

Ryan Knapp, Chair
Chris Smith, Vice Chair
Judit DeStefano
Chris Eide
Jordana Bloom
Jay Mattegat



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TOWN OF NEWTOWN

Minutes of the Legislative Ordinance Committee Meeting

The Ordinance Committee met on Thursday June 14th, 2018 in The Council Chambers of the Municipal Center, 3 Primrose Lane, Newtown. Committee Chairman Ryan Knapp called the meeting to order at 7:00 pm.

Present: Mr. Eide, Ms. DeStefano, Mr. Smith, Ms. Bloom, Mr. Mattegat and Mr. Knapp. Also Ms. Quinn and Ms. Villamil of the Sustainable Energy Commission

Absent: None

MINUTES:

Mr. Eide moved to approve the minutes of 4/30/18. Ms. DeStefano seconded. All in favor (6-0)

PUBLIC COMMENT: None

Old Business

Review and Recommendation regarding the prohibition of storage, disposal or use of fracking waste per the charge set forth by the Legislative Council on February 7th, 2018.

Mr. Knapp began with a review of the fracking waste ordinance so far, the model and what the other 40 towns that have implemented fracking waste bands have done to date.

Ms. Bloom asked why the fines were limited to \$250. She also asked about spills or accidents.

Mr. Knapp said that he believes that fines are limited by statute.

Mr. Smith noted that the language (4B) does give the Town the authority to seek to rectify the situation.

Ms. DeStefano spoke to the transportation language that was questioned and why it is included?

Mr. Edie asked if a spill during transportation would be considered a violation?

Ms. Quinn noted that Redding included language addressing spills.

Mr. Knapp said that it is his understanding that the Town does not have authority over travel and many use it to cover themselves against any confusion that they are trying to, but that some feel it is unnecessary. Spills due to accidents need to be mitigated currently. He will ask the Town Attorney for an opinion when it is reviewed.

Mr. Eide questioned the definition of "collector" which is not used in the ordinance, suggesting it could be stricken.

Mr. Knapp will bring an updated draft to the next meeting that has had these questioned answered by the Town Attorney.

Review and Recommendation regarding the issue of discrepancy between the Charter Revision Commission intent and the applicable State Statute regarding Board of Education candidate composition per the charge set forth by the Legislative Council on April 18th, 2018.

Ms. DeStefano began by noting that the Council may be considering a Charter change for another issue and if that is the case, this could be done by Charter Revision rather than Ordinance.

Mr. Knapp agreed and will speak to Mr. Lundquist, but wishes to continue on in the meantime.

Mr. Edie summarized the issue including how it relates to the BOE when there are 4 seats up for election, relevant state statute language and bare majority in the Charter. He noted that it appears the intent was

to operate under 9-204B but currently operate under 9-204. 9-204B does say “by Charter or Ordinance” however it also references 9-167A, minimum minority representation, while the Newtown Charter goes further and has a maximum of 4 of 7 members from a given party. He has proposed language but must cover 9-167A with the Secretary of State’s office.

Mr. Knapp questioned if we could adopt 9-204B without conforming to 9-167A. If we could an ordinance could be as simple as saying we adopt 9-204B, but that would conflict with the Charter if it included 9-167A, possibly rendering it void.

Mr. Edie suggested Newtown may still be compliant but goes father in minority representation.

Mr. Knapp felt this is unclear and could be argued either way if one thing is said in the Charter and another in Ordinance.

Mr. Edie will contact the Secretary of State’s office.

Mr. Knapp suggested talking to Deborra Zukowski who may have a contact person there already.

Review and Recommendation regarding the proposed Plastic Bag Ban Reduction Ordinance per the charge set forth by the Legislative Council on April 18th, 2018.

Ms. DeStefano reported that she spoke with Finance Director Tait about the concept and there was no issue with creating a special revenue fund for these purposes and noted several existing funds. She obtained a binder of useful information for John Board and others. It includes much of the background information referenced when this was originally presented and articles on other places.

Ms. Villamil said that the binder was a Pat Llodra initiative and there are a lot of successes included.

Ms. DeStefano said there is a lot to learn from other’s experiences as to what does and does not work. For example Education only did not work and that results have proven that a program needs teeth to be successful.

Mr. Mattegat questioned if this program was about protecting the environment, or generating revenue for other programs, noting the carbon footprint of paper bags. He feels we are losing people out of town who feel heavily taxes in Newtown. He spoke to some people and businesses. He felt it was hypocritical to compel businesses to do this when our own schools do not recycle.

