UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JULIAN RAVEN, Plaintiff, v. **THE CITY OF ELMIRA;** **MAYOR DANIEL J. MANDELL,** in his official capacity; **COREY COOKE;** **JOSEPH H. DUFFY;** **GARY BRINN;** **JACKIE WILSON;** **and NANETTE M. MOSS,** in their official capacities, Defendants.	**Civil Action No.: _________**

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PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION,

TEMPORARY RESTRAINING ORDER, AND DECLARATORY RELIEF

PLEASE TAKE NOTICE that upon the accompanying Complaint and Memorandum of Law, Plaintiff Julian Raven respectfully moves this Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for: A Temporary Restraining Order and Preliminary Injunction immediately suspending

enforcement of the City of Elmira's recently enacted public-comment restriction abolishing the historically open second public-comment forum during Elmira City Council meetings;

1. An Order restoring constitutionally protected public-comment participation pending final adjudication of this action;
2. A declaration that Defendants' conduct likely violates the First and Fourteenth Amendments to the United States Constitution;
3. Such other and further relief as this Court deems just and proper.

INTRODUCTION

This action concerns one of the oldest constitutional prohibitions in American law: governmental suppression of public criticism before it occurs.

For years, Elmira City Council meetings contained two separate public-comment forums:

(1) comments concerning agenda items, and

(2) a historically open second public-comment forum permitting citizens to raise broader matters concerning city governance, constitutional grievances, public

safety, taxation, administration, charter structure, and the conduct of local government.

Defendants abolished the second forum after public criticism became politically uncomfortable and offensive to officials.

Public statements reportedly made by Defendants confirmed the basis for the abolition. Officials stated the second public-comment section was removed because comments were "offensive," involved "personal attacks," created perceived "liability," and because "people shouldn't have to listen" to such speech.

Rather than narrowly regulating actual disruption, Defendants abolished the very forum through which unscripted criticism of government historically occurred.

Plaintiff respectfully attempted to avoid litigation.

Prior to the challenged Council meeting, Plaintiff privately notified the City and Corporation Counsel concerning the substantial constitutional defects surrounding the City's actions and respectfully requested reconsideration and corrective action before unnecessary escalation occurred.

Plaintiff specifically warned the City that:

- the abolition of the historically open forum implicated viewpoint discrimination,
- structural prior restraint,
- retaliatory forum manipulation,
- and long-established First Amendment doctrine governing limited public forums.

Plaintiff further informed the City that his purpose was not conflict or embarrassment, but peaceful constitutional resolution.

Defendants ignored that notice.

At the subsequent Council meeting, Defendants enforced the challenged restriction and prevented Plaintiff from addressing matters concerning city governance outside government-approved agenda topics, including:

- the constitutionality of the speech restriction itself; and
- proposed restoration of Elmira's traditional executive-mayor charter structure.

Plaintiff was thereby silenced pursuant to the challenged policy.

The constitutional injury is ongoing.

Each successive City Council meeting continues to operate under an unconstitutional restriction suppressing historically protected public participation and criticism concerning matters of municipal governance.

Immediate injunctive relief is therefore necessary.

STATEMENT OF FACTS

1. Elmira historically maintained two public-comment portions during City Council meetings.
2. The second public-comment section historically permitted citizens to raise broader matters relating to city governance and public affairs.
3. Through longstanding practice, Defendants thereby created a limited public forum concerning matters relating to the City of Elmira.
4. Defendants recently abolished the second public-comment forum and restricted speech exclusively to government-approved agenda subjects.
5. Public statements by Defendants reportedly justified the abolition based upon:
    - offensive comments,
    - personal criticism,
    - listener discomfort,

    - and perceived liability arising from citizen speech.

6. Plaintiff sought to address the Council concerning:
    - the constitutionality of the new restriction; and
    - restoration of Elmira's original executive-mayor governmental structure.
7. Prior to the meeting, Plaintiff privately notified Corporation Counsel and the City regarding the constitutional concerns raised by the restriction and requested peaceful reconsideration.
8. Defendants nevertheless enforced the challenged restriction and prevented Plaintiff from speaking.
9. Plaintiff continues to suffer ongoing deprivation of First Amendment rights.

