

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

| | | |
|--|---|--------------------|
| ROBERT R. COTE |) | |
| Plaintiff |) | |
| |) | |
| Vs. |) | C.A. 23-346 |
| |) | |
| DONNA TRAVIS, WILLIAM FOLEY, |) | |
| VINCENT GEBHART, TIMOTHY |) | |
| HOWE, EDGAR LADOUCEUR, |) | |
| STEPHEN MCALLISTER, JAMES |) | |
| MCELROY, JEREMY RIX, and |) | |
| ANTHONY SINAPI, in their individual |) | |
| and official capacities as members of the |) | |
| Council of the City of Warwick, Rhode |) | |
| Island |) | |
| Defendants |) | |

**VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF
AND DAMAGES**

INTRODUCTION

1. Plaintiff Robert R. Cote brings this action to vindicate his First Amendment right to address the City Council of the City of Warwick, Rhode Island during the public comment segment of a City Council meeting on matters relevant to City government, including specifically, a matter raising ethical concerns over the role of Council Member Donna Travis in a controversial acquisition of land from the Oakland Beach Real Estate Owners Association (OBREOA) . However, as soon as Plaintiff began to speak on that matter, Travis, in her capacity as president *pro tem* of the Council, cut off Plaintiff and subsequently ordered him removed from the meeting. A Warwick police officer escorted him from the room. The other members of the Council acquiesced in Travis’ actions.

JURISDICTION

2. The Court has jurisdiction over this matter based on 42 U.S.C. §§ 1983 and 1985, 12 U.S.C. § 1331, and the First Amendment to the United States Constitution.

VENUE

3. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391 because all the actions which give rise to Plaintiff's claims occurred in this District and Plaintiff and Defendants reside in this District.

PARTIES

4. Plaintiff Robert Cote is a citizen of the United States and a registered voter in the City of Warwick where he resides.
5. Defendants Donna Travis, William Foley, Vincent Gebhart, Timothy Howe, Edgar Ladouceur, Stephen McAllister, James McElroy, Jeremy Rix, and Anthony Sinapi are all members of the Warwick City Council.
6. On information and belief, Defendant McAllister is the president of the City Council but was not present at the July 17, 2023, City Council meeting that is the subject of this Complaint. He is named as a Defendant for purposes of obtaining equitable, future relief.

FACTS

7. The City of Warwick's ordinances state: "The legislative powers of the city shall be vested in the city council. The city council shall consist of nine members who shall be elected at the general election in each even year for a term of two years. One member of the council shall

be elected from each of the nine wards, and members shall be residents of the wards they represent.” Code of Ordinances, Art. 2, Part 2-1.¹

8. The Council has the authority “to inquire into the conduct of any officer, department or agency of the city and to make an investigation relating to city affairs and for such purpose may subpoena witnesses, administer oaths, and compel the production of books, records, papers and other evidence.” Code of Ordinances, Art. 2, Part 2-14.

9. The Council has a set of Rules and posted them on its website, including No. 41 which states:

After General Communications and prior to the Consent Calendar at each City Council Public Hearing meeting, there shall be a fifteen (15) minute period during which citizens may comment about Warwick City Government issues subject to the following stipulations:

- a. The total period of time for public comment shall be fifteen (15) minutes. Comments need to be brief in order to allow as many citizens as possible to participate.
- b. The topics for comment shall be issues directly affecting City government.
- c. City Council members will not respond to questions during the public comment period.
- d. The public comment session will terminate at the expiration of fifteen (15) minutes.

Waiver of this provision requires a unanimous vote of the Council.”²

10. Plaintiff understands that the Council has revised Rule 41 as reflected on its agendas for its meetings, if not on the website, to read:

RULE 41 After General Communications and prior to the Consent Calendar at the last regularly scheduled meeting of the City Council each month, there shall be a period of time, not to exceed thirty (30) minutes, during which citizens may comment about Warwick City Government issues subject to the following stipulations: a. The total period of time for public comment shall not exceed thirty (30) minutes. Comments need to be brief in order to allow as many citizens as possible to participate. Each citizen signed up and present shall have not to exceed five (5) minutes to speak, provided, however that if more than six (6) Citizens are signed up and present the thirty (30) minutes will be split evenly amongst speakers. Time

¹ The City’s ordinances can be found on-line at <https://www.warwickri.gov/city-council-legislative-department/pages/code-ordinances>.