Ms. Bloom contacted several stores, many of which would not talk to her. Those that did had concerns on charges and costs for bags. They did not want to upset customers and possibly lose business to other towns. Many, such as Big Y, have other environmental initiatives already ongoing including recycling. The stores she spoke to have concerns, they want to help and will work with the Town on an initiative. They have signs regarding recycling to remind patrons as seen in Bethel, but the Borough will not allow them to put them up. Retailers have concerns but recognize the issues. They will comply with whatever is done if we decide to pass this, but ask that we explore other options. Was often referred up the ladder and corporate for some stores was unresponsive. She then spoke to the idea of more of an education initiative.

Ms. Villamil noted that only 3% of plastic is currently recycled. This plan is not to encourage paper bags, but rather reusables. Education alone has not worked in the past. Westport has no paper bag charge but their ban has still been effective. Reimbursement programs have also proven ineffective, citing programs at TJMaxx and Starbucks. England has been very successful with their program at 92% reusable.

Mr. Smith spoke to the Assessor’s Office and said that they do not have square footage sizes on businesses, only buildings as they tax the entire building and units are leased out separately. The Board of Heath has no staff to administer this program.

Ms. DeStefano noted that the fees from the program could be used to pay for staff.

Ms. Bloom cited the proposal from the CT Food Association which is working on a statewide program, suggesting that perhaps this can be done at the state. She wishes we had better recycling in town and spoke to the school issues.

Mr. Knapp felt businesses would prefer that as it creates a level playing field vs spotty applications across towns. However, the state has been unable to address Fracking Waste so he is not optimistic about plastic bags.

Ms. Villamil noted that after Westport passed their ban, other towns waited for the state to act. That was in 2008 and this bill usually does not get out of committee. The average person used 10 bags a week, which comes out to a total in the millions.

Ms. DeStefano suggested that perhaps this would be better received if it was not a "tax."

Mr. Eide would rather see the store keep the proceeds.

Ms. Villamil explained that this is usually a very short-lived revenue because people begin using their reusable bags, as is the intent. People change their behaviors and it becomes habit.

Mr. Mattegat, while he voluntarily recycles and used reusable bags himself, feels strongly that there are constitutional issues her compelling people to buy paper bags and wants the Town to stay out of business' business.

Ms. Quinn reiterated that they do not want paper or plastic. The intent is to reduce both.

Mr. Edie said the environment is everyone's business.

Mr. Knapp disagreed about the constructional concerns, likening it to cigarettes which are heavily taxed and regulated, but no one is compelled to buy them being that there is a reasonable alternative in not using them. He thanked Ms. Bloom for speaking to businesses and this kind of outreach is part of what goes into being a business-friendly community. He summarized the feelings of the group at large, which as he understood it was that this is well intended, but a ban may not be the correct approach, considering charging for both and letting the stores keep the proceeds.

Ms. DeStefano will work on possible language.

Ms. Bloom will continue to work with the stores.

Mr. Smith asked if we should talk to the new Business Council. He will ask to be put on the agenda.

PUBLIC COMMENT: None.

Ms. DeStefano moved to adjourn the meeting at 8:40PM, Mr. Eide seconded. All in favor (6-0)

Respectfully Submitted,

Ryan W. Knapp
Ordinance Committee Chairman



Ryan Knapp <knapp.newtown@gmail.com>

[Newtown CT] Fracking waste ordinance info and presentation (Sent by Jennifer Siskind, jsiskind@fwwlocal.org)

1 message

Contact form at Newtown CT <vtstdmailer@vt-s.net>

Fri, Jun 15, 2018 at 5:51 PM

Reply-To: jsiskind@fwwlocal.org

To: Knapp.Newtown@gmail.com

Hello rknapp,

Jennifer Siskind (jsiskind@fwwlocal.org) has sent you a message via your contact form (<https://www.newtown-ct.gov/user/923/contact>) at Newtown CT.

If you don't want to receive such e-mails, you can change your settings at <https://www.newtown-ct.gov/user/923/edit>.

Message:

Hi Ryan,

Please feel free to contact me concerning the "fracking" ordinance banning oil & gas drilling and extraction wastes.

I've worked collaboratively with numerous town legislators and leaders, and am happy to help for Newtown as well. I recently posted a response on the No Fracked Waste in CT Facebook page, but I am not frequently on Facebook, so email or a call is the best way to reach me.

