



MEMORANDUM

TO: S. Michael Rummel, Chair
Financial & Administrative Committee

FROM: Paul Fetherston, Assistant County Administrator
Gary Gordon, Director of Finance and Administrative Services
Gunnar Gunnarsson, State's Attorney's Office
Jennie Vana, Chief Communications Officer

DATE: March 27, 2018

RE: **Potential ordinance changes pertaining to public access to Lake County owned property for expressive activities**

In the summer of 2017, the County Administrator requested that staff review the 'Rules and Regulations Governing Public Buildings and Grounds' and 'Occasional Use of Public Areas in Public Buildings' provisions contained within Chapter 37 of Lake County's (County) Code of Ordinance for purposes of ensuring compliance with law. Since that time, a staff team of representatives from the County Administrator's Office, Communications Division, Facilities and State's Attorney's Office has been researching caselaw and similar ordinances in other jurisdictions.

Through caselaw, the United States Supreme Court has developed a methodology for analyzing the public's right to access government property (also referred to as a 'forum') for expressive purposes. The methodology distinguishes between the following types of forums:

- Traditional Forum: street, sidewalk, or park, or some other type of public property that has for a very long time been used for expressive activity;
- Designated Public Forum: a facility created by the government to be – or subsequently opened for use as – a site for expressive activity. The government may impose valid time, place and manner regulations in these types of forums.
- Non-public Forum: government-owned facilities that could be and sometimes are used for private expressive activities but are not primarily intended for such. Private expression in such a facility can limit private expression in such forums to expression that furthers the purpose for which the facility was created.

Under current law, courts have generally held that municipal buildings – including county buildings – are non-public forums. As a non-public forum, the County is not required to

designate its facilities as a forum. Under the current ordinance, the County has designated Lincoln Plaza as a designated public form for expressive purposes. While the County can impose reasonable time, place and manner restrictions, viewpoint discrimination in the usage of the forum is prohibited.

After a review of caselaw and similar ordinances in other jurisdictions, staff has determined that developments in caselaw since the adoption of the current ordinance warrant some clarification. As a result, the following options for ordinance amendments have been developed for consideration:

- Non-public Forum: limits the permitted expressive activities to only such activities that pertain to county government and the courts
- Designated Public Forum: allow expressive activities in only the areas of the County's grounds designated for that purpose by the Building Manager

In addition to the clarifications made pertaining to the type of forum, additional clarifications and ordinance clean-up have been proposed to reflect current practice including limiting the following:

- fund drives to those sponsored by the county, the head of an occupant agency or Circuit Court;
- posting of material on county-controlled property to those that relate to the official business of the County, occupant agency or the Circuit Court; and
- dogs and other animals on County property to documented service animals or animals for official purposes of the County or the occupant agencies.

As a part of the overall review process, staff also considered the manner in which public areas within county buildings are used or requested by visiting dignitaries and developed an operational policy for County Administrator supervised departments and functions to utilize in such circumstances.

Staff will review the options, recommendations and be available for questions during the April 4 meeting of the Financial and Administrative Committee (Committee) meeting. Based on the direction provided by the Committee, an ordinance amendment could be presented for consideration at the April 25 Committee meeting – with action by the County Board during its May 8 meeting.

Cc: Barry Burton, County Administrator