**

Open debate and public discourse are the bedrock of American democracy. From the earliest days of our country, government meetings at which citizens voiced their unfettered opinions and input on political matters have shaped the course of our nation. Open meetings and public discourse ensure accountability of our elected government representatives. Closing these forums threatens to silence the voices of the people and shroud the government in secrecy.

Defendants' rules regulating public comment at Bossier City Council meetings silence viewpoints disfavored by councilmembers and chill speech by members of the public. The City

Council's policies are vague and overbroad. Plaintiff Merriott is threatened with removal from public meetings and banishment from future meetings for his exercise of protected free speech. Defendants retaliated against Plaintiff Merriott's speech by changing their rules of public comment and also held a secret meeting to propose eliminating public comment on agenda items altogether. Defendants then implemented a gag order restricting councilmembers and City employees from speaking to the public and press about the secret meeting. Plaintiff challenges these violations of law and his rights, which run afoul of the U.S. Constitution, the Louisiana Constitution, and the Louisiana Open Meetings Law.

### **JURISDICTION**

1.

This is an action for declaratory and injunctive relief and damages pursuant to 42 U.S.C. § 1983 based upon the continuing violations of the Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution.

2.

This Court has jurisdiction over the subject matter of this litigation pursuant to 28 U.S.C. § 1331, as this case involves questions of federal law. Supplemental jurisdiction over the state law claims is proper under 28 U.S.C. § 1367.

### **VENUE**

3.

Venue is proper in this District because Defendants City of Bossier City, Free, Montgomery, and Darby are all residents of Bossier Parish, and Defendant Jacobs is a resident of Webster Parish, which are within the jurisdiction of the Western District of Louisiana. Additionally, the events giving rise to this action occurred in this District. 28 U.S.C. § 1391(b).

## **PARTIES**

4.

Plaintiff WESTON MERRIOTT is a retired law enforcement officer, combat veteran and a longtime resident of Bossier Parish. He is the founder of sobo.live, an online news source that is located within Bossier City and focuses on South Bossier. He closely monitors political issues in Bossier City as an editor of sobo.live and as an engaged citizen.

5.

Defendant CITY OF BOSSIER CITY is a juridical entity capable of suing and being sued. It is a political subdivision of the State of Louisiana, located within the Parish of Bossier. The City of Bossier City has delegated to City Council and its members the authority to set rules and the order of business of City Council meetings. City Council, its members, and Defendant Jacobs have run afoul of Plaintiff's rights, and have done so through official policy and custom of the City, and as final policymakers for Bossier City. Additionally, Defendant Bossier City failed to train and supervise Defendant Jacobs. Defendant City of Bossier City is sued for declaratory and injunctive relief, as well as for nominal and compensatory damages.

6.

Defendant JEFFREY FREE is the President Pro-tem of the Bossier City Council and resident of Bossier City, Louisiana. As President of the City Council, he presides over the City Council meetings. Defendant Free sets policy and custom for Bossier City as to the conduct of its council meetings. He also is a final policymaker for the City Council for the purposes of enforcing rules of public comment at Council meetings. As President Pro-tem and final policymaker for City Council, Defendant Free has enforced a raft of unconstitutional policies and practices, cataloged below. He is sued in his official capacity for declaratory and injunctive relief, as well as for

compensatory and nominal damages. He is sued in his individual capacity only for civil penalties for violation of the Open Meetings Law.

7.

Defendant DAVID MONTGOMERY is a member of the Bossier City Council and resident of Bossier City, Louisiana. As a member of the City Council, Montgomery sets policy and custom and is a final policymaker for the City of Bossier City. He proposes, votes upon and implements the policies, practices and procedures challenged in this litigation. Defendant Montgomery interrupts and silences speakers with whom he disagrees, orders removal of critical speakers from Council chambers, and generally attempts to silence dissenting viewpoints. He has stated his intent to restrict or eliminate public comment because of his disagreement with the content of that speech and in violation of the Open Meetings Law. He is sued in his official capacity for declaratory and injunctive relief, as well as for compensatory and nominal damages. He is sued in his individual capacity only for civil penalties for violation of the Open Meetings Law.

8.

Defendant JEFFERY DARBY is a member of the Bossier City Council and resident of Bossier City, Louisiana. As a member of the City Council, Darby sets policy and custom and is a final policymaker for the City of Bossier City. He proposes, votes upon and implements the policies, practices and procedures challenged in this litigation. Defendant Darby interrupts and silences speakers with whom he disagrees and attempts to silence dissenting viewpoints by having the rules of “Decorum: By Persons” read at individuals who are critical of the Council. He has stated his intent to restrict or eliminate public comment because of his disagreement with the content of that speech and in violation of the Open Meetings Law. He is sued in his official capacity

for declaratory and injunctive relief, as well as for compensatory and nominal damages. He is sued in his individual capacity only for civil penalties for violation of the Open Meetings Law.

9.

Defendant CHARLES JACOBS is the City Attorney and resident of Webster Parish. He is appointed to the position by the Mayor. Defendant Jacobs attends all City Council meetings where he sits on the dais in a position of authority for the City. He has attempted to silence speakers because of their viewpoint and attempts to discredit speakers with whom he disagrees. He also issued a gag order on the City Council and other city employees, prohibiting them from talking about a secret meeting and matter of great public concern. Jacobs is sued in his official capacity for declaratory and injunctive relief, as well as for compensatory and nominal damages.

#### **FACTUAL ALLEGATIONS**

10.

Plaintiff Weston (“Wes”) Merriott, the founder and editor of sobo.live, is a journalist and website operator who follows and writes about politics and sports in Bossier City.

11.

In February 2023, Plaintiff Merriott began following a community movement petitioning for term limits for the elected officials of Bossier City.

12.

Plaintiff Merriott received a tip to attend the Bossier City Council meeting on July 18, 2023, because the certified term limit petition would be on the agenda for discussion by the Council.

13.

The Bossier City Council holds regular meetings on the first, third, and fifth week of the month.

14.

At the start of the July 18 City Council meeting, Phyllis McGraw, city clerk, read from the Council's rules of "Decorum: Members of the Public Addressing the Council." (Exhibit 1). Specifically, she states:

Council in accordance with Louisiana Open Meetings Laws and the adopted Bossier City council meeting rules resolution. The City Council asks for order and decorum at our meetings. Please silence your cell phones. Anyone wishing to address the Council on any agenda item may approach and state their name and address for the record and shall be permitted three minutes to make their comments on the particular item that's up for discussion, with up to four speakers per side. All other audience members are asked to please observe the meeting quietly and if there is a need for audience members to hold a conversation or take a phone call you're asked to please step out of the meeting. City Council appointed Sergeant at Arms have been instructed to maintain decorum and ask anyone in violation to step out of the meeting in in order to maintain orderly conduct of the meeting.

15.

Plaintiff Merriott spoke at this City Council meeting about the importance of following the will of the people and not delaying the implementation of the term limit petition.

16.

Over the course of the next two weeks, Plaintiff Merriott became increasingly concerned that Bossier City Council was not being transparent in its process and efforts to defeat the term limits petition, and that it was failing to follow the process of the Home Rule Charter.

17.

At the August 1 meeting, Mayor Chandler placed an item on the agenda concerning term limits. Several members of the Council attempted to remove this item from the agenda.

18.

Plaintiff Merriott commented on this agenda item, criticizing the Defendants continued inaction on the petition submitted by the Term Limits Coalition. He criticized the decision of some councilmembers to delay action on the petition by seeking outside counsel. Plaintiff Merriott questioned the impartiality of the outside counsel, noting that outside counsel represented Councilmember Montgomery in a deposition, years prior.

19.

Plaintiff Merriott was interrupted by both Defendants Free and Montgomery.

20.

Defendant Free instructed him to stay on topic.

21.

Defendant Montgomery then requested that Defendant Jacobs respond to Plaintiff Merriott's comments.

22.

Defendant Jacobs then stated that Plaintiff Merriott's statement was "absolutely false."

23.

Plaintiff Merriott became even further concerned about the lack of transparency around Bossier City's hiring of outside counsel to advise on the term limit proposition, and seemingly false representations made by Defendant Jacobs in the course of that debate.

24.

The City Council had a regular council meeting on August 15.