Best,

Jen Siskind
Local Coordinator
Food & Water Watch
860-633-1303 h
860-918-0859 c

2 attachments**list_of_local_and_state_legislative_actions_concerning_fracking_wastes.pdf**

139K

**bulleted_info_fracking_waste_and_sb_103.pdf**

258K



47 Local Ordinances Protecting CT Towns & Cities (in bold below) Banning Hydraulic Fracturing and Extraction Wastes

<u>Date</u>	<u>Town/City</u>	<u>Vote Type</u>	<u>Vote Count</u>
Ordinance Banning Hydraulic Fracturing Process Wastes for Oil and Gas Wells			
1. 03/15/15	Washington	Special Town Meeting	Unanimous
Ordinances Banning Hydraulic Fracturing Process and All Other Extraction Activity Wastes for Oil and Gas Wells, Processed Wastes/By-products, Waste from Gas Storage (Underground & LPG Wells) and Leachate			
2. 10/05/15	Coventry	Special Town Meeting	Unanimous, 90-0
3. 10/26/15	Mansfield	Town Council	Unanimous
4. 06/01/16	Portland	Board of Selectmen	Unanimous
5. 10/06/16	Andover	Special Town Meeting	Unanimous, 143-0
6. 10/18/16	Windham	Town Council	Unanimous (includes Willimantic)
7. 11/21/16	Ashford	Special Town Meeting	35-3 approx.
8. 12/15/16	Branford	Representative Town Meeting	21-6-1
9. 01/03/17	Middletown	Common Council	10-2
10. 01/03/17	Windsor	Town Council	Unanimous
11. 03/08/17	New London	City Council	5-2
12. 03/27/17	Bloomfield	Town Council	Unanimous
13. 04/03/17	Hampton	Special Town Meeting	58-4
14. 04/12/17	Woodstock	Special Town Meeting	100-1
15. 04/20/17	Hebron	Board of Selectmen	Unanimous
16. 05/01/17	Lebanon	Annual Town Meeting	96-19
17. 05/08/17	Chaplin	Annual Town Meeting	14-6
18. 05/10/17	Litchfield	Special Town Meeting	126-8
19. 06/27/17	East Hampton	Town Council	Unanimous
20. 06/06/17	Bolton	Board of Selectmen	4-0-1
21. 06/07/17	Pomfret	Annual Town Meeting	120-4 approx.
22. 06/20/17	Willington	Town Meeting	100-1 approx.
23. 07/10/17	New Milford	Town Council	Unanimous
24. 08/07/17	Eastford	Special Town Meeting	Count unknown, Overwhelming yes
25. 08/15/17	Columbia	Board of Selectmen	Unanimous
26. 08/22/17	Hartford	Planning & Zoning	Land Use Prohibitions
09/11/17	Hartford	Court of Common Council	Unanimous

27. 09/12/17	Glastonbury	Town Council	Unanimous
28. 10/02/17	Milford	Board of Alderman	Unanimous
29. 10/10/17	Bristol	City Council	Unanimous
30. 10/11/17	Thompson	Special Town Meeting	Unanimous
31. 10/24/17	Griswold	Special Town Meeting	Unanimous, 50-0
32. 10/30/17	Meriden	City Council	Unanimous
33. 11/13/17	Stratford	Town Council	Unanimous
34. 12/04/17	Rocky Hill	Town Council	Unanimous
35. 02/05/18	South Windsor	Town Council	Unanimous
36. 02/13/18	Redding	Special Town Meeting	Unanimous, 65-0
37. 02/20/18	Wethersfield	Town Council	5-3
38. 02/26/18	Hamden	Town Council	Unanimous
39. 03/01/18	Southbury	Board of Selectmen	Unanimous
40. 03/13/18	Guilford	Board of Selectmen	Unanimous
41. 03/19/18	New Haven	Board of Aldermen	Unanimous
42. 04/09/18	Madison	Board of Selectmen	4-1
43. 04/16/18	Bridgeport	City Council	Unanimous
44. 05/17/18	Clinton	Special Town Meeting & Referendum	Approx. 250-0 vote to go to Referendum Town Referendum Vote to pass 496-19
45. 05/21/18	Stamford	Board of Representatives	32-1-3, BoR vote held 5/7; Mayor returned 5/21
46. 05/22/18	Norwalk	Common Council	10-1-2
47. 06/05/18	Naugatuck	Board of Mayor & Burgesses	Unanimous

State Legislative Actions Banning Fracking Wastes (permanent ban failed 4x in 6 years)

2013	Bill to ban hydraulic fracturing wastes from gas wells only dies in Energy & Technology Committee.
2014	SB 237 to ban hydraulic fracturing wastes from gas wells passes through committees and Senate. Language changed to future regulations (hazardous waste permