

OPEN LETTER TO THE NEW CEDAR HILLS MAYOR & COUNCIL

August 24, 2012

Mayor Gygi and Cedar Hills Council,

The many recent changes in City leadership and employees have unexpectedly thrust some of you into unique new positions of service of Cedar Hills residents.

With these changes comes a wonderful opportunity to restore the public trust in Cedar Hills' government. This can be accomplished by a consistent demonstration of support of truth, transparency and respect. Each of you is critical to this process. We want you to be successful for the sake of all Cedar Hills families. The City's recent admission in the July Newsletter that the golf course has never been profitable was a huge step in the right direction. Amazing! This required considerable courage. Thank you.

A key to establishing and maintaining the public's trust is providing easy access to the truth that is the public record. Yesterday's Deseret News published an article called "Release Public Records". The article reminds government that records of "legitimate public interest" should be provided for free. (see *In Our Opinion* <http://www.deseretnews.com/article/765598669/Utah-Legislature-needs-to-release-public-records.html>)

In the spirit of rebuilding the public trust, we desire to share with you a few concerns we invite you and the Council to review and consider:

1. Our March 5, 2012 GRAMA request for emails between Council members, etc., has not been completed. The July 26th deadline imposed by the Utah State Records Committee's ORDER on the City to provide those records has passed.
2. The GRAMA request was for all city business related email including email between Council members using personal accounts. **(Utah Code 63G-2-201(3)(b))** We do not understand why personal email accounts were used, a behavior which promotes suspicion, but we hope this has been corrected.
3. As a result of the personal email use, the City agreed it did not have in its possession all public email records as required by law. **(Utah Code 10-3-603)**
4. Nevertheless, the City did not to begin collecting the March 5th GRAMA requested records, until after the Records Committee's June 26th ORDER to gather and make the records available to us.

5. The City now faces possible sanctions of up to \$500 for every day past the July 26th Records Committee ORDERED deadline. As of today, all records have not yet been provided.
6. The GRAMA records request was for the emails to be provided in an electronic format.
7. The requested records were originally created as electronic correspondence ("electronic mail" = email), and the City categorizes and archives such records electronically.
8. The City also archives the contents of each and every GRAMA request in an electronic format, even when paper copies are GRAMA requested.
9. Nevertheless, the City inexplicably chose to go to the wasteful and expensive process of printing the last two portions of records on paper, with no apparent organization, much of it in small print, making it an unwieldy mass that is difficult to review.
10. The Deputy City Recorder and new City Recorder have not answered written requests regarding the documents being provided electronically, instead having the city attorney respond. He did not identify the specific reason or reasons, and merely referred us to the State Records Committee hearing minutes. We apparently interpret those minutes differently. It is our understanding that the City was directed to provide the records in the form we requested – electronic copies.
11. The City has not provided response to the written request for a financial accounting explanation for the \$700 in fees.
12. The City has not provided response to the written request for an inventory of the records provided, and those that will be provided.
13. The City has not provided response to the written request regarding former Councilman Jim Perry's non-compliance as of a July 13th, in providing his city related emails, nor the City's enacting of its subpoena powers to compel Mr. Perry to provide public records to the City, if he has not yet done so. **(Utah Code 10-3-610)**
14. City officials have noted the rising legal costs, but approved additional funding, while attempt to place responsibility for those costs on those exercising their rights to legal access to the public record.
15. We have appealed to the City to have our \$700 in fees waived (refunded) as State Law promotes, providing records of primary interest to the public without cost. The City rejected our appeal. Why spend thousands on legal fees

to save \$700 and lose the opportunity to gain public trust and confidence?

16. We have been required to appeal again to the State Records Committee who has scheduled a hearing regarding our \$700 fee waiver for September 13, 2012.

17. We believe this incredible waste of time, energy, money and good will for all would not have occurred had the City simply complied with State Records law.