25.

On August 15, City Clerk Phyllis McGraw again part of the Council's rule "Decorum: Members of the Public Addressing the Council," as she had done in prior meetings. However, she included additional material this time, which reads:

Any person making *personal, impertinent or slanderous remarks* or who *shall become boisterous* while addressing the Council shall be forthwith, by the President Pro-tem, *barred from further audience before the Council, unless permission to continue be granted by a majority vote of the Council.* (emphasis added).

26.

She then incorporated new parts of the "Decorum: Members of the Public Addressing the Council," stating:

All remarks shall be addressed to the Council as a body and not to any member thereof. No questions shall be asked a Council person or the mayor except through the meeting chair.

27.

Finally, she ended her comments by stating:

All other audience members are asked to please observe the meeting quietly. City Council appointed Sergeant at Arms have been instructed to maintain decorum and ask anyone in violation to step out of the meeting.

28.

At this meeting Defendant Jacobs recommended that the Council seek an expedited Attorney General opinion on the legality of the registrar of voters' certifications.



29.

The City Council voted in favor of requesting an opinion from the Louisiana Attorney General.

30.

During the public comment Plaintiff Merriott spoke, again criticizing the Council for failing to listen to the Mayor and the citizens.

31.

Plaintiff Merriott was interrupted by both Defendants Free and Darby.

32.

Defendant Free instructed him to stay on topic and to only ask questions.

33.

Defendant Darby instructed the city clerk to read their procedures to Mr. Merriott.

34.

Phyllis McGraw read the following section to Mr. Merriott:

Any person making *personal, impertinent or slanderous remarks* or who *shall become boisterous* while addressing the Council shall be forthwith, by the President Pro-tem, *barred from further audience before the Council, unless permission to continue by granted by a majority vote of the Council.* (emphasis added).

35.

This reading of “Decorum: By Persons” was an attempt to chill Plaintiff Merriott’s speech by threatening removal and a bar from all future meetings.

36.

On August 20, Plaintiff Merriott sent a letter to all councilmembers, Defendant Jacobs, and Mayor Chandler requesting that the Council respect his First Amendment rights and refrain from interrupting him.

37.

Only Councilmembers Hammons and Smith responded to this email and his concerns.

38.

At the City Council meetings on August 29 and September 5, McGraw read the same rules as she had on August 15.

39.

Plaintiff Merriott attended the September 5 meeting and commented on multiple agenda items, including the following:

#6 Adopt a Resolution authorizing the City Attorney to take legal action to determine the validity of the certification of the petition of the Bossier Term Limits Coalition.

40.

In speaking on agenda item #6, Plaintiff Merriott questioned why it was necessary for Defendant Jacobs to determine the validity of the petition when they already had opinion from private counsel.

41.

Plaintiff Merriott also raised concerns about the impartiality of the outside counsel, noting that outside counsel represented Councilmember Montgomery in a deposition, years prior.

42.

Defendant Montgomery immediately interrupted Plaintiff Merriott and asked Defendant Free to have him “removed from the council chambers because of that kind of statement.”

43.

Plaintiff Merriott asked that Defendant Montgomery let him finish.

44.

Defendant Montgomery then claimed that Plaintiff Merriott’s words had nothing to do with the agenda item. He again called for Merriott’s removal.

45.

Defendant Free instructed Merriott to stick to the agenda and to not make any accusations against councilmembers.

46.

City Attorney Jacobs stated, “What Mr. Merriott is stating is outright false.”

47.

Plaintiff Merriott concluded his remarks. At no point was he disruptive.

48.

A link containing this interaction can be found here. Bossier City Council, *Bossier City Council Meeting September 5, 2023*, (Sept. 5, 2023), YouTube <https://www.youtube.com/live/ogdXGnEzhK0?si=ee9iOe2UWUauYdXO&t=2649>.

49.

In the meeting minutes that were released on September 14, the Council stated that Mr. Merriott became disruptive in his remarks.

50.

At the next meeting, on September 19, Plaintiff Merriott objected to his remarks being labeled as disruptive in the minutes.

51.

The Council voted 6-0 to approve the minutes.

52.

