ACLU Georgia

February 10, 2025

City of Villa Rica Councilmembers
571 W. Bankhead Highway
Villa Rica, GA 30180

VIA E-MAIL

Re: December 10, 2024 Villa Rica City Council Meeting and Subsequent Public Comment Policy

Dear City of Villa Rica Councilmembers:

The ACLU of Georgia writes to you regarding Villa Rica City Council's ("the Council") treatment of public speakers and its newly promulgated comment policy ("the Policy"), both of which unconstitutionally infringe on people's rights to speak freely on matters of public concern. We urge the Council to reverse course.

At a December 10, 2024 city council meeting, members of the public voiced their concerns over the construction of a road connecting two areas of Villa Rica; the concerns included the city's intention to seize property for the construction project under eminent domain and allegations of improper business dealings between councilmembers and companies involved in the construction project. These speakers were met with hostility. In response to the impropriety allegations, Councilmember Momtahan threatened speakers with litigation, while Mayor McPherson had a member of the crowd removed by the Chief of Police because the person allegedly

lived outside of Villa Rica. The Council thereafter adopted the new Policy, which requires speakers to publicly state their name and address and prohibits "personal, impertinent, slanderous, or profane remarks." The Policy and the intimidation tactics conflict with the free speech rights of concerned individuals who exercise those rights at city council meetings.

Speech on matters of public concern is "at the heart of the First Amendment's protection" and "should be uninhibited, robust, and wide-open." *Snyder v. Phelps*, 562 U.S. 443, 451–52 (2011) (internal citations omitted). Such speech "occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." *Id.* at 452. Speech is "of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest[.]" *Id.* at 453 (internal citations omitted).

Balancing the criticalness of speech on public matters with the need to be productive, a government body can impose speech restrictions in a limited public forum such as a city council meeting, but those restrictions must be "reasonable and viewpoint neutral." *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 470 (2009). The Policy's broad and vague prohibitions are not. Its restrictions on "personal," "impertinent," or "profane" remarks, and its prohibition on directly addressing councilmembers, are far-reaching, and courts have struck down similar restrictions as likely or definitively unconstitutional. *See Mama Bears of Forsyth*

Cnty. v. McCall, 642 F. Supp. 3d 1338, 1357 (N.D. Ga. 2022) (finding it "substantially likely" that policy requiring the public to act in a "respectful manner" at school board meetings violated the First Amendment); *see also, e.g.*, *Ison v. Madison Loc. Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 892 (6th Cir. 2021) (finding school board policy restricting "personally directed," "abusive," and "antagonistic" statements violated the First Amendment); *Acosta v. City of Costa Mesa*, 718 F.3d 800, 813 (9th Cir. 2013) (finding the prohibition of "personal, impertinent, profane, insolent or slanderous remarks" to be "an unconstitutional prohibition on speech").

Government is also prohibited from unconstitutionally chilling speech, which happens when a government policy "would cause a reasonable [person] to fear expressing" their beliefs or lacks "specific enough information to determine whether any particular statement is permitted or prohibited." *Speech First v. Cartwright*, 32 F.4th 1110, 1121 (11th Cir. 2022). The Policy's prohibition on "personal, impertinent, slanderous, or profane remarks" is vague and subjective, lacking "specific enough information" to know whether a statement is allowed or not. And requiring speakers to state their name and address before giving public comment "would cause a reasonable [person] to fear" to exercise their speech rights. *See Marshall v. Amuso*, 571 F. Supp. 3d 412, 426 (E.D. Pa. 2021) ("[R]equiring the speaker to announce their specific home address is an unreasonable restriction. . . . [T]he chilling effect of being forced to announce to all present one's actual home address before speaking on a hotly-contested issue is clear."). This is especially true

in light of speakers having recently been threatened with legal action and physically removed from a council meeting.

Regarding Councilmember Momtahan's threats of retaliatory litigation over individuals' protected speech—any such litigation would likely violate Georgia's Anti-SLAPP statute, O.C.G.A. § 9-11-11.1, which protects citizens speaking on matters of public concern from frivolous lawsuits that infringe on the exercise of their speech rights. Public statements at the December 10th council meeting may have been charged, but such emotion is a result of the high stakes and was protected by the freedom of speech guaranteed by the First Amendment.

Members of the public have the constitutional right to speak on matters of public concern at city council meetings without being subject to intimidation, retaliation, or unreasonable restrictions. The ACLU of Georgia therefore urges the Council to rescind the recently enacted Policy regarding public comment and cease threats of litigation towards speakers.

Sincerely,

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