ARGUMENT

I. PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS

Plaintiff is likely to succeed because Defendants' conduct constitutes:

- viewpoint discrimination,
- structural prior restraint,
- and unconstitutional manipulation of a limited public forum.

A. Defendants Engaged in Viewpoint Discrimination

In **Rosenberger v. Rector & Visitors of Univ. of Va., 515 U.S. 819, 829 (1995)**, the Supreme Court held that viewpoint discrimination is "an egregious form of content discrimination."

In **Good News Club v. Milford Cent. Sch., 533 U.S. 98, 106–07 (2001)**, the Court held that government may not exclude perspectives on otherwise permitted subjects within a limited public forum.

Defendants abolished the historically open forum because officials disliked the criticism occurring there.

Their own public statements establish this motive.

B. Defendants Imposed Structural Prior Restraint

In **Nebraska Press Ass'n v. Stuart, 427 U.S. 539, 559 (1976)**, the Supreme Court held prior restraints are "the most serious and the least tolerable infringement on First Amendment rights."

In **Near v. Minnesota ex rel. Olson, 283 U.S. 697 (1931)**, the Court condemned systems suppressing future expression before publication.

In **Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546 (1975)**, the Court held that discretionary suppression of expressive access to governmental forums violates the First Amendment.

Defendants abolished the forum itself to prevent future disfavored speech before it could occur.

That is structural prior restraint.

C. The Founders Specifically Rejected Such Governmental Suppression

James Madison argued in his **Report of 1800** that the right of freely examining "public characters and measures" is "the only effectual guardian of every other right."

Thomas Jefferson warned that "the people are the only censors of their governors."

The challenged restriction violates these foundational constitutional principles by limiting citizens to government-approved agenda subjects while suppressing broader criticism of government itself.

II. PLAINTIFF SUFFERS IRREPARABLE HARM

The deprivation of First Amendment freedoms, even briefly, constitutes irreparable injury as a matter of law.

Elrod v. Burns, 427 U.S. 347, 373 (1976).

Each successive Council meeting conducted under the challenged restriction perpetuates ongoing constitutional injury.

III. THE BALANCE OF EQUITIES FAVORS PLAINTIFF

Defendants possess no legitimate interest in enforcing unconstitutional speech restrictions.

Plaintiff seeks only restoration of the historically existing public forum pending judicial review.

The requested injunction merely preserves longstanding constitutional participation rights.

IV. THE PUBLIC INTEREST FAVORS INJUNCTIVE RELIEF

"The public interest favors permitting as much speech as possible."

The public possesses a profound interest in:

- constitutional governance,
- public participation,
- governmental accountability,
- and preservation of First Amendment freedoms.

WHEREFORE

Plaintiff respectfully requests that this Court:

1. Immediately suspend enforcement of the City of Elmira's public-comment restriction abolishing the historically open second public-comment forum;
2. Restore constitutionally protected public participation pending final judicial review;
3. Declare that Plaintiff has demonstrated a substantial likelihood of success on the merits;
4. Award such additional relief as the Court deems just and proper.

Dated: May 18, 2026

Respectfully submitted,

Julian Raven, Pro Se
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Elmira, New York,
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JULIAN RAVEN, Plaintiff, v. **THE CITY OF ELMIRA;** **MAYOR DANIEL J. MANDELL,** in his official capacity; **COREY COOKE;** **JOSEPH H. DUFFY;** **GARY BRINN;** **JACKIE WILSON;** **and NANETTE M. MOSS,** in their official capacities, Defendants.	**Civil Action No.:** _________

ORDER GRANTING PRELIMINARY INJUNCTION

Upon consideration of Plaintiff's Motion for Preliminary Injunction, supporting papers, exhibits, and all proceedings herein, and the Court finding that Plaintiff has demonstrated:

- likelihood of success on the merits,
- irreparable harm,
- favorable balance of equities,
- and that the public interest favors injunctive relief,

IT IS HEREBY ORDERED:

1. Defendants are immediately ENJOINED from enforcing the City of Elmira's recently enacted public-comment restriction abolishing the historically open second public-comment forum during Elmira City Council meetings;

2. Defendants shall restore public-comment participation substantially consistent with the historical practice existing prior to the challenged restriction pending final judicial review;

3. Defendants shall not prohibit Plaintiff or other citizens from addressing matters concerning city governance, constitutional grievances, municipal

administration, charter structure, taxation, public safety, or related matters concerning the City of Elmira solely because such matters are not listed on a government-approved agenda;

4. This Order shall remain in effect pending further Order of this Court.

SO ORDERED.

