

NOTICE OF COMPLAINT

From: **Cedar Hills Citizens for Responsible Government**

From: Ken Cromar <kencromar@bluemoonprod.com>
Subject: NOTICE OF COMPLAINT - Utah Code Violations - Alcohol & incorrect Audio recording posted
Date: April 30, 2013 1:44:38 PM MDT
To: Gary Gygi <ggygi@cedarhills.org>, David Bunker <dbunker@cedarhills.org>, Colleen Mulvey <cmulvey@cedarhills.org>
Cc: Jenney Rees <jrees@cedarhills.org>, Scott Jackman <sjackman@cedarhills.org>, Daniel Zappala <dzappala@cedarhills.org>, Trent Augustus <taugustus@cedarhills.org>, Stephanie Martinez <smartinez@cedarhills.org>, Marilyn & Jerry Dearing <jwdearing@gmail.com>, Paul & Diane Sorensen <paulsorensen7@gmail.com>, Ken & Debbie Severn <ksevksev@gmail.com>, Angela & Lars Johnson <angelschef@yahoo.com>, Susan Mumford <smumford@utah.gov>, Rosemary Cundiff <rcundiff@utah.gov>

Mayor Gygi, Mr. Bunker, and Ms. Mulvey,

Please forgive in advance the firm tone taken in this letter, but the City's clear pattern of obfuscation and obstruction requires our effort to hold you to the law, your duties and your responsibilities.

It has now been or 4-days (or two business days) since my original email about my research in behalf of **Cedar Hills Citizens for Responsible Government**. Though you mayor have written twice now saying you would check into the posting on the City website of the incorrect audio recording of Tuesday's City Council meeting, you have not yet substantively responded. Why? This should a simple matter.

Also, further research has demonstrated that the Council's vote on Tuesday April 23, 2013, to allow the serving of alcohol at our so-called "family Recreation Center", may have been done so outside of the law. Had "alcohol" in the "Rec Center" been properly posted in the Agenda, I am confident that City Council meeting would have seen many more residents in attendance. The subject of the

Agenda item -- **alcohol** -- was not included. You know that, and admitted it at the Council meeting. Unfortunately, based on the past record, we have no reason to believe this was not intentional.

Therefore, you should not be surprised that so many CH residents have grown weary of so many years of false and loud Council claims of "open, honest and transparent" CH government. It certainly does NOT appear to be true or accurate. As evidence I would encourage you to listen Council woman Jenney Rees' comments at the last Council meeting, but "Oops!", they've disappeared! Why?

Allow me to explain two immediate apparent Utah Code violations. I took occasion to do additional research on yours and the City's duties regarding City Council meetings, proper posting of agenda subject items (including alcohol), and audio recordings. Allow me to share with you the Code cites:

[Title 52](#) Public Officers
[Chapter 4](#) Open and Public Meetings Act
Section 203 Written minutes of open meetings -- Public records -- Recording of meetings.

- (3) A recording of an open meeting shall:
 - (a) be **a complete and unedited record** of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
 - (b) be properly labeled or identified with the date, time, and place of the meeting. *(emphasis added)*

It appears that the City did not comply with State Code cited above. While the city posted an incorrect audio capture, which is not a recording of the audio heard through the PA system, which is often indiscernible, and hence fails to comply with the requirement to provide "**a complete and unedited record**". The City is hereby notified that it has failed to uphold its responsibilities under the law.

Mayor Gygi, Mr. Bunker and Ms. Mulvey, I hereby invite you to immediately have provided a copy via email of the draft minutes of the April 23, 2013 for my review.

[Title 52](#) Public Officers
[Chapter 4](#) Open and Public Meetings Act
Section 202 Public notice of meetings -- Emergency meetings.

52-4-202. Public notice of meetings -- Emergency meetings.

(1) A public body shall give not less than 24 hours public notice of each meeting including the meeting

(a) **agenda**;

(b) date;

(c) time; and

(d) place.

(6) (a) A public notice that is required to include an **agenda** under Subsection (1) **shall provide reasonable specificity to notify the public as to the topics** to be considered at the meeting. **Each topic shall be listed under an agenda item on the meeting agenda.**

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(emphasis added)

Again, it appears quite obvious that the City did not comply with Utah State Code as cited above.

