

Dear Mayor, City Council, and City Attorney:

I wasn't at the beginning of the June 25, 2013 City Council meeting at which I was arrested for clapping, so I had not seen, at the beginning of the meeting, that the Mayor actually encouraged people to clap for city employees before ordering my neighbors and me not to clap for each other. Does anyone see a problem with that yet?

Well, here is what someone who doesn't live in Riverside or know me or any of you put together after reading the article in the Press Enterprise and then watching the video of the meeting himself:

<http://www.newscaller.com/analysis-of-letitia-pepper-arrest-for-clapping-at-rvsc-council-meeting/>

I suggest you watch this 13-minute video, and decide if this is what you want to have happen at the next council meeting. You should also decide what you want people to see as the way that our local government treats its citizens, because I am going to applaud after speakers with whom I agree at future meetings (and I may boo after people or actions I don't like), because I have a legal right to do so as long as I do not actually interrupt the meeting.

Whether you like me or not, how can you think that encouraging some people to clap for certain things, and ordering other people to not clap for others, could possibly meet constitutional standards re free speech? Especially when the City has NO rule forbidding clapping at all? Common sense compels one to think, oh, that's can't be okay!

Please don't think you can solve this problem by adopting a no clapping rule. It would be illegal. See *Acosta v. City of Costa Mesa* (9th Cir. 2013), as stated at page 14 of the slip opinion at <http://cdn.ca9.uscourts.gov/datastore/opinions/2013/05/03/10-56854.pdf>: "An ordinance that governs the decorum of a city council meeting is 'not facially overbroad [if it] only permit [s] a presiding officer to eject an attendee for actually disturbing or impeding a meeting.' *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010) (en banc)(emphasis added). However, actually disturbing or impeding a meeting means "[a]ctual disruption" of the meeting; a municipality cannot merely define disturbance 'in any way [it] choose[s],' e.g., it may not deem any violation of its rules of decorum to be a disturbance. *Id.* "

Watch the video: who actually interrupted the meeting? The Mayor did, by calmly adjourning (and having the cameras turned off), so you could hide out until I was arrested and removed. Watch the whole City video and you'll see that I never applauded over anyone trying to speak, and I never caused any delay in the speakers going to the podium or leaving it. In other words, I did not actually interrupt the meeting.

Acosta came out in 2013 -- **but this has been the very clear law in California since *Norse* in 2010.** This means there is no excuse for what's been going on. I sent the City

a demand letter on June 14 (after the Mayor ordered Dvonne Pitruzzello, Joel Udayke and Vivian Moreno to not clap after allowing Cindy Roth and others to applaud just moments before on another item). In it, I asked for apologies to each of them and a change in the rules of decorum. I've had no response at all -- except to be arrested myself for clapping. I suppose I could take that as a response to my demand letter, but I'd rather have a more formal response from the City Attorney.

I suggest that you all look at that demand letter, read *Acosta*, look at the above-noted video, and then decide whether you want our City to continue to violate the law instead of apologizing and changing its illegal rules of decorum and illegal orders from the dais.

I also suggest that if Greg Priamos tells you that there are no problems with your rules or what is being done by the Mayor, that you use your common sense and get a second opinion from an independent source, one other than BB&K (since it will stand to make more money in attorney's fees if Greg hires it to defend the city from any future, related lawsuits). And, based on such second opinion, I suggest that you tell the City Attorney to draft new Rules of Decorum in compliance with the First Amendment and *Norse* and *Acosta*, and stop advising the Mayor that he can have people arrested for not obeying his every order.

I also continue to ask that the Mayor apologize to everyone he ordered not to clap, including me for having me arrested, and that he then blame his actions on bad legal advice.

Sincerely,

Letitia E. Pepper, for Dvonne Pitruzzello, Joel Udayke, and Vivian Moreno, and, ultimately, for all residents of the City of Riverside