

**Cedar Hills Mayor Gygi vs. First Amendment rights
& Utah Open and Public Meetings Law**

by Ken & Barbara Cromar

Tuesday February 16, 2016 City Council Meeting – PUBLIC COMMENT

(cleaned-up, highlighted and revised slightly before emailing to City Manager / Council and mayor / City Attorney)

Thanks to those of you who thoughtfully do many good things in an honorable way for the residents of CH. My family is grateful.

On the signup sheet to speak at this microphone in public comment it reads, "Would you like to be contacted regarding this item?" I mark "yes" when I have offered public comment, but no one ever calls. So, if you don't intend to respect me and Cedar Hills Citizens for Responsible Government's petition for redress of grievances, which was read into the record last Council meeting (and emailed to you), then maybe you might want to take that option off the signup sheet. (We're still waiting for a reply to our petition for redress of grievances.)

Also, at the last City council meeting, I was abused by the mayor, certain current and former council members, some residents, and ironically a newspaper reporter. The meeting was stopped and I was singled out for public ridicule (with about 20 Boy Scouts in the room) while quietly recording the proceedings from the side of the room completely out of the way, with no one around me, and without disruption whatsoever -- because you said you had an Ordinance that said I had to be at the back of the room.

This is not the first time a First Amendment infringement has been attempted by Mayor Gygi. On October 8, 2015, the city managers called two police officers to come to a Golf Finance Committee Meeting to protect me from a hostile crowd incited to near riot by a mayor and golf committee chairman Rick Stewart, both who refused to protect me and my rights to videotape a public meeting. (Note: This un-noticed and illegal 3-hour meeting does not show up on the public record despite fact that it occurred in a city building, with the city's golf course committee, discussing a city matter, with approx. 30 city residents attending, plus the city mayor and all five of the City Councilmembers in attendance. How is that not a public meeting?) People were kicking my chair, jumping in front of my camera (one woman put her breasts into my camera lens multiple times in an attempt to block my taping) and making threatening gestures. No apologies from the mayor or city were ever offered.

Well, tonight the Council will be discussing a change to its Ordinance regarding videotaping of public meetings. The current ordinance was illegal and I believe you should've known it. All of you should have jumped to my defense and the protection of my rights, because you swore an oath to do so when you took office. Did you even understand what you were doing when you swore an oath to protect and defend the US and Utah Constitutions?

Some of you probably haven't read or understood either of those documents yet. I hope you at least do a better job understanding and keeping your sacred marriage vows to your spouse. The vows of fidelity in marriage are not dissimilar to your oath office.

Council, we have a problem. The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land or Cedar Hills. The U.S. Constitution is the supreme law of the land, and any statute, to be valid must be in agreement. It is impossible for a law, which violates the Constitution to be valid as the following Supreme Court precedent states:

"All laws which are repugnant to the Constitution are null and void."

Marbury vs. Madison, 5 US (2Cranch) 137, 174, 176, (1803)

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

Miranda vs. Arizona, 384 US 436 p. 491.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation as inoperative as though it had never been passed."

Norton vs. Shelby County 118 US 425 p. 442

[After Ken finished, mayor Gary Gygi stated, "Mr. Cromar, you and I don't agree on everything, but you're 100% right on this." Ken walked back to the podium and asked, "So, I wonder where my apology is from all the other meetings where I've been abused, particularly by you mayor? Is that forthcoming?" Mayor Gygi responded, "I don't think I have abused you, but you are 100% right on this issue." No apology was offered.]

[Agenda Item #8 dealt with the proposed revisions to the city's existing videotaping Ordinance. Barbara & Ken Cromar read from prepared statement – Barbara starting...]

At the last Council meeting the mayor disrupted his own meeting to pretend taking offense and to claim that his Council meeting was being interrupted, because Ken was videotaping at the side of the room rather than at the back where the city ordinance claimed he had to be. You can't see or hear well the people speaking at this microphone from the back of the room. All you get is the back of heads and bad room acoustics. At the side Ken is able to see and hear the proceeding better, and has done so regularly from that position while not interrupting or blocking anyone. In fact, to Ken's knowledge he has never disrupted a public meeting. The **only** disruptions relating to Ken have been by individuals who chose to take or pretend offense, demanded that they not be videotaped, or protested "Ken's disobedience" to your unlawful Ordinance. This is not new. Ken has informed you numerous times, as have other professional TV cameramen that the back of the room is not conducive to documenting a public meeting.

People often ignorantly parrot that “we’re a democracy”. They are wrong. We are a Constitutional REPUBLIC. There is a huge difference. Intelligent students of history know that the Founders declared that democracies were dangerous and undesirable — which is why they created a Republic — “if you can keep it”, as Benjamin Franklin said.

Do you remember: “...and to the Republic, for which it stands, one nation under God...etc.” Tonight, all of you said those words in unison, with your hand over your heart, at the beginning of this meeting, when we stood and said the Pledge of Allegiance, remember?