Mr. Gygi, I know you were not elected, only appointed, and indeed, according to a google search of CH minutes at the time you signed up to run for office, you hadn't even attended a Council meeting since 2005, so I understand why you might not be as familiar with your duties and responsibilities as you should -- but this does not excuse you from the obligations you accepted and for which we citizens pay you. You are responsible for final approval of the agenda before publication, are you not? You acknowledged at the Council meeting that "alcohol" was not on the agenda in item #19, so you should have appropriately canceled the item for non-compliance with the law, but you did not. Also, where is the "complete and unedited" audio record of the April 23, 2013 City Council Meeting? Please immediately provide explanation why the correct recording of the meeting was not posted and advise me when it is.

Additionally, you may want to consider the following post at Cedar Hills Citizens

for Responsible Government website, which documents the former mayor (now serving time on a bank fraud guilty plea) and city manager ("resigned" ignominiously) email admission of conspiracy regarding alcohol in the Rec Center, which you've now voted to implement outside the knowledge of the community:

Secret Email #4 – Mayor: “Beer Tavern license”, - but “after the election”

- Oct• 26•12

<http://www.cedarhillscitizens.org/secret-email-4-mayor-beer-tavern-license-but-after-the-election/>

IMPORTANT: Please don't miss the PDF at the bottom. It contains the documentation of former mayor Brad Sears & Council's flyer which promised no Sunday operation or alcohol if we would please just vote in favor of the "money maker" golf course which would not cost taxpayers one dollar. Now at over \$10 million in taxpayer subsidized losses and growing...

And please, do not attempt to hide behind, "Well, it's not a 'beer tavern' license that we voted for." It's alcohol you voted for in our public building directly connected to golf and wedding, in the so-called "family Rec Center".

Mr. Bunker, we know you were only appointed, and indeed, you had no professional training and education in City Management, so we understand why you might not be as familiar with your duties and responsibilities as you should -- but this does not excuse you from the obligations you accepted and for which we pay you. Where is the "complete and unedited" audio record of the last City Council meeting?

Ms. Mulvey, we know you are new to the City, but we understand that you did work in a professional position within Pleasant Grove's Recorder Office, so you cannot be excused from the obligations you accepted and for which we pay you. Where is the "complete and unedited" audio record of the meeting?

Need I add to this the \$410,000 expenditure voted on outside of the requirements of your own new ordinance as admirably and eloquently explained by Council woman Jenney Rees, while pretending the expenditure is "only" a \$365,000 bid? We wonder, "Have you no shame"?

To date you have not yet substantively responded to what should have been a very

easy explanation. Why? Political protection? Dishonesty? Incompetence? All the above? Research cited above has demonstrated that your vote to allow the serving of alcohol at our so-called "family Recreation Center", and that the posting of "**a complete and unedited record**" may also have been done so outside of compliance with the law.

And you wonder why so many of the citizens question your commitment to "open, honest and transparent" Cedar Hills government? Excuse the firm tone of this letter, but at some all point the excuses and justifications ring hollow, and you must be held responsible for your actions and non-actions. I gave you a reasonable period of time to provide explanation, enough that the mayor wrote two non-answers back. Why are we always pushed to the edge and forced to write this kind of letter in behalf of the **Cedar Hills Citizens for Responsible Government** and the rest of the community before you finally act? The City has proven itself notorious for not keeping and allowing of easy access to the public record. Reminder: 6000+ pages ORDERED by the Utah State Records Committee to be provided and possibly as much as \$120,000 you chose to waste in the attempt to withhold those records from the Public. You lost. Worse, you made the citizens pay for your mistake. Shall we do this again? Is it time for a real investigation and proper forensic audit? (NOTE: Representatives of the Utah State Records office are CC-ed above.)

Who is it that is really looking out for citizens of Cedar Hills and their money? You're not proving yourselves any different from the last group of officials. If you are incapable of performing your duties and responsibilities for which we the taxpayers handsomely compensate you and entrust you, would you please consider resigning your positions in favor of those who are?

In conclusion, we respectfully DEMAND that the audio record be corrected and posted immediately, and the alcohol vote / approval be suspended immediately until the City has gone through the proper legal process in public, on the record, in front of your employers -- the citizens of Cedar Hills.

Most Sincerely,

Ken Cromar - Researcher - in behalf of:
Cedar Hills Citizens for Responsible Government
9870 N. Meadow Drive
Cedar Hills, UT 84062