Dated: ___________________

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JULIAN RAVEN, Plaintiff, v. **THE CITY OF ELMIRA;** **MAYOR DANIEL J. MANDELL,** in his official capacity; **COREY COOKE;** **JOSEPH H. DUFFY;** **GARY BRINN;** **JACKIE WILSON;** **and NANETTE M. MOSS,** in their official capacities, Defendants.	**Civil Action No.: _________**

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF,

NOMINAL DAMAGES AND OTHER RELIEF UNDER 42 U.S.C. § 1983

I. INTRODUCTION

1. This civil-rights action arises under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

2. Plaintiff Julian Raven challenges the City of Elmira's recent abolition of the historically open second public-comment portion of Elmira City Council meetings and the City's replacement of that historically open civic forum with an agenda-controlled expressive structure permitting citizens to speak only on subjects preapproved and selected by the government itself.
3. For years, Elmira maintained two distinct public-comment portions during City Council meetings:

(a) a comment period tied to agenda items; and

(b) a second public-comment forum during which citizens could raise broader matters concerning city governance, constitutional grievances, charter structure, taxation, public safety, administration, municipal policy, and other matters concerning the City of Elmira.

4. The second public-comment forum constituted an historically open limited public forum concerning matters relating to the governance, operation, and public business of the City of Elmira.
5. Defendants abolished that forum after public criticism became politically uncomfortable, offensive to officials, personally critical of government actors, and legally inconvenient to the City.

6. Public officials admitted to the press that the forum was removed because comments had become “offensive,” involved “personal attacks,” created perceived “liability,” and because “people shouldn’t have to listen” to such speech.
7. Rather than narrowly regulating actual disruption, Defendants abolished the very forum category through which unscripted public criticism historically occurred.
8. Defendants thereby engaged in structural prior restraint, retaliatory forum manipulation, and viewpoint-discriminatory suppression of protected speech.
9. The constitutional injury is not merely the exclusion of one speaker.
10. The injury is structural.
11. Defendants eliminated the historically open channel through which criticism of government historically flowed.
12. The First Amendment forbids not only direct censorship of individual speakers, but also structural censorship designed to ensure that disfavored speech has nowhere left to occur.

II. JURISDICTION AND VENUE

13. This Court possesses subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1343 because this action arises under the Constitution and laws of the United States.
14. Declaratory relief is authorized under 28 U.S.C. §§2201 and 2202.
15. Venue is proper under 28 U.S.C. §1391 because all events giving rise to these claims occurred within the Western District of New York.

III. PARTIES

16. Plaintiff Julian Raven is a property owner in the city of Elmira, New York and citizen of the United States.
17. Defendant City of Elmira is a municipal corporation organized under the laws of the State of New York.
18. Defendant Mayor Daniel J. Mandell acted under color of state law at all relevant times.
19. Defendant Elmira City Council acted under color of state law at all relevant times.
20. Defendants and Elmira City Council members; Corey Cooke, Joseph H. Duffy, Gary Brinn, Jackie Wilson, Nanette M. Moss participated in the challenged actions under color of state law.

IV. FACTUAL BACKGROUND

21. Historically, Elmira City Council meetings included two public-comment portions.
22. The first public-comment segment concerned agenda items.
23. The second public-comment segment historically allowed citizens to raise broader issues concerning city business, constitutional grievances, charter structure, public safety, taxation, administration, policy concerns, municipal governance, and related matters affecting the City of Elmira.
24. Through longstanding policy and practice, Elmira thereby created and maintained a limited public forum concerning city governance and municipal affairs.
25. The constitutional scope of a limited public forum is determined not merely by government assertion, but by the forum's historical practice, actual use, governmental policy, and compatibility with expressive activity.
26. In **Cornelius v. NAACP Legal Defense & Educational Fund, 473 U.S. 788, 802–06 (1985)**, the Supreme Court held that courts determine the nature of a government-created forum by examining governmental policy, historical practice, and the forum's compatibility with expressive activity.