Your intent tonight to revise and tweak around the edges an ordinance that is already “repugnant” to US Constitutional and Utah Open and Public Meetings law is ill advised, presumably by the mayor. In other words, in my opinion putting lipstick on this pig doesn’t make it any less porky or enforceable!

One of the ordinance revisions proposes to instruct cameramen that they must record on the sides of the room. What happens if I want to record from the back for some reason? Would you then threaten to have Lieutenant Lilliard remove me again, or arrest me? Absurd.

The only thing you actually have authority to tell us is:

Yes Mr. Cromar, you can record in an orderly manner and I as a city official will do all in my power to protect your Constitutionally guaranteed First Amendment right. In fact Mr. Cromar I will challenge anyone of my colleagues who tries to make any law “...abridging the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the petitioning for a governmental redress of grievances.”

AND additionally, Yes Mr. Cromar, you can videotape any public meeting in an orderly manner and I will always do all in my ability to protect your rights under the Utah State Open and Public Meetings law, which says:

All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting. *Utah Code Section 53-4-203(5)*

AND

Utah Code 52-4-103. Definitions.

(“7) Monitor” ...all of the public statements of each member of the public body who is participating in a meeting.

(12) ... [record] the proceedings of a meeting that can be used to review the proceedings of the meeting.

[Barbara's three-minutes was up and Ken Cromar finished reading their prepared statement...]

Do you really need any more in an Ordinance than what is already in the US and State Code? No, I don't think so. Actually, I do have a suggestion for the ordinance in consideration. While you do NOT have authority to weaken, dilute, impede, abridge, infringe or interfere with my rights, you can make law that insures more access to public meetings and impose harsh penalties to insure my rights stop being abused. This could include creating misdemeanor infractions and immediate removal from office via a majority vote of the Council, the mayor or any other city official who attempts to infringe on anyone's First Amendment rights. That would be a great addition! That would be doing your job you swore an oath you would do.

I'm seriously considering creating a Government 101 YouTube video starring you folks, as you weigh in on the **Cedar Hills Council vs. First Amendment and Utah Open and Public Meetings Act**, and include video footage that documents how this cameraman has been abused multiple times publicly – just for exercising my First Amendment rights.

The revisions proposed to the current video taping ordinance being considered tonight is in my opinion a waste of time, ill-advised, and I believe promoted under the direction of mayor Gary Gygi.

Have you heard the adage, "It is the nature and disposition of almost all men, once given a little power and authority as they suppose to immediately begin to exercise unrighteous dominion," over others? I know that my family and I certainly feel abused and endangered by this man and his numerous falsehoods and fabrications promoted and created using taxpayer money with the intent to malign and publicly harm us. I'm aware that many city employees have also felt his abuse and attempted usurpation of power.

May I respectfully suggest you table this Agenda item tonight and allow the city attorney time to start a new proposed ordinance, if any ordinance is needed at all. Or, better yet, create an Ordinance adopting State code already in place but with the ADDITION of penalties including possible removal from office of the mayor or any city official who tries to steal or curtail Constitutionally guaranteed rights.

Or, maybe I should encourage you to do me the favor of passing this Ordinance tonight and give me extra ammunition for a video I'll make to help me in my next Boy Scout Merit Badge instruction on Citizenship in the Community showing how city officials abuse their power — starring all of you!

Oh, and by the way, you can say you don't want to be recorded at a public meeting as the current Ordinance reads, but because this is an Open and Public City Council Meeting under Utah State Code and the First Amendment to the US Constitution, your protestation doesn't

matter to me or anyone else. If this upsets mayor Gygi and he really doesn't want to be video taped at a public meeting, he can simply resign his position as the mayor of Cedar Hills, and thereby his wish will be granted. I would be happy to see his wish be granted.

Thank you for your time.

What happened next when the Council deliberated the proposed tweaks to the existing videotaping ordinance?:

Councilman Crawley asked if any ordinance was necessary at all in light of the Utah Open and Public Meetings Act already in place? City attorney David Shaw agreed that it covered the issue, but that the council can elaborate if they want to. Crawley recommended no ordinance.

*Council member Jenney Rees immediately made a motion to accept the ordinance as tweaked in the Work Session (no details available) and with Councilman Zappala's addition to include the back of the room as well as a city approved place to record too, and also disallow cords or cables being allowed in walk ways etc., "for safety reasons". Gygi called for a vote. Zappala – **Aye**. Rees – **Aye**. Geddes – **Aye**, though he was late, missed much of the discussion, and might have recused himself from the vote. Crawley – **Nay**. And new Councilmen Ben Bailey courageously voted – **Nay**.*

*Revised videotaping ordinance **passed 3 to 2**.*

Ironically, there were a number of city microphone and power cords in the walkways, of which photos were taken. Ken's video camera package has always been completely cable free and wireless, as are most all professional cameramen, at Council meetings.

Again, no apologies from Gygi, Rees, Zappala, or Hagen, or any of their many abusive supporters, have been offered to the Cromars.

(Video, audio and photos of all the above available)