Per an audio recording reported by a local news outlet, Bossier Watch, a secret meeting of some councilmembers occurred directly after the September 5 City Council meeting.

53.

In the audio, Defendants Darby and Montgomery speak about changing the rules of public comment to limit comment to the beginning of the meeting.

54.

Defendant Darby then asked Phyllis McGraw to draft new rules that would eliminate public comment at each agenda item.

55.

Defendants Darby and Montgomery counted if they would have enough members to make the resolution in Defendant Free's absence. Defendant Montgomery asked: "[Jeffrey] Free won't be here, so is 4 to 2 enough?" Phyllis McGraw answered yes.

56.

Upon information and belief, Defendant Montgomery was referring to Councilmembers Darby, Maggio, and Williams, who are also against term limits.

57.

A link containing that audio is here. Bossier Watch, (Sept. 7, 2023), <https://www.facebook.com/BossierWatch/videos/829911511846065/>.

58.

The proposed resolution to eliminate public comment on agenda items is retaliatory against Plaintiff Merriott. It serves to silence the core political speech of Plaintiff Merriott.

59.

The proposed resolution would also silence the public, inhibiting individuals from commenting on individual agenda items that affect their daily lives. The proposed resolution closes a forum that previously was open to the public, because of disagreement with the content and viewpoints expressed, and in retaliation for political speech.

60.

Defendants' proposed modification of rules and threats to remove certain speakers from meetings has a chilling effect on Mr. Merriott's speech and would chill the speech of a person of ordinary firmness from feeling free to express themselves without fear of retaliation.

61.

In response to the release of the audio by Bossier Watch, Defendant Jacobs attempted to silence the City Council and employees.

62.

Defendant Jacobs threatened to call the FBI to bring wiretapping charges against the person who released the audio.

63.

On July 8, Defendant Jacobs sent an email to the City Council and others, stating that he had begun an internal investigation related to events occurring in the city council offices after the Council meeting. He instructed that there should not be any discussion about the events without including himself or the assistant city attorney.

64.

Plaintiff's speech has been chilled in fact by Defendants Darby, Montgomery, and Free's actions at the Council meetings. Plaintiff must and does self-censor for fear of removal and/or retaliation against him for his fully protected speech.

65.

Even when Plaintiff's speech is fully within the bounds of the plain protections of the Constitution, he is censored and threatened with banishment from Council meetings.

66.

The Council does not uniformly enforce public comment rules, particularly against speakers with whom the members agree. Many speakers who have addressed councilmembers directly, spoken off agenda item or exceeded time have not been threatened with ejection or had the rules of decorum read at them during their comment period.

67.

Conversely, citizens who take positions with which members disagree are silenced and told their comments are off limits, even when their comments are clearly linked to agenda items and matters of public concern.

## **STATEMENT OF THE CLAIMS**

68.

Defendants' actions violate the most basic tenants of a democratic society. Free speech is indispensable to the exchange of ideas that undergirds our system of self-governance. Citizens must be free to speak to their fellow citizens and elected officials on matters of public concern. Defendants have silenced core political protected speech. Plaintiff seeks intervention from this Court.

69.

Defendants' policies governing the Bossier City Council meetings are unconstitutional facially and as applied. They are overly broad, vague, viewpoint and content-based restrictions on free speech in plain violation of the First Amendment to the United States Constitution. They also violate the Louisiana Constitution and the Open Meetings Laws. Each problem will be addressed in turn.

### **COUNT ONE: DEFENDANTS' POLICIES ARE OVERBROAD**

70.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

71.

When government policy or practice restricts or chills a substantial amount of protected speech, those prohibitive practices are unconstitutionally overly broad.

72.

The Council's rules of "Decorum: By Persons & Members of the Public Addressing the Council" sweep in a substantial amount of core protected speech.

73.

Speech that is boisterous, personal, impertinent and slanderous is protected by the United States Constitution.

74.

Speech addressed to public officials directly and by name is core political speech necessary to democratic governance and protected by the United States Constitution.

75.

The rules threaten to remove and bar individuals from further audience before City Council if they criticize, speak about, or direct comments to the Council. This rule allows for removal of citizens for speech clearly protected by the Constitution.

76.

