

FIFTEEN ROPE FERRY ROAD
WATERFORD, CT 06385-2886



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2021 OCT -6 AM 11:44
David L. Campo
TOWN CLERK

MINUTES
REPRESENTATIVE TOWN MEETING
Regular Meeting
Waterford Town Hall
October 4, 2021

RTM Moderator Thomas Dembek called the October 4, 2021 Regular Meeting of the Representative Town Meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Greg Attanasio, Michael Bono, Jennifer Bracciale, April Cairns, Timothy Condon, Thomas J. Dembek, Susan Driscoll, Steve Elci, Timothy Fioravanti, Miriam Furey-Wagner, Nick Gauthier, Paul Goldstein, Kathleen Kohl, David Lersch, Valerie Metivier, Richard Morgan, Richard Muckle, Dan Radin, Michael Rocchetti (7:20 P.M.), Danielle Steward-Gelinas, Robert Swansen, Baird Welch-Collins.

ABSENT: Liam O'Leary, Theodore Olynciw.

EX-OFFICIO MEMBERS PRESENT: First Selectman Robert J Brule; Chair of the Board of Finance Ronald R. Fedor.

EX-OFFICIO MEMBERS ABSENT: Selectwoman Jody Nazarchyk; Selectman Elizabeth Sabilia; Chair of the Board of Education Craig Merriman.

ALSO PRESENT: Town Clerk David L. Campo; Town Attorney Robert Avena, Town Attorney Nicholas Kepple.

AGENDA ITEM C – August 2, 2021 Regular Meeting & the August 19, 2021 Special Meeting Minutes

MOTION by Goldstein, seconded by Welch-Collins, to accept the minutes from the August 2, 2021 Regular Meeting and the August 19, 2021 Special Meeting.

VOTING IN FAVOR: Unanimous with one member abstaining. (Steward-Gelinas)

CORRESPONDENCE (See Attachment)

A letter from Chief of Police, Brett Mahoney, in reference to the Town's Noise Ordinance. Moderator Dembek stated it would be discussed under NEW BUSINESS.

An Ethics advisory opinion was received from the Ethics Commission.

A letter from Waterford Resident, Mary Childs, in regard to city water pipes in her neighborhood and throughout Town. Moderator Dembek stated it would be discussed under NEW BUSINESS.

A letter from Town Clerk, David L. Campo, requesting a review of Chapter 2.38 – Information Technology Committee. Moderator Dembek stated it would be discussed under NEW BUSINESS.

PUBLIC COMMENT:

The following residents spoke against the volume of the live music at Filomena's on Boston Post Road and the need to review the Town's noise ordinance: William F. O'Donnell, 7 Reynolds Lane; Adel Terzik, 134 Fog Plain Road; Candace Barsch, 275 Boston Post Road; William Herzfeld, 6 Graham Street; Debbie Griffith, 63 North Road.

MOTION by Welch-Collins, seconded by Gauthier, to move NEW BUSINESS up at this point.

VOTING IN FAVOR: Unanimous

NEW BUSINESS

Lengthy discussion ensued in regard for the need to review the Town's Noise Ordinance as referenced in a letter from Chief of Police, Brett Mahoney, and noted by residents during PUBLIC COMMENT.

MOTION by Welch-Collins, seconded by Steward-Gelinas, to refer the review of the Noise Ordinance (Chapter 9.06 – Noise Control) to the Public Health, Recreation & Environment Standing Committee of the RTM.

VOTING IN FAVOR: Unanimous

MOTION by Welch-Collins, seconded by Driscoll, to Review the Information Technology Committee Ordinance (Chapter 2.38), as referenced in a letter from Town Clerk, David L. Campo.

VOTING IN FAVOR: Unanimous

A letter from Nicholas Kepple, Town Attorney in regard to a possible panhandling ordinance.

Discussion ensued. (See attachment)

MOTION by Condon, seconded by Welch-Collins, to have legal keep us apprised of any changes to this issue, but to not refer to committee at this time.

VOTING IN FAVOR: Unanimous

AGENDA ITEM F

Committee reports were received from David Lersch, Chair of the Finance, Wage and Personnel Committee and from Danielle Steward-Gelinas, Chair of the Education Committee.

AGENDA ITEM G – None

CALL ITEM 1 – Rope Ferry Road & Jordan Village Sidewalks.

MOTION by Driscoll, seconded by Welch-Collins, to approve a recommendation from the Board of Finance to approve a transfer in the amount of **\$3,000** from account **33022-55887 Rope Ferry Road Sidewalks** to account **20511-57856 Jordan Village Sidewalks**.

VOTING IN FAVOR: Unanimous

CALL ITEM 2 – Cohanzie Fire Roof Replacement

MOTION by Driscoll, seconded by Welch-Collins, to pass over as it was supplied to the RTM for “information purposes only”.

VOTING IN FAVOR: Unanimous

CALL ITEM 3 – Merging of Two Lines for Hydraulic Equipment

MOTION by Driscoll, seconded by Welch-Collins, to approve a recommendation from the Board of Finance the merging of two lines in our Capital Non-Recurring (CNR) designated, under Hydraulic Equipment **20523-57826** and Line **20523-57837** into **20523-57826** by transferring **\$150,000** designated funds from **20523-57837** to **20523-57826** designated, then close line **20523-57837**.

VOTING IN FAVOR: Unanimous with one member abstaining. (Driscoll)

CALL ITEM 4 – Wastewater Agreement

PRESENTATION: Utility Commission Chairman Ken Kirkman, Town Attorney Nicholas Kepple, Utility Commission Director Tali Soto, Utility Commission Assistant Director James Bartelli.

MOTION by Steward-Gelinas, seconded by Welch-Collins, to approve a recommendation from the Board of Selectmen to approve an agreement entitled “New London/Waterford/East Lyme Wastewater Collection, Conveyance, and Treatment Agreement” and authorize the First Selectman to sign said agreement on behalf of the Town of Waterford, subject to the approval of the Town Attorney as to form.

Discussion ensued

MOTION by Steward-Gelinas, seconded by Welch-Collins to move the question.

VOTING IN FAVOR TO MOVE: Unanimous

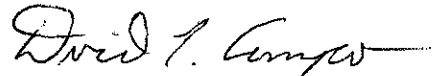
VOTING IN FAVOR OF WASTEWATER AGREEMENT: Unanimous

Moderator Dembek requested that the letter received from Mary Childs under correspondence be discussed during the next Utility Commission Meeting.

MOTION by Condon, seconded by Welch-Collins, to adjourn at 8:39 P.M.

VOTING IN FAVOR: Unanimous

Respectfully Submitted,



David L. Campo, CCTC
Waterford Town Clerk



WATERFORD POLICE DEPARTMENT
41 AVERY LANE
WATERFORD, CT 06385-2819



D

Brett Mahoney
Chief of Police

(860) 442-9451 TEL
bmahoney@waterfordct.org

David Campo
Town Clerk
Town of Waterford
15 Rope Ferry Road
Waterford, Connecticut
06385

09/20/2021

Town Clerk Campo -

The Town of Waterford noise ordinance is presently unworkable for enforcement. The noise levels currently set in the ordinance do not allow the various municipal departments to apply the ordinance as they are now set at a normal conversational tone. For the police department, this has led to the local prosecutor's office unwilling to bring our noise complaints for prosecution.

I have spoken with the Town Attorney regarding this matter. As a result, I am requesting that the RTM place this into new business for October, for subcommittee review and revision. The Town Attorney is available and willing to work with the subcommittee, and has workable ordinances from other municipalities for review.

Thank you for your consideration in this matter, and as always, should you have any questions, please contact me.

Brett Mahoney
Chief of Police
Waterford Police Department

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David L. Campo

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2021 SEP 24 PM 2: 09

TOWN OF WATERFORD ETHICS COMMISSION ADVISORY OPINION

TOWN CLERK

The Town of Waterford Ethics Commission presents this Advisory Opinion, which applies to all public officials of the Town of Waterford (defined as members of Boards and Commissions and Town Officials, whether elected or appointed, in concurrence with the Code of Ethics Sec. 2.50.020 H).