18. Much of the legal cost on other accusations by Cedar Hills Citizens for Responsible Government could have been avoided if the City had simply complied with State Code, City Code, and City's own Policies and Procedures.

Mayor Gygi and Council, we do not understand why the City appears so reluctant to provide email records requested on March 5, 2012, if the offending officials have nothing to hide? These problems began prior to your appointment to fill Mayor Eric Richardson position, and after he and City Manager Konrad Hildebrandt's resignations became necessary. Many people were misled. Their problems and mistakes are not yours, unless you choose to continue their same course.

We believe information received from our GRAMA request and items addressed in this letter could be of great service to the Council. A limited review of the emails demonstrates that many of the errors in judgment are clearly at the feet of those who preceded you. Our efforts to provide significant portions of the public record to the public via www.CedarHillsCitizens.org and other methods, can allow these matters to be exposed to the public, separating you from errors you did not make, thus providing you and the new Council opportunity to implement corrective action that will help repair errors of the past, and create new prospects for future success. The truth will be your ally and provide you needed separation from the past. We encourage you to consider what we believe is a helpful invitation.

Presuming you and the new Council genuinely believe in law abiding, open, honest and transparent government, we appeal to those ideals in this regard and invite your help in the following manner:

a.) Please instruct the City Records office to promptly provide all GRAMA requested documents, as ORDERED by the Utah State Records Committee, and do so in the electronic format as requested, and supported by the Committee Hearing dialogue.

b.) Please instruct the City Records office to immediately waive the \$700 in fees already paid via refund, as promoted by State Code regarding records of great public interest.

We continue to receive emails from the city attorney (regarding our GRAMA request via Ken Cromar) instead of from the City Recorder or Deputy Recorder to whom they are written. Lately, there has been much comment regarding the city's expenditure of large sums of money in attorney fees. We do not believe expenditure of these costly fees need be incurred, but that is a decision to be made by the City leadership. If you confirm in writing your support of the city attorney's request to be included, then we will respect your decision, and simultaneously CC you and the Council regarding these issues.

On a related matter: Of the documents provided, a limited review of the first few pages included documents of private matters regarding one of our members that has nothing to do with the conducting of City business. Appropriately, the City makes it a point to remove all personal information such as phone number, email, and address. **(Utah Code 63G-2-302(2)(d) and 63G-2-102(1)(b))** However, allowing the inclusion of personal documents that have nothing to do with city business is potentially defamatory, and clearly inappropriate for insertion in the public record. Please remove or reclassify such documents and/or redact such information from the public record prior to providing the GRAMA requested electronic copy.

The City attorney has requested a response by Aug. 24th regarding some email documents believed to be errantly provided. While we disagree with the City's position as to the private or privileged nature of a number of the documents in question, upon our receipt of the GRAMA requested documents in the electronic format requested, we commit to promptly, on the same day, do the following:

- 1.) Remove the documents in question from the site to where they were uploaded and made available those associated with Cedar Hills Citizens for Responsible Government.
- 2.) Provide a copy of the city attorney's letter containing his request for the destruction of the documents to all individuals we can ascertain obtained these documents, for their consideration and action.
- 3.) We will sequester the copies of the documents currently in our possession, and not make use of the content, nor destroy our copies, until such a time the issue is resolved.

Mayor Gygi, you and the Council have a difficult assignment in front of you to restore trust in Cedar Hills government. However, we believe you can accomplish this worthwhile objective. We wish you well and encourage your every noble effort to restore the public trust through intense transparency and an abundance of openness. Truth can be our common goal.

We want you and the new Council to be successful. Providing more information, not less -- faster, not slower -- will result in this new Council successfully creating a positive legacy. We believe our efforts can be of service to you in that goal, and thank you for your consideration of the issues outlined herein. To that end, please accept our...

Kind Regards,

Paul Sorensen, Ken Severn,
Jerry Dearing, & Ken Cromar, representing
CEDAR HILLS CITIZENS FOR RESPONSIBLE GOVERNMENT