Under Defendants' rules, an individual who is removed from a meeting must petition the majority of the members to allow readmittance. There are no criteria or guidelines within the rules for this process, and the very people that removed a citizen would decide upon his readmittance. An individual could be banned indefinitely. This rule is clearly an overly broad restriction on speech as any unjustified banishment prohibits constitutionally protected speech.

77.

The limiting of the comment period to four speakers per side is overbroad because it prohibits the wholly protected speech of all speakers after the first four.

78.

Because the Defendants' rules and practices prohibit a substantial amount of speech protected by the Constitution, they are overly broad and violate the First Amendment to the U.S. Constitution.



## **COUNT TWO: DEFENDANTS' POLICIES ARE VAGUE**

79.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

80.

When government policy fails to provide people of ordinary intelligence with a reasonable opportunity to clearly understand what conduct it prohibits, it is unconstitutionally vague.

81.

City Council rules prohibit public comments that are “personal,” “impertinent,” “slandorous,” or “boisterous” without defining these terms. As such, the average person must guess as to the meaning and as to what comments may run afoul of the rules.

82.

The President Pro-tem is allowed unfettered discretion on who to remove or bar because of their speech. Moreover, because the average citizen has no way of knowing whether the President Pro-tem might assess his speech to be “personal,” “impertinent,” “slandorous,” or “boisterous,” these vague prohibitions have a significant chilling effect on speech.

83.

The rules provide no explicit enforcement standards for the Council. Councilmembers may silence speech they subjectively find personal, impertinent, slanderous, or boisterous with unfettered discretion.

84.

Because the Defendants’ rules and practices fail to provide people of ordinary intelligence any fair notice of what kind of speech will cause them to be ejected or banned, the restrictions are unconstitutionally vague.

**COUNT THREE: DEFENDANTS' POLICIES ARE VIEWPOINT AND CONTENT  
BASED RESTRAINTS ON SPEECH**

85.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

86.

Content-based discrimination occurs when a government official prohibits speech containing certain content. Viewpoint discrimination occurs when a government official prohibits expression of certain viewpoints. Defendants' policies do both.

87.

Defendants' ban on boisterous, personal, impertinent and slanderous remarks are content and viewpoint-based restrictions on citizen free speech. So also, is the prohibition on directing comments or questions to City Council members.

88.

The policy requiring an individual who is ejected from meetings to receive a vote from the majority of the councilmembers to allow readmittance likewise facially requires content and viewpoint-based discrimination, because there are no limiting standards by which a person can be voted back into public meetings. The very people that removed a citizen vote upon his readmittance, with absolutely no standards for voting. This builds viewpoint and content discrimination into the Council's rules for who gets to participate in its meetings.

89.

Limiting the number of speakers per side is also a viewpoint-based restriction. If five members of the public attend a meeting to voice their opinions, only four of them are able to speak because of their viewpoint. If every citizen in attendance is of a certain position, the views of those speakers in excess of four never get heard because of the viewpoint they hold.

90.

There is no compelling or significant government interest in protecting public officials from public criticism or critique, or in imposing any of these challenged policies.

91.

The restrictions are not narrowly or otherwise tailored to achieve any government interest. They are unreasonably burdensome of speech in one of our most cherished public forums. The restrictions fail every constitutional test: they cannot survive strict scrutiny, intermediate scrutiny, and are not reasonably related to the purpose of the public meetings comment period.

**COUNT FOUR: DEFENDANTS' POLICIES ARE UNCONSTITUTIONAL AS APPLIED**

92.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

93.

Defendants' policies are unconstitutional as applied to the Plaintiff in particular.

94.

Defendants apply their speech-restrictive policies against Plaintiff in a viewpoint- and content-based manner. Defendants also apply the policies against Plaintiff such that they sweep large swaths of protected speech within their ambit of proscription.

95.

Defendants Free, Darby, and Montgomery allow speakers to address councilmembers by name during meetings but have prohibited Merriott and others who are critical of the Council from referring to councilmembers by name.

96.

Defendants Free, Darby, and Montgomery allow boisterous, personal, impertinent, or slanderous remarks in speech by some but do not allow the same for Merriott and others who have criticized the councilmembers' handling of certain agenda items.