As in any small town, public officials may find themselves involved in votes on policies, budgets, and other decisions that may directly affect themselves or their family members. Waterford maintains a Code of Ethics that specifies when a board or commission member should not take official action. Further, the Town of Waterford Ethics Commission previously published advisories about when action by a Town official is ethically improper. Following inquiries and complaints, and in response to a subsequently requested Advisory Opinion to address the relationship conflict question, this Opinion is an effort to state situations in which public officials should refrain from voting.

The Preamble to the Code of Ethics, in Sec. 2.50.010 B, states, "The proper operation of town government requires that all public officials and town employees shall be impartial and responsive to the public interest, that public office and employment should not be used for personal gain or advantage, and that public officials and town employees should not place themselves in positions where private interest conflicts with public duty."

This Advisory Opinion specifically addresses the meaning and intent of the Code in its definition of conflict of interest. It comes as a result of a series of concerns and complaints made by community members over the years. It acknowledges that previous opinions have not explicitly defined instances where a conflict may exist and reflects a desire to ensure confidence in government. This Opinion recognizes that the Waterford Ethics Commission is adjusting its posture on the question of family relative conflicts, and is taking a specific position on this question—one that we have long debated.

Sec. 2.50.030 A of the Code defines the existence of a substantial conflict of interest as follows: "Public officials and town employees have an interest that is in substantial conflict with the proper discharge of duties or employment in the public interest and of responsibilities as prescribed by the laws of this state if they have reason to believe or expect that they, their immediate family, or a business with which they are associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of their official activity." The Code further states, in Sec. 2.50.030 C, that "A public official or town employee may not take official action on any matter in which a substantial conflict (as defined in subsection A of this section) exists. If the conflict is disclosed, a public official or town employee may participate in discussions with or give opinions or recommendations to a town board, agency, commission, committee, department, or another public official or town employee."

These sections of the Code preclude public officials from taking actions where a conflict of interest exists. Such conflict includes circumstances where a benefit - real or perceived - would accrue to the official, their family, or their business relations as result of such action. Public officials take official action when they vote "yes" or "no" where this type of question is before them. This Advisory Opinion does not intend to restrict or limit any representative from full and active discussion and examination of any and all issues that come before them, as is provided in Sec. 2.50.030. It is, however, our opinion that public officials must abstain from voting in situations in which circumstances exist that give rise to a conflict of interest or a public perception of such a conflict. Examples include situations when the Board or Commission member is employed by the Town, has a family member employed by the Town, has a business relationship with the Town, or is in a circumstance that gives rise to a perception of conflict of interest.

It should be noted that this opinion resolves the issue of whether a real or perceived conflict of interest takes precedence over the exception allowed in Sec. 2.50.030 B: "Public officials or town employees do not have an interest that is in substantial conflict...if any benefit or detriment accrues to them, their immediate family, or a business with which they are associated as a member of a profession, occupation, or group to no greater extent than any other member of such profession, occupation, or group." For example, a town official is not immune or exempt from a real or perceived conflict of interest when voting on issues affecting a family member in a collective bargaining unit. Actions taken by public officials that appear to the public as improper will determine the existence of a conflict and, subsequently, determine the appropriateness of the behavior.

This Advisory Opinion is broad and is intended to be applicable to all Town activities, including the Board of Education; public safety and fire services; and the Town's numerous permanent and temporary Boards, Commissions, and committees. It supercedes previous Opinions on this issue and presents a specific position for all future Town activities. It is the result of investigation into a specific complaint and the subsequent request for an Advisory Opinion that followed that investigation. (In accordance with the code 2.50.060 C, it should be noted that the results of our investigation into the complaint may be different if different facts are presented to the Commission at a later date.) This Opinion applies to future situations only; it clarifies the meaning and intent of the Code in its definition of conflict of interest and gives guidance to Officials as they work on behalf of the Town. It is intended to secure and keep public confidence in our volunteer and elected officials.