27. Upon information and belief, Defendants recently adopted a resolution in April, 2026 abolishing and/or eliminating the historically open second public-comment portion of City Council meetings.

28. Upon information and belief, Defendants implemented the restriction without meaningful prior public notice, meaningful public participation, or opportunity for citizens to comment upon the elimination of the historically open forum.

29. Plaintiff went to the Elmira City Clerk's office on or about May 13, 2026 seeking to address the City Council concerning:

(a) the constitutionality of the City's new public-comment restrictions;

(b) restoration of Elmira's traditional executive-mayor charter structure;

(c) elimination of the council-manager model; and

(d) broader governance reform.

30. Plaintiff was informed there was effectively no mechanism through which he could participate because his subject matter was not included within the government-approved agenda.

31. Plaintiff thereafter attempted to address the City Council directly on Monday, May 18th, 2026, just after 5:30pm.

32. Plaintiff was prohibited from speaking because his comments did not concern approved agenda items.
33. Plaintiff sought to place the City on notice that the abolition of the second public-comment forum violated the First Amendment.
34. Plaintiff also sought to begin public discussion concerning the abolition of the second public comments portion of the council meeting and restoration of executive mayoral authority under Elmira's original charter structure.
35. Defendants prevented Plaintiff from addressing either issue.
36. Defendants' public prior statements to the press regarding their resolution to abolish the public comments forum revealed the motive underlying the forum abolition.
37. Mayor Dan Mandell stated: "We were getting into a situation that we thought as a council that there had been some liability with the second public comment portion of the meeting. So, we decided just to basically get rid of it."
38. Councilman Joe Duffy stated: "People shouldn't have to listen to what they were saying… the language was terrible, very offensive to other people in the room, and it just turned into personal attacks."

39. Defendants' own statements identify the speech itself — its offensiveness, criticism, and discomfort to listeners — as the reason for abolishing the forum.
40. Defendants did not abolish the forum because the building was unavailable, because meetings could not function, because another equivalent public forum was created elsewhere, or because neutral administrative necessity required closure.
41. Rather, Defendants abolished the forum because protected criticism occurring within that forum became objectionable to public officials.

V. DEVELOPMENT OF LIMITED PUBLIC FORUM JURISPRUDENCE

42. The First Amendment prohibits government from abridging the freedom of speech, the right peaceably to assemble, and the right to petition government for redress of grievances.
43. Government-created forums for public expression are governed by forum doctrine developed through decades of Supreme Court jurisprudence.
44. In **Perry Education Association v. Perry Local Educators' Association, 460 U.S. 37, 45–46 (1983)**, the Supreme Court established the

foundational categories of public forums, designated forums, limited public forums, and nonpublic forums.

45. Perry held that even within limited public forums government restrictions must remain reasonable and may not constitute “an effort to suppress expression merely because public officials oppose the speaker’s view.”

46. In **Cornelius v. NAACP Legal Defense & Educational Fund, 473 U.S. 788, 802–06 (1985)**, the Court held that the constitutional nature of a forum depends upon governmental policy, historical practice, and the forum’s actual use.

47. In **Rosenberger v. Rector & Visitors of University of Virginia, 515 U.S. 819, 829 (1995)**, the Court held that viewpoint discrimination is “an egregious form of content discrimination.”

48. In **Good News Club v. Milford Central School, 533 U.S. 98, 106–07 (2001)**, the Court held that government may not exclude a perspective on an otherwise permitted subject within a limited public forum.

49. In **Lamb’s Chapel v. Center Moriches Union Free School District, 508 U.S. 384, 392–94 (1993)**, the Court held that restrictions within limited forums must remain viewpoint neutral.

50. Elmira's second public-comment forum historically encompassed matters relating to city governance, constitutional grievances, charter structure, public safety, municipal administration, taxation, and civic criticism.

51. That historical practice constitutionally defined the scope of the forum.

52. Defendants therefore cannot erase the constitutional significance of the forum merely by retrospectively redefining it after criticism became politically and personally inconvenient.

