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Narragansett Town Council Members
Town Hall
25 Fifth Avenue
Narragansett, RI 02882

BY EMAIL

Dear Town Council Members:

Our office has been contacted by some Narragansett residents with concerns about an item appearing on the Council's Monday meeting agenda for discussion: a proposed ordinance regarding "behavior guidelines at Town meetings." Because we believe the concerns that have been raised about the agenda item have merit, I am writing to urge the Council to table this matter.

Specifically, the Town Solicitor is being asked to draft an ordinance that would bar any member of the public from making "personal remarks, slanderous remarks or becoming boisterous" while addressing the Town Council, and that would allow for an attendee's removal from the meeting for such conduct. The agenda item includes as a model an ordinance recently adopted by the Exeter Town Council that adopts such limitations on public comment.

The ACLU of Rhode Island believes that enactment of such an ordinance raises serious First Amendment concerns and weakens the role and purpose of having public comment at Town Council meetings. We recognize that the Council has the right to set reasonable restrictions on how the "open forum" period of its meetings is conducted, such as limiting the amount of time people can speak, and certainly can prohibit disruptive behavior. However, the vague, open-ended and overly broad standards suggested for the proposed ordinance (and contained in the Exeter ordinance) can only undermine free speech rights.

For example, when does a pointed criticism of a Council member for their stand on an issue become "personal"? Would a member of the public's praise of a police officer for her off-duty organizing of a community event be considered out of bounds as a "personal remark"? In light of the extremely heavy legal burden that public officials bear in pursuing suits for defamation, how often will sharp or rhetorical disapproval of a Council member inappropriately be deemed "slanderous"? When will impassioned comments of a speaker – whether out of enthusiasm or anger – become improperly "boisterous" and subject him or her to removal from the meeting? As these scenarios suggest, the recommended proposal would give the Town Council President virtually unbridled power to cut off speakers and control the content of what is supposed to be an open forum for public comment.

In one of its most seminal free speech rulings, the U.S. Supreme Court noted this country's "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly

sharp attacks on government and public officials.” But, as the Court emphasized, “it is a prized American privilege to speak one’s mind, although not always with perfect good taste, on all public institutions, and this opportunity is to be afforded for vigorous advocacy no less than abstract discussion.” *New York Times v. Sullivan*, 376 U.S. 254, 269, 270 (1964).

We are aware that there have been some very heated meetings and some very heated commentary at Council meetings this year. We also realize that the only item before the Council on Monday is a recommendation to the Town Solicitor, and no specific ordinance is yet on the table. But even the consideration of such a proposal, as outlined in the memo provided the Council, sends the wrong message, and can only have a chilling effect on Narragansett residents and their willingness to speak their minds at the open forum sessions of Council meetings.

Exeter’s recent adoption of its “decorum” ordinance is unfortunate. Because other municipalities should not follow that Town’s questionable lead in seeking to unduly restrict this country’s “prized American privilege,” we urge the Council to table this agenda item.

Thank you in advance for your attention to our concerns.

Sincerely,



Steven Brown
Executive Director

cc: Town Manager James Tierney
Town Clerk Theresa Donovan
Town Solicitor Mark Davis