97.

Defendants Free, Darby, and Montgomery apply policies to silence Merriott's speech that is fully protected by the Constitution.

98.

Plaintiff Merriott's speech did not violate the Council's resolutions, as he spoke within the public comment period time allotted, addressed his comments to matters on topic, and did not cause a disturbance to the meeting.

99.

Defendant Montgomery's repeated calling for Merriott's removal, despite his speech conforming to the stated council rules (on topic, within the allotted time, and in a moderate tone and volume) censored Merriott based on the content and viewpoint of his speech.

100.

Defendant Free's interruptions and instructions to Merriott to limit his comments censored Merriott based on the content and viewpoint of his speech.

101.

Merriott's speech was clearly constitutionally protected, yet was swept within the ambit of the Council's proscriptions. As such, Defendants' public comment policies are unconstitutionally overbroad as applied to Plaintiff Merriott's speech.

102.

It would not be clear to a reasonable person that the Council's limitations on speech applied to Merriott's comments, and yet his speech was determined to run afoul of those limits. As such, Defendants' public comment policies are unconstitutionally vague as applied to Plaintiff Merriott's speech.

**COUNT FIVE: DEFENDANTS' POLICIES AND ACTIONS ARE  
UNCONSTITUTIONAL RETALIATION**

103.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

104.

First Amendment retaliation occurs when a public official acting under color of law takes adverse action against a person solely for their protected speech.

105.

Plaintiff's speech directed at public officials is protected by the First Amendment.

106.

Defendants retaliated against Plaintiff Merriott because of the content of his speech, when on August 15, the city clerk began reading portions of "Decorum: By Persons & Members of the Public Addressing the Council" that contain the threat of a ban from all council meetings for making boisterous, personal, impertinent, and slanderous remarks, as well as remarks directed at individual councilmembers. Furthermore, Defendants interrupted him and threatened to remove him from a public meeting when they disliked his comments.

107.

Further, Defendants Montgomery and Darby took retaliatory action against Plaintiff Merriott in proposing a resolution to eliminate public comment on agenda items. As made explicit

on the leaked audio, this proposal is underway in direct retaliation for Plaintiff Merriott's protected speech.

108.

Defendants' actions amount to retaliation against speech. This retaliation would chill a person of ordinary firmness and did in fact chill Plaintiff Merriott's speech.

**COUNT SIX: DEFENDANT JACOBS' GAG ORDER IS UNCONSTITUTIONAL**

109.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

110.

Defendant Jacobs' response to the release and publication of the audio of the illegal meeting has had a chilling effect on Bossier City employees and their willingness to speak to the press. Specifically, the threats of calling the FBI and accusations of wiretapping will certainly create fear in future potential whistleblowers, and, moreover, employees are now under a direct gag order.

111.

The First Amendment not only protects the right to speak but also the right to receive information and ideas.

112.

Plaintiff Merriott, as an editor of an online newsroom, has a right to receive newsworthy information from willing speakers. Plaintiff Merriott, as a citizen, has a right to receive information and ask questions of his government leaders.

113.

Defendant Jacobs' email directing the councilmembers and employees to not discuss the events is a gag order that restrains free and lawful speech about issues of public concern. That order impedes the ability of the press and citizens generally, and Plaintiff Merriott specifically, to fully perform the integral job of reporting on government actions.

**COUNT SEVEN: DEFENDANTS' POLICIES AND PRACTICES VIOLATE THE  
LOUISIANA OPEN MEETINGS LAW**

114.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

115.

Louisiana Revised Statute § 42:12 provides that Louisiana Open Meetings Laws are to be construed liberally, due to the essential nature of public oversight of government officials in our system of government.

116.

The Open Meetings Laws are grounded in authority from the Louisiana Constitution. The purpose is to ensure the right of citizens to participate in the deliberations of public bodies and to protect citizens from secret decisions made without any opportunity for public input.

117.

Barring members of the public from attending a public meeting and denying them the opportunity to comment is a clear and egregious violation of the legal standards set forth in La. R.S. § 42:14(A) and (D).

118.

Louisiana Revised Statutes § 42:17(C) allows removal of a speaker from a public meeting only if that conduct willfully disrupts a meeting “to the extent that orderly conduct of the meeting is seriously compromised.”