David Campo

From: Mary Childs <childsmm@outlook.com>
Sent: Tuesday, September 28, 2021 6:54 AM
To: David Campo
Subject: water leaks resulting in road repair

CAUTION: This email originated from outside of the organization.

Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.

Dear Mr. Campo, I would like the following message to be shared with all RTM members. I have sent an individual message to each email listed on our town site. The email address posted for Mr. Dembek was undeliverable. Thank you, Mary Childs

Dear RTM member,

I am writing to ask that the current practice and response to leaking fresh water in our town roads be reviewed. For at least the past 7 years, my neighborhood has experienced places where the main freshwater pipe leaks or at times gushes. The Veolia crew comes to cut open the road, repair the area and then patch the road. Typically, this same place will leak within one to two months later. I have seen this happen specifically on Beacon Hill Road and Roger's Hill Road. This summer, the trash/recycling truck tires went through the road in a trough like series of holes.

When I inquired with our Waterford Utility Commission, I was given the explanation that when the system was new, Waterford utilized "new" and "cost effective" technology that was a better price than copper. It was further explained to me that this product which is plastic is now failing and needs to be frequently replaced. I was told that my neighborhood is not the only area in town facing this issue.

As an RTM member, I ask that with the signing off on both the fresh waster coming into our homes and the wastewater being processed going out of our homes, that you advocate for a fix to this failing technology that will replace the couplings with possibly a more expensive and more long lasting technology. Possibly we should look into the long term costs of replacing each coupling as it fails and factor that in to the current practice. In the months of August and September, Beacon Hill Drive has been in repair no less than 7 times. As I stated this type of work has been going on in my neighborhood for at least 7 years.

I appreciate your time, and hope that you will ask questions of our professionals who are in charge of contracts and maintaining our vital water systems. Please do not just rubber stamp another 20 or 30 year contract with out some explanation and plan to address this issue.

Respectfully,

Mary Childs

22 Beacon Hill Drive, Waterford
childsmm@yahoo.com

Sent from Mail for Windows

FIFTEEN ROPE FERRY ROAD
WATERFORD, CT 06385-2886



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October 2, 2021

Thomas Dembek, Moderator
Representative Town Meeting
15 Rope Ferry Road
Waterford, CT 06385

Dear Mr. Dembek,

The Town has recently established its own Information Technology Department, rather than in cooperation with the Board of Education. During internal conversations between multiple Department Heads the need for the Information Technology Committee may be no more.

Please consider referring this subject to the proper committee to review as to whether there still exists a need for Chapter 2.38 – Information Technology in the Waterford Code of Ordinances. With the upcoming departure of the Chair of the Committee, Brett Mahoney, it may be an ideal time to consider this. He would still be available for a short time to answer any questions that the RTM may have.

Sincerely,

David L. Campo, CCTC
Waterford Town Clerk

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**Finance, Wage, and Personnel RTM Standing Committee
Year End Report 10/04/2021**

Members: Susan Driscoll, Paul Goldstein, Kathy Kohl, Liam O'Leary, David Lersch, Chairman

The RTM voted to give two tasks to this Standing Committee. The first task was to consider vendor preferences for Town of Waterford businesses seeking work for the Town. The Standing Committee recommended an amendment to the Town Ordinance 3.08 – Purchasing. The RTM approved the Amendment. The Finance Department will modify its internal policy documents to reflect the Amendment, based on their legal authority, as recommended by the Town's Attorney, and provide feedback to the RTM.

The second Task was to review and act on Salaries of Elected Officials that would be effective as of July 1, 2022. (Note: The RTM approved 2 prior salary increases for one-year increments for the period of July 1 2020 to June 30, 2022). The prior Standing Committee based their salary recommendations on the October CPI-U of the previous year. Although this Standing Committee met once to discuss the task, it did not act on the task or make a recommendation to the RTM.

It is the opinion of the Standing Committee Chairman that the RTM delegate this task to the newly elected members to the Standing Committee. The Standing Committee may wish to review resources and deliberations on file, and consider the October CPI-U, as decisions are reached in the next Fiscal-Year Town budget cycle.