VI. STRUCTURAL PRIOR RESTRAINT AND FORUM SUPPRESSION

53. The First Amendment embodies a profound hostility toward systems of prior restraint.

54. In **Nebraska Press Association v. Stuart, 427 U.S. 539, 559 (1976)**, the Supreme Court held that prior restraints are "the most serious and the least tolerable infringement on First Amendment rights."

55. In **Near v. Minnesota ex rel. Olson, 283 U.S. 697, 713 (1931)**, the Supreme Court established the foundational rule that government may not suppress future expression merely because officials anticipate offensive or undesirable speech.

56. In **Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 67–70 (1963)**, the Court held that indirect governmental systems designed to suppress objectionable expression violate the First Amendment even absent formal censorship orders.

57. In **Shuttlesworth v. City of Birmingham, 394 U.S. 147, 150–51 (1969)**, the Court held unconstitutional systems placing expressive access within the uncontrolled discretion of government officials.

58. In **City of Lakewood v. Plain Dealer Publishing Co., 486 U.S. 750, 757–59 (1988)**, the Court held that unbridled governmental discretion over expressive access creates unconstitutional censorship dangers and encourages self-censorship.

59. In **Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546, 553–59 (1975)**, the Court held unconstitutional a city's denial of access to a municipal theater because discretionary control over expressive forums constituted impermissible prior restraint.

60. Defendants' actions constitute structural prior restraint because Defendants abolished the historically open second public-comment forum to prevent future offensive, critical, politically uncomfortable, and personally directed speech before such speech could occur.

61. Rather than narrowly regulating actual disruption, Defendants eliminated the forum itself.
62. Defendants thereby transformed agenda control into speech control.
63. Citizens may now speak only upon subjects selected and approved by the government itself.
64. Defendants created a structural censorship system whereby criticism omitted from the government's agenda is prohibited before expression may occur.
65. Defendants thereby accomplished indirectly what the First Amendment forbids directly: suppression of future protected criticism through forum destruction.

VII. VIEWPOINT DISCRIMINATION AND RETALIATORY FORUM MANIPULATION

66. The second public-comment forum constituted a limited public forum.
67. In **White v. City of Norwalk, 900 F.2d 1421, 1425–26 (9th Cir. 1990)**, the court held that councils may regulate actual disruption but may not suppress speech merely because officials disagree with the speaker's viewpoint.
68. In **Ison v. Madison Local School District Board of Education, 3 F.4th 887, 893–95 (6th Cir. 2021)**, the Sixth Circuit struck down restrictions

targeting “abusive,” “personally directed,” and “antagonistic” comments because offensive criticism remains protected speech.

69. Defendants abolished the historically open second public-comment forum because officials disliked the content, tone, offensiveness, criticism, and personal nature of speech occurring within it.

70. Defendants thereby engaged in retaliatory forum manipulation and viewpoint discrimination.

71. Defendants cannot evade constitutional scrutiny by abolishing the forum category itself rather than excluding speakers individually.

72. The First Amendment forbids not only direct censorship of disfavored speakers, but also structural censorship designed to eliminate the channels through which protected criticism historically flowed.

73. By limiting public speech exclusively to government-approved agenda topics, Defendants converted a historically open civic forum into a government-scripted expressive structure.

74. Defendants’ actions chilled speech, burdened petition rights, and suppressed protected criticism of government.

VIII. NEUTRAL FORUM CLOSURE CASES DISTINGUISHED

75. Defendants may attempt to justify their conduct by citing cases recognizing that government possesses limited authority to close, narrow, or redefine designated or limited public forums.

76. Plaintiff does not dispute that proposition in the abstract.

77. In Perry and Cornelius, the Supreme Court recognized that government is not always required to indefinitely retain the open character of a designated forum.

78. However, those cases require forum restrictions to remain reasonable and viewpoint neutral.

79. Cases permitting forum restructuring are materially distinguishable from Elmira's conduct because those cases involved neutral operational, logistical, administrative, or safety-based concerns — not admitted hostility toward offensive or critical speech itself.

80. In **Arkansas Educational Television Commission v. Forbes, 523 U.S. 666 (1998)**, the Supreme Court upheld exclusion of a fringe political candidate from a televised debate because the exclusion rested upon objective journalistic criteria rather than hostility toward the candidate's viewpoint.