119.

Defendants’ policy styled “Decorum: By Persons” states: “[a]ny person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the Council shall be forthwith, by the President Pro-tem, barred from further audience before the Council, unless permission to continue be granted by a majority vote of the Council.”

120.

The “Decorum: By Persons” policy violates the state open meetings law, as it allows removal of members of the public far in excess of that allowed under La. R.S. § 42:17(C).

121.

Louisiana Revised Statutes § 42:14(D) requires a public comment period prior to any action on an agenda item upon which a vote is to be taken.

122.

Defendants’ policy styled “Decorum: Members of the Public Addressing the Council” violates the Open Meetings Law because it limits each agenda item to four speakers per side of the argument.

123.

Defendants’ policy styled “Decorum: Members of the Public Addressing the Council” also requires that all “remarks shall be addressed to the Council as a body and not to any member



thereof” and that all questions be asked first to the meeting chair instead of a councilperson or mayor.

124.

These requirements do not comport with the liberal interpretation of La. R.S. § 42:14(D).

125.

Defendants Montgomery and Darby tried to circumvent the Open Meetings Laws by deciding upon a new resolution eliminating public comment on each agenda item and limiting comment to the opening part of the council meeting.

126.

Specifically, they met after a public council meeting, out of public view, and counted whether they would have the votes to make a rule change in retaliation for Merriott and others criticizing their decisions concerning the petition for term limits.

127.

Defendants Darby and Montgomery seemingly attempted to convene a “walking quorum” to participate in the discussion of passing a new resolution limiting public comment, in violation of La. R.S. § 42:16, which prohibits members of a public body from meeting in private or using a closed executive session “as subterfuge to defeat the purpose” of the Open Meetings Law.

128.

Defendants Montgomery and Darby’s proposed resolution eliminating public comment prior to a vote on each agenda item would violate the Open Meetings Laws.

**COUNT EIGHT: DEFENDANTS’ POLICIES AND PRACTICES VIOLATE THE  
LOUISIANA CONSTITUTION**

129.

Plaintiff re-alleges and incorporates the allegations set forth in paragraphs above.

130.

Defendants' actions violate Plaintiff's First Amendment rights under the Louisiana Constitution, Article 1 § 7.

131.

Defendants' actions violate Plaintiff's rights to observe public bodies under the Louisiana Constitution, Article XII, § 3.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for the following relief from this Court:

- A. Declaratory relief stating that Defendants' policies and practices violate the First Amendment and the Louisiana Open Meetings Laws, facially and as applied;
- B. A preliminary injunction, and thereafter permanent injunctive relief, against Defendants as follows:
  - i. Enjoining Defendants from utilizing the Council rules to curtail speech rights at public meetings;
  - ii. Enjoining Defendants from enforcement of the gag order imposed by Defendant Jacobs preventing city employees speaking on matters of public concern; and
  - iii. Enjoining Defendants from passing the resolution that was discussed during the secret meeting on September 5.
- C. Injunctive relief requiring adequate training of the Bossier City Council on the First Amendment rights of speakers in public meetings and on government obligations under the Louisiana Open Meetings Laws;

- D. An order requiring that the minutes of the September 5, 2023, Council Meeting be amended to remove from the record the following: “Mr. Merriott became disruptive in his remarks”;
- E. An award of nominal and compensatory damages against Defendants in their official capacities;
- F. An award of civil penalties against Defendants Montgomery, Darby, Free in their individual capacities for violation of the Louisiana Open Meetings Laws as provided in La. R.S. § 42:28;
- G. Award of attorneys’ fees and costs; and
- H. An award of any such other and further relief as the Court deems just and proper.

Respectfully submitted,

TULANE FIRST AMENDMENT CLINIC

/s/ Melia Cerrato

Katie M. Schwartzmann La Bar No. 30295

Virginia Hamrick, La Bar No. 40392

Melia Cerrato, La Bar No. 40114

6329 Freret Street, Suite 130

New Orleans, La 70118

kschwartzmann@tulane.edu

vhamrick@tulane.edu

mcerrato@tulane.edu

o: (504) 862-8813