As Chairman of the Finance, Wage, and Personnel Standing Committee, I wish to offer my sincere gratitude and thanks to every Committee member for their devoted service and steadfast commitment to excellence.

Respectfully Submitted,

David L. Lersch, Chairman

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Education Standing Committee of the RTM
End of Term Committee Report
October 4, 2021

Members:

Danielle Steward-Gelinas, Chair
Michael Rocchetti
Valerie Metivier
Greg Attanasio
Sally Ritchie

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Two issues were sent to this committee during the 2019-2021 term of the RTM. The Restoration/Use of Nevin's Cottage was placed into committee prior to the beginning of this term and was reported out on December 1, 2020. Social Justice was placed into committee on October 5, 2020 and reported out of committee on March 15, 2021.

Restoration/Use of Nevin's Cottage:

This item has been in this particular committee for over 2 years. Money was appropriated to obtain the full estimate to secure the envelope. The estimation includes only the exterior and structure of the cottage and does not address the interior of the structure. There has been discussion about fundraising or creating an endowment fund to support the restoration. There has also been discussion of conducting a survey to gauge interest in this project. There was a motion and unanimous vote to move this issue out of committee with no action taken.

Social Justice:

The issues of diversity, equity and inclusion are important to the town of Waterford. Many different groups are engaged in the conversation and Elizabeth McGee is working to create a DEI workgroup that will more specifically address the issues described in the letter from residents. A motion by Greg Attanasio, seconded by Michael Rocchetti, to recommend reporting the issue of "Social Justice" out of committee at the next meeting of the RTM and allow LEAP Consulting Owner, Elizabeth McGee, to pursue the formation of a Town DEI Work Group, that would be representative of the town, and that the RTM makes a formal request to have representation on the work group. The motion passed unanimously.

All meetings are recorded for public viewing.

There are currently no active issues in the Education Standing Committee of the RTM.

Respectfully submitted,

Danielle Steward-Gelinas
Chairperson

MEMORANDUM

TO: RTM MODERATOR, THOMAS DEMBECK AND ALL RTM MEMBERS

FROM: NICHOLAS KEPPLER, TOWN ATTORNEY *NK*

RE: REFERRAL TO RTM COMMITTEE OF POSSIBLE PANHANDLING ORDINANCE

DATE: OCTOBER 4, 2021

The United States Supreme Court in the 2016 case of Reed v Town of Gilbert created what amounts to a sea change in municipalities' ability to regulate panhandling by ordinance. The Court ruled the overwhelming majority of such ordinances, like the City of Middletown's 2004 ordinance attached hereto, are unconstitutional (based on First Amendment/free speech grounds). Panhandling has a long history of jurisprudence with different Federal Circuit Courts adopting varying positions on the legality of municipal efforts to regulate panhandling. The Reed case established a definitive view that panhandling is considered protected speech under the first amendment and any efforts to regulate this activity are subject to what is known as "strict scrutiny."

Municipalities all over the country have been struggling with the fallout from the Reed decision, especially since the COVID pandemic has precipitated a notable increase in panhandling in numerous communities. Many Connecticut communities are endeavoring to adopt multi-faceted approaches, which attempt to address some of the underlying causes of panhandling in the hopes of meeting some of the core needs of individuals engaged in these activities.

We would recommend that Representative Olynciw's request for a referral on this topic be acted upon in order to afford us an opportunity to work with the relevant RTM Subcommittee. Our suggested approach would be to examine how other Connecticut communities have tried to respond to the legal challenges posed by the Reed case as well as learn lessons from the collaborative efforts of different Town departments and social service agencies working on this issue. Enforcement is also a difficult issue that confronts Towns with prohibitions on panhandling.

We would also recommend considerable caution be exercised while exploring the regulation of this protected activity lest the Town find itself in Court defending a new ordinance while the law post-Reed is still in such a state of flux.

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HISTORY: Adopted by the Common Council of the City of Middletown 4-6-1987, as amended through Ord. No. 08-04, adopted 5-3-2004. Subsequent amendments noted where applicable.]

§ 192-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LOITER

To sit, stand, lie, pace or otherwise remain in essentially the same place, and shall include the colloquial expression "hanging around."