81. In **Lehman v. City of Shaker Heights, 418 U.S. 298 (1974)**, the Court upheld a transit advertising restriction because political speech had never historically been permitted within the advertising forum.

82. In **Seattle Mideast Awareness Campaign v. King County, 781 F.3d 489 (9th Cir. 2015)**, the Ninth Circuit upheld restrictions involving a transit advertising forum because the county's actions were based upon operational neutrality and safety concerns rather than disagreement with the underlying political viewpoint.

83. Elmira presents the opposite circumstance.

84. Elmira historically maintained a second public-comment forum specifically designed to permit citizens to raise matters concerning city governance outside the narrow confines of the printed agenda.

85. The forum historically encompassed grievances, criticism of officials, constitutional objections, charter reform, public policy concerns, taxation issues, public safety concerns, and broader civic commentary.

86. Defendants did not preserve a historically narrow forum.

87. Rather, Defendants abolished an historically broader forum after criticism became uncomfortable and politically inconvenient.

88. Most importantly, Defendants publicly admitted the reason for the abolition.

89. Officials reportedly justified eliminating the forum because comments were "offensive," constituted "personal attacks," created perceived "liability," and because "people shouldn't have to listen" to such speech.
90. Those admissions distinguish this case from legitimate neutral-forum-management cases.
91. Defendants' conduct reflects a structural redesign of the forum motivated by hostility toward the content, tone, offensiveness, and criticism contained within protected speech itself.
92. That distinction is constitutionally dispositive.

IX. CAUSES OF ACTION

FIRST CAUSE OF ACTION

Structural Prior Restraint and Forum Suppression

(First and Fourteenth Amendments; 42 U.S.C. §1983)

93. Plaintiff repeats and realleges all prior paragraphs.
94. Defendants abolished the historically open second public-comment forum to prevent future disfavored speech before it could occur.
95. Defendants thereby imposed an unconstitutional structural prior restraint.
96. Defendants' conduct violates the First and Fourteenth Amendments.

SECOND CAUSE OF ACTION

Viewpoint Discrimination and Retaliatory Forum Manipulation

(First and Fourteenth Amendments; 42 U.S.C. §1983)

97. Plaintiff repeats and realleges all prior paragraphs.
98. Defendants abolished the historically open second public-comment forum because officials disliked the criticism occurring within it.
99. Defendants thereby engaged in unconstitutional viewpoint discrimination.
100. Defendants' conduct violated Plaintiff's rights to freedom of speech, assembly, petition, and redress of grievances.

X. IRREPARABLE HARM

101. The loss of First Amendment freedoms, even for minimal periods of time, constitutes irreparable harm as a matter of law.
102. Plaintiff continues to suffer ongoing constitutional injury.

XI. CONCLUSION

This case is not about whether Elmira City Council may maintain order during public meetings. It may. This case is about whether government officials may abolish an historically open public-comment forum because citizen speech became

offensive, personally critical, politically uncomfortable, or legally inconvenient. The First Amendment answers that question plainly: they may not.

For years, Elmira maintained a second public-comment forum in which citizens could speak on broader matters of city governance, public policy, constitutional grievances, taxation, public safety, charter structure, and municipal administration. That practice created a limited public forum whose scope was defined by the City's own history and use. Defendants did not merely regulate disruption within that forum. They eliminated the forum itself after public criticism became objectionable to officials. Their own public statements identify the forbidden motive: offensive comments, personal attacks, perceived liability, and the belief that "people shouldn't have to listen" to such speech. That is not neutral forum management. That is viewpoint-based forum destruction.

The Constitution does not permit government to silence future criticism by restructuring the public square so that disfavored speech has nowhere left to occur. By restricting citizen comment to government-approved agenda items only, Defendants converted a historically open civic forum into an agenda-controlled expressive structure. Citizens may now speak only on subjects selected in advance by the government itself. That is structural prior restraint, viewpoint discrimination, and retaliation against protected petitioning activity.

Plaintiff does not ask this Court to compel disorder, profanity, or disruption. Plaintiff asks only that Defendants be required to obey the First Amendment: regulate actual disruption if necessary, but do not abolish the public forum because officials dislike the speech occurring there. The continuing loss of First Amendment freedoms constitutes irreparable harm, and each Council meeting conducted under the challenged restriction compounds that injury.