² The Council’s Rules can be found on-line at https://www.warwickri.gov/sites/g/files/vyh1if1391/f/uploads/r-21-124_pcr-92-21_sub_a_amending_council_rules.pdf.

shall not be transferable amongst speakers. b. The topics for comment shall be issues directly affecting City government. c. City Council members will not respond to questions during the public comment period. d. The public comment session will terminate at the expiration of the earlier of all speakers concluding their allotted time or thirty (30) minutes. Waiver of this provision requires a unanimous vote of the Council.

11. Plaintiff frequently comments on matters of public concern and the Providence Journal has on several occasions described him as a “watchdog.”
12. On July 10, 2023, the Providence Journal published an article entitled “How did a Warwick councilwoman acquire land next to her house? The neighbors have questions.” The article described a controversial transaction in which Defendant Travis—identified as a member of the City Council of the City of Warwick—and her husband William acquired title to a vacant parcel of land adjoining their home in the Oakland Beach neighborhood of Warwick.³
13. The article stated that in 2021 the parcel of land was transferred by quitclaim deed from OBREOA to the Travises, who had held leadership roles with OBREOA. The new OBREOA leadership alleged that the transaction occurred without a notification, discussion, or a vote by the organization’s members. The Travises stated that the property was transferred to them in exchange for helping to pay back taxes on it.
14. The article also stated that in 2017 a Warwick resident had filed two ethics complaints against Defendant Travis alleging that she was using the parcel for her personal purposes even though it was then owned by OBREOA and treated as tax exempt.
15. On July 17, 2023, Plaintiff was signed up to address the Council and attempted to raise the issue of the transaction as it related to Travis’ ethics as a member of the City Council.⁴

³ The Journal’s article can be found on-line at <https://www.providencejournal.com/story/news/politics/2023/07/10/oakland-beach-neighborhood-association-calls-foul-on-property-transfer/70356553007/>.

⁴ The video of Plaintiff’s attempt to address the Council can be found on-line at

16. Plaintiff also intended to address two other topics: the actions of a firefighter in the Warwick Fire Department and an issue involving the Mayor.
17. Plaintiff started his comments by holding up a copy of the Providence Journal with the article and “congratulating” Defendant Travis for being on the front page at which time Defendant Travis, in her capacity as president *pro tem* of the Council, cut him off, and said that Plaintiff’s comments did not relate to City government.
18. When Plaintiff started to explain that his comments did relate to City Government, Defendant Travis cut him off again. She said again that the matter did not relate to City government. Travis commented: “You get away with it every month, you’re not going to do it with me. You’re leaving now. I’m sure he can read – GO! Go, goodbye.”
19. Travis directed that Plaintiff be escorted out of the meeting. A Warwick police officer escorted Plaintiff out of the meeting over Plaintiff’s objections.⁵ Plaintiff never got the opportunity to complete his remarks about Travis or to address the other two topics.
20. None of the other Council members in attendance objected to Defendants Travis’ actions or otherwise said Plaintiff should be permitted to present his public comments.
21. At no time was Plaintiff disorderly or in violation of any law.
22. In an article published on July 20, 2023, in the Warwick Beacon, Defendant Travis said it was the unwritten practice of the City Council not to allow “personal attacks” during the public comment period.⁶

<https://youtu.be/PUPaSHtA6Ac?t=8222>

⁵ The video of Plaintiff’s interaction with the Warwick police officer can be found on-line at <https://www.youtube.com/watch?v=O7baPsMSKns>.

⁶ The Warwick Beacon article can be found on-line at <https://warwickonline.com/stories/cote-contacts-aclu-after-cop-evicts-him-from-council-meeting,218003>.

23. Defendant Travis also said that she has “dealt with Cote in the past.” She described how he had made a flier with her picture on it and put it on windshields in a Stop & Shop parking lot “to expose her taxes which included a temporary payment plan.” According to the article, “Travis described Cote as ‘always on the hunt.’” The article adds that Travis also said, “He’s been doing this forever...Every time he comes, he has to complain about something. He’s said bad things about the mayor, council people and me.”
24. On August 1, 2023, Steven Brown, executive director of the American Civil Liberties Union of Rhode Island, and Justin Silverman, executive director of the New England First Amendment Coalition, sent a joint letter to the City Council members criticizing the Council’s actions on July 17, 2023, as a violation of Plaintiff’s First Amendment rights. (Exhibit 1).
25. On August 8, 2023, OBREA filed suit in Kent County Superior Court against Travis, her husband, and others, alleging breach of fiduciary duty, among other claims.
26. Plaintiff is a construction consultant and inspector. He also owns a boat that he keeps in a marina in Warwick. Since July 17th, he has had people on construction sites and at the marina ask him about being “arrested” at the City Council meeting. His children have been asked about him being “arrested” at the meeting. Plaintiff has found these questions and comments very embarrassing. In addition, one client has told Plaintiff that he will no longer be involved in a particular construction project for which Plaintiff would have received significant compensation.
27. Plaintiff still wants to address the Council and raise the points he intended to make on July 17, 2023. However, Plaintiff fears that if he attends future Council meetings and speaks during the public comment period he may be subjected to similar interference with his right to speak and

