



August 1, 2023

Warwick City Council Members
City Hall
3275 Post Road
Warwick, RI 02886

BY EMAIL

Dear City Council Members:

Like many Warwick residents, our organizations – the ACLU of Rhode Island and the New England First Amendment Coalition – have viewed a recording of the City Council’s July 17, 2023 meeting at which resident Robert Cote was barred from speaking and escorted out of the meeting during the “public comment” period because he sought to speak about a *Providence Journal* article involving Vice-President Travis. We are deeply troubled by the actions taken against Mr. Cote that evening as we believe they are not only contrary to the letter and spirit of the Council’s public comment policy, but they raise serious First Amendment concerns.

The City Council’s public comment policy, Rule 41, requires speakers to limit their comments to issues “directly affecting city government.” Leaving aside the fact that Mr. Cote was cut off from speaking after only two sentences, and thus it was wholly premature for anybody to conclude that his comments violated the rule, there can be no question that the newspaper article he managed to refer to and wished to talk about clearly met Rule 41’s standards.

Whatever the validity of the allegations that have been raised against Councilor Travis and her role in the controversial acquisition of land from the Oakland Beach Real Estate Owners Association, claims that a municipal official may have engaged in ethically questionable conduct indisputably implicate city governance. It is clearly a topic of public concern, and Mr. Cote should have had the opportunity to speak about it. Escorting him out of the meeting based on the content and viewpoint of his anticipated remarks is antithetical to the whole goal of allowing public comment.

In a recent article in the *Warwick Beacon*, Councilor Travis suggested another reason for preventing Mr. Cote from speaking. She was quoted as stating it was the unwritten practice of the City Council not to allow “personal attacks” during the public comment period. Again, leaving aside the impropriety of relying on an “unwritten” policy to censor the speech of a member of the public, any such policy itself is just as problematic from a First Amendment standpoint. In fact, courts have often struck down such restrictions as a violation of the public’s free speech rights.¹

¹ See, e.g., *Griffin v. Bryant*, 30 F.Supp.3d 1139 (D.N.M. 2014) (ruling unconstitutional a policy barring “any negative mention ... of any Village personnel, staff, or of the Governing Body” during public comment periods); *Leventhal v. Vista Unified School District*, 973 F.Supp. 951 (S.D. Cal. 1997)(striking down school board by-law prohibiting criticism of district employees during public comment segment of public meetings); *Baca v. Moreno*

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.” 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 recognize that the Council has the right to set reasonable restrictions on how the “public comment” period of its meetings is conducted, such as limiting the amount of time people can speak, and it certainly can prohibit disruptive behavior. However, the Council’s treatment of Mr. Cote at the last City Council meeting cannot be squared with its obligations to honor the robust commitment to free speech enshrined in the First Amendment.

We therefore call upon the Council to reassure the public that this type of response will not be repeated and that residents will be free to speak at future meetings on matters involving city government without fear of being silenced.

Thank you in advance for your attention to our comments.

Sincerely,



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New England First Amendment Coalition
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cc: Mayor Frank Picozzi
City Solicitor Michael Ursillo
City Clerk Lynn D’Abrosca

Valley Unified School District, 936 F.Supp. 719 (C.D. Cal. 1996)(invalidating school board policy barring, at open sessions of school board meetings, comments which included “charges” or “complaints” against district employees); *Ison v. Madison Local School District Board of Education*, 3 F.4th 887 (6th Cir. 2021)(finding unconstitutional a school board policy barring “personally directed,” “abusive,” and “antagonistic” public comments).