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COUNTY MUST REASSESS ITS PUBLIC HEARINGS POLICY

In 1856 North Carolina became the last state to eliminate the requirement of real estate property ownership from the right to vote.

It is questionable whether during the COVID-19 threat the current County policy of holding public hearings complies with the provisions of the Brown Act guaranteeing *free access to every citizen*.

While the County may argue that it upholds the letter of the Brown Act mandate by holding public hearings in a physical space before or after the duration of the Shelter-in-Place directive, a socially responsible public will still be obligated to observe the mandatory prophylactic guidelines essential to safe physical participation for several months to come.

This writing is not the place to enumerate the countless risks involved, from testifying into public use microphones, to touching seats, to handing potentially contaminated documents to the clerk.

If the County resorts to public hearings *exclusively* over the internet as it currently does, it certainly does not comply with the spirit of the Brown Act and it is questionable whether it complies with the plain language of the Act.

For one, just as people who didn't own real estate property were excluded from participation in our democracy, access to the internet requires the ownership of a computer or a cellphone. Not everyone owns such a device; neither is it required to.

Without them, even prior access to the Agendised underlying documents is impossible because their physical access at the County office risks infection to and from County personnel as well as to and from handling the documents on file and to subsequent persons who may handle them.

It follows that while the danger of the virus infection is still prevalent, physical public participation is fraught with inordinate health risk while at the same time, such participation over the internet bars persons who do not own the required devices.

To its credit, the County has made extraordinary efforts to increase public participation by allowing the use of interpreters (and double testimony time) to persons who are deficient in English. When County conducts public hearings over the internet and at the same time has deemed the lack of this language skill not essential to public hearing participation, why would it exclude those who lack computer proficiency?

Secondly and notwithstanding the above, as early as November 2018, the County Supervisors were aware of poor internet coverage in many sections of the County. In an effort to identify the extent of this deficiency, they appropriated up to \$100,000 for a survey by Magellan Advisors. To my knowledge, the County has yet to publish the findings of this survey.

However, Comcast maintains an up to the minute site of lack of service complaints. As of this writing (for the day of April 4, 2020) there have been outage reports of 8 and 4 hours by 20 subscribers, many more

hours for 10 and fewer. These are only filed complaints; they do not represent the total number of affected people. And Comcast is only one of several providers.

An August 2018 cell coverage survey of Napa County cell by Cell Reception rated Verizon with 3 out of 5 stars, AT&T with 2, Sprint and T-Mobile with 1 each. This is not a satisfactory service coverage that insures unrestricted public participation even to those who own the required devices.

It is also unclear how much of the telecommunications network destroyed during the October 2017 fires has been restored.

Thirdly, public hearing participation is supposed to be free, not one which requires a subscription to commercial service providers in order to make such participation possible.

The above considerations make highly problematic the upholding not only of the spirit, but of the plain language provisions of the Brown Act itself.

I urge the County Supervisors to limit public hearings to emergency and essential issues which ensure the health and safety of the public and the essential function of government services as it has the power to do, until such time as the COVID-19 infection danger has been declared safe enough as to eliminate the recommended prophylactic measures such as social distancing, gloves, sanitizers, or refraining from touching one's face. Only then will participation to public hearings become available to every citizen in this county as the Legislation intended. Exclusive conduct of non-essential hearings over the internet does not insure that.

Failure to do so, will question the integrity of any decisions which have not benefited from public input or scrutiny. At the same time, it may flood the County with subsequent costly appeals.