



January 31, 2014

Mayor Manuel Santos  
Meriden City Hall  
142 East Main Street  
Meriden, CT 06450

*Sent via facsimile and  
USPS certified mail*

*Re: Public Comments at City Council Meetings*

Dear Mayor Santos and Members of the Meriden City Council:

We write in reference to proposed changes to Meriden's "Council Rule number 2." The changes, which we understand are to be discussed at the forthcoming Monday, February 3 Council meeting, prohibit members of the public "from using offensive or abusive language and personally attacking any public officials." These changes, in their present form, are blatantly unconstitutional under the First Amendment to the United States Constitution and Article First, Sections 4, 5 and 14 of the Connecticut Constitution.

It is bedrock law that "*attacks* on government and public officials" are protected even when "vehement, caustic, and sometimes unpleasantly sharp," N.Y. Times Co. v. Sullivan, 376 U.S. 254, 270, (1964) (emphasis added); Hustler Magazine v. Falwell, 485 U.S. 40, 51 (1988); that speech does not forfeit protection merely because it is "offensive," Cohen v. California, 403 U.S. 15 (1971); and that the government is forbidden to discriminate against speakers based on their viewpoint -- of which allowing speakers to praise public officials while denying their right to "attack" them is a paradigmatic example. Perry Educ. Ass'n v. Perry Local Educators Ass'n, 460 U.S. 37, 59-60 (1983); Marcavage v. City of New York, 689 F.3d 98, 104 (2d Cir. 2012), cert. denied, 133 S.Ct. 1492 (2012). The proposed changes flout all of these bedrock principles.

The Council could achieve its goal of maintaining decorum through more narrowly crafted, viewpoint-neutral regulations. For instance, in a limited public forum, such as the public comment segment of a Council meeting, it could prohibit vulgarity or profanity. Perry; Cohen, supra. And existing defamation laws provide after-the-fact remedies against knowingly false personal attacks. N.Y. Times Co., supra. But the proposed changes sweep too broadly.

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
OF CONNECTICUT  
330 MAIN STREET  
1<sup>ST</sup> FLOOR  
HARTFORD, CT 06106  
T/860.523.9146  
F/860.586.8900  
WWW.ACLUCT.ORG



In event of litigation, the City, if unsuccessful, would have to pay the prevailing plaintiffs' costs and attorneys' fees as well as its own, plus any damages that the plaintiffs sustain. 42 U.S.C. §§ 1983, 1988. We are available to discuss these matters with you further at your convenience. Thank you for your time, attention and anticipated early reply.

Yours truly,

A handwritten signature in cursive script that reads "Sandra J. Staub".

Sandra J. Staub  
*Legal Director*

Martin B. Margulies  
*Cooperating Attorney*

Cc: All City Council Members via Lori Canney, Clerk of the City Council  
SJS/jjs