For these reasons, Plaintiff respectfully requests that this Court grant declaratory and injunctive relief, restore constitutionally protected public-comment participation pending final adjudication, declare Defendants' agenda-only restriction unconstitutional as applied to the abolished second public-comment forum, award nominal damages, costs, and grant such further relief as the Court deems just and proper.

Respectfully submitted,

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New York, 14901
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XII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

A. A declaration that Defendants' abolition of the second public-comment forum violates the First and Fourteenth Amendments;

B. Preliminary and permanent injunctive relief restoring constitutionally protected public-comment participation pending judicial review;

C. A declaration that Defendants' agenda-only speech restriction constitutes unconstitutional structural prior restraint and viewpoint discrimination;

D. Nominal damages in the amount of $1.00;

E. Court Costs and such further relief as the Court deems just and proper.

XIII. PROPOSED ORDER

IT IS HEREBY ORDERED:

1. Defendants are preliminarily and permanently enjoined from enforcing the challenged abolition of the historically open second public-comment forum pending final judicial review.
2. Defendants shall restore constitutionally protected public-comment participation consistent with the First and Fourteenth Amendments.
3. The Court declares that Defendants' actions constituted unconstitutional structural prior restraint and viewpoint discrimination.
4. Plaintiff is awarded nominal damages in the amount of $1.00.
5. The Court retains jurisdiction over enforcement of this Order.

SO ORDERED.

XIV. VERIFICATION AND CERTIFICATIONS

I, Julian Raven, declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the foregoing is true and correct to the best of my knowledge.

Dated: ___________________

Julian Raven, Pro Se Plaintiff
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14901
607-426-0029
julianmarcusraven@gmail.com

AFFIRMATION OF JULIAN RAVEN IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, Julian Raven, affirm under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Plaintiff in this action.
2. I submit this affirmation in support of my motion for a temporary restraining order and preliminary injunction.
3. The facts stated herein are based upon my personal knowledge, except where stated upon information and belief.
4. I am an Elmira property owner and citizen petitioner seeking to address matters concerning the governance, constitutional rights, and public business of the City of Elmira.
5. Prior to the May 18, 2026 Elmira City Council meeting, I provided notice to the City of Elmira and Corporation Counsel regarding serious constitutional concerns arising from the City's elimination of the historically open second public-comment portion of City Council meetings.

6. My notice explained that the City's restriction raised substantial First Amendment concerns, including viewpoint discrimination, structural prior restraint, and unconstitutional suppression of speech concerning matters of public concern.
7. The City acknowledged receipt of my notice through legal secretary Kelly Cardi.
8. I received no substantive response from the City before the May 18, 2026 Council meeting.
9. At the May 18, 2026 Council meeting, Mayor Daniel J. Mandell opened the first public-comment portion and stated that comments were limited to agenda items only.
10. I stood and identified myself as an Elmira property owner seeking to speak.
11. I was not recognized to speak after a pause.
12. I then began to explain that I wished to address two non-agenda matters: the constitutionality of the City's elimination of the second public-comment portion and the need to begin public discussion concerning amendment of the Elmira City Charter to restore an executive-mayor form of government.
13. I was informed that I could not address those subjects because they were not on the agenda.

14. I then attempted to direct the Council's attention to Corporation Counsel John J. Ryan, Jr., who had been notified of the constitutional concerns in advance.
15. Before Mr. Ryan could meaningfully address the issue, Councilmember Gary Brinn stated that I was out of order.
16. I sat down and did not disrupt the meeting.
17. I was thereby prevented from speaking about the City's public-comment restriction and proposed charter reform.
18. I believe the City's restriction continues to prevent me and other citizens from addressing matters of public concern unless those matters are placed on the government-approved agenda.
19. I believe immediate injunctive relief is necessary because each Council meeting conducted under the challenged restriction causes continuing deprivation of First Amendment rights.
20. I respectfully request that this Court suspend enforcement of the challenged public-comment restriction pending final adjudication of this action.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 19th day of May, 2026, at Elmira, New York.

Julian Raven
714 Baldwin St.
Elmira, New York, 14901