



Written by [Michael Tennant](#) on July 20, 2011

Ark. Town Council Bans Civic Group, New Organizations

One of the quintessential ingredients of small-town America is the local civic group, an organization of individuals who attempt to better their community by influencing their local government. Of course, not everyone appreciates their efforts — especially politicians who prefer to do as they please without interference from the people they are supposed to be serving.

In trying to evade local civic groups, however, few local governments have gone as far as the city council of [Gould, Arkansas](#). First the council passed an ordinance demanding the [Gould Citizens Advisory Council](#) (photo at left) a group of concerned Gould citizens, cease to exist. Then it passed another one forbidding the mayor to meet with any organization without the express consent of the city council. Mayor Earnest Nash, Jr., a member of the group, vetoed both measures, but the council overrode his vetoes.



The council, still not satisfied that it had done enough to keep citizens out of government affairs, then passed yet another [ordinance](#). This one banned the Citizens Advisory Council from the city and prohibited any “new organizations” from forming in the city without the council’s approval. For good measure, it also declared a state of emergency in Gould. Nash vetoed the ordinance but fears that the council will once more override him when it meets again in August.

The council’s stated reason for banning the civic group is that the organization “is, in effect, causing confusion and discourse [sic] among the citizens of Gould and as a result is contributing to the friction not only between the Mayor and Council but also among the citizens who deserve a cooperative government.” Nash begged to differ, telling the [Little Rock Fox affiliate](#), “This group doesn’t cause friction between me and the council. The council causes friction between me and the council.”

Nash sees the council’s moves as attempts at “total domination.” He also thinks “the council is purposefully trying to lose the city’s charter, but he doesn’t know why,” according to the Fox affiliate.

The council certainly appears to be working hard at it. The city owes the IRS \$300,000, and were it not for the actions of the Citizens Advisory Council, which earlier this summer raised \$11,000 toward back taxes, Uncle Sam probably would have already taken some city property. According to a [press release](#) from the civic group, “bankruptcy and many years of legal problems for the City” are also putting Gould at risk. In addition, three council members voted against accepting an \$800,000 grant to repair the city’s sewage system; both the Citizens Advisory Council and Nash favored accepting the grant.

The ordinances are almost certain to be challenged in court, and few believe they will hold up. The



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ordinance requiring new organizations to be approved by the city council is so vague that “it also extends to you talking to your mother or a church group or any other group that wants to form. A garden club! It’s so broad that it can’t possible comply with the First Amendment,” said University of Arkansas at Little Rock School of Law Dean John DiPippa.

The Gould city attorney tried to convince the council of that, and for his efforts they attempted to fire him.

Whether these ordinances actually clash with the First Amendment depends on one’s view of the incorporation doctrine, which holds that most of the Bill of Rights now applies to state and local governments under the 14th Amendment. Thus, while the First Amendment plainly prevents Congress from “abridging the freedom of speech ... or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances,” under the incorporation doctrine it also prevents state and local governments from doing the same.

However, one need not appeal to the U.S. Constitution at all to prove that the Gould council’s actions are unconstitutional. The [Arkansas Constitution](#) states: “The right of the people peaceably to assemble, to consult for the common good; and to petition, by address or remonstrance, the government, or any department thereof, shall never be abridged.”

In fact, at least one member of the council, Sonja Farley, seems to be coming to the realization that the council’s actions were illegal. Though she had earlier expressed the view that the council existed to have “control” over “everything” and to “keep order when people can’t keep order,” she recently revised her view of the ordinances, saying “she would probably vote to rewrite the ordinances with more constitutionally sensitive wording,” the [New York Times](#) reports. How one could rewrite such laws to comport with the Arkansas and U.S. Constitutions — without completely gutting the ordinances — is anybody’s guess.



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