similar removal from the City Council meeting which he has a right to attend, all to his injury and embarrassment.

COUNT ONE-VIOLATION OF PLAINTIFF’S FREEDOM OF SPEECH

28. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 27.
29. The First Amendment of the United States Constitution states: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”
30. The Fourteenth Amendment of the Constitution incorporates the First Amendment and applies it to state and local governments.
31. Plaintiff was deprived of his right to speak at a public meeting of the Warwick City Council in violation of his rights under the First Amendment of the United States Constitution so as to address issues directly related to the City’s government.
32. The Council’s Rule 41 specifically provides Plaintiff with a forum to raise this issue.
33. Defendant Travis denied Plaintiff his right to raise this issue when she cut him off and directed a City police officer to escort him out of the meeting.
34. The other Defendants, except McAllister, denied Plaintiff his right to freedom of speech by acquiescing in Defendant Travis’ actions without objection or a vote.

COUNT TWO-VIOLATION OF PLAINTIFF’S RIGHT TO PETITION

35. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 31.
36. Plaintiff was deprived of his right to petition the Council for redress of grievances when Defendant Travis cut him off from speaking on the matter concerning her and any other matters at the meeting and directed a City police officer to escort him out of the meeting.

37. The other Defendants, except McAllister, denied Plaintiff his right by acquiescing in Defendant Travis' actions without objection or a vote.

COUNT THREE-RETALIATION FOR FIRST AMENDMENT ACTIVITY

38. Plaintiff incorporates by reference the allegations of Paragraph 1 through 35.

39. Defendant Travis' actions in cutting off Plaintiff from making his public comment during the public comment segment of the City Council meeting and having him escorted out of the meeting were retaliation for Plaintiff's prior criticism of her.

40. The other Defendants, except McAllister, acquiesced in the retaliation by failing to object to and stop Travis' actions.

Wherefore, Plaintiff Robert Cote hereby demands:

- (1) A declaration that Defendants' denial of Plaintiff his right to speak at the July 17, 2023, Council meeting violated Plaintiff's right to freedom of speech and to his right to petition the Government for redress of grievances;
- (2) A declaration that Defendants' unwritten practice of preventing members of the public from making comments critical of individual public officials during the public comment segment of City Council meetings is unconstitutional;
- (3) An interim injunction temporarily and preliminarily enjoining Defendants to permit Plaintiff to speak at an upcoming Council meeting about the matters he intended to address on July 17, 2023, as well as any future comments he wishes to make respecting matters affecting Warwick government;
- (4) An award of nominal damages against all Defendants, except Stephen McAllister, in their official capacity, and compensatory and punitive damages against Travis, in her individual capacity, for violation of his constitutional rights;

(5) An award of Plaintiff's costs and reasonable attorney fees, pursuant to 42 U.S.C. § 1988;

and

(6) Any additional relief to which Plaintiff may be entitled.

Respectfully submitted,

ROBERT COTE

By his attorneys,

/s/ Thomas W. Lyons

Thomas W. Lyons #2946

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Cooperating attorneys,

AMERICAN CIVIL LIBERTIES UNION

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FOUNDATION OF RHODE ISLAND

PLAINTIFF DEMANDS TRIAL BY JURY OF ALL ISSUES SO TRIABLE.

VERIFICATION

I, Robert Cote, upon oath do hereinafter depose and state that I have read the foregoing Complaint, I know the contents thereof and the facts therein alleged are true and accurate except as to those allegations and assertions which are to be made upon information and belief, and to those matters, I believe them to be true to the best of my knowledge, information and belief.

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

On _____, before me, the undersigned notary public, personally appeared _____, personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed above in my presence, and who swore or affirmed to the notary this document was signed freely and voluntarily.

Notary Public
My commission expires: _____
Notary Identification Number: _____