PUBLIC PLACE

Any area that is used or held out for use by the public, whether owned or operated by public or private interests.

§ 192-2 Prohibited conduct.

No person shall loiter in any public place and:

1. Create, or cause to be created, a breach of the peace, as that term is defined in the Connecticut General Statutes;
2. Create, or cause to be created, a public disturbance, as that term is defined in the Connecticut General Statutes;
3. Commit disorderly conduct, as that term is defined in the Connecticut General Statutes.
4. Obstruct free passage, as that offense is defined in the Connecticut General Statutes.
5. Engage in activities which would warrant a reasonable officer to believe that the purpose of the behavior is to engage in a violation of the Connecticut General Statutes regulating dependency-producing drugs.
6. Engage in activities which would warrant a reasonable officer to believe that such person is engaging in prostitution, patronizing a prostitute, promoting prostitution, or enticing a minor, as those terms are defined in the Connecticut General Statutes.

§ 192-3 Law enforcement action; penalties for offenses.

Whenever any police officer in the exercise of reasonable judgment decides that the presence of any person in any place is causing, or is likely to cause, any of the prohibited acts enumerated in § 192-2, he or she may, if deemed necessary for the preservation of the public peace and safety, order that person(s) to leave that place. Officers shall inform such persons that they will be issued an infraction if they fail to obey the order promptly or engage in further loitering. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of this chapter and shall be subject to a fine not exceeding \$90.

§ 192-4 Panhandling control.

1. Generally. The purpose of this section is to regulate behavior to preserve the public order, to protect the citizens of Middletown and to ensure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon protected speech, expression or conduct.
2. Definitions. For the purpose of this section, the following terms shall have the meanings indicated:

AGGRESSIVE MANNER

- (1) Approaching, speaking to, or following a person in a manner as would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person, or upon property in the person's immediate possession; or
- (2) Touching another person without that person's consent in the course of asking for alms; or

- (3) Continuing to ask, beg, or solicit alms from a person after the person has made a negative response; or
- (4) Following the person solicited before, after or while asking, begging or soliciting alms; or
- (5) Intentionally blocking or interfering with the safe or free passage of a person or vehicle by any means, including unreasonably causing a person or driver of a vehicle to take evasive action to avoid physical contact; or
- (6) Directing abusive or profane language toward the person solicited, either while asking, begging or soliciting alms, or following a refusal by the person solicited.

ASK, BEG or SOLICIT ALMS

Includes the spoken, written, or printed word or such other act conducted for the purpose of obtaining an immediate donation or money or thing of value.

FALSE OR MISLEADING MANNER

Includes, but is not limited to, the asking, begging, or soliciting of alms, including money and other things of value, through utilization of any of the following representations:

- (1) Stating or expressing that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact; or
- (2) Stating that the solicitor is from out of town and stranded, when that is not true; or
- (3) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated; or
- (4) Use of any makeup or device to simulate deformity.

SOLICITOR

Anyone who asks, begs, or solicits alms, including money and other things of value.

C. Unlawful acts.

- (1) No person may ask, beg, or solicit alms, including money and other things of value, in an aggressive manner in any place open to the general public, including, but not limited to, sidewalks, streets, alleys, driveways, parking lots, parks, plazas, buildings, doorways and entrances to buildings, and gasoline service stations and the grounds enclosing buildings.
- (2) No person may ask, beg, or solicit alms, including money and other things of value, in a false or misleading manner.
- (3) No person may ask, beg, or solicit alms in any public transportation vehicle; or within 25 feet of any bus or train station or stop.
- (4) No person may ask, beg, or solicit alms within 25 feet of any automatic teller machine (ATM).
- (5) No person may ask, beg, or solicit alms from any operator or occupant of a motor vehicle that is in traffic on a public street.

D. Interpretation. No provisions of this section shall be interpreted or construed to prohibit speech, expression or conduct protected by the laws or Constitution of the United States or the laws or Constitution of the State of Connecticut.

E. Penalties. Any person convicted of violating any provision of Subsection C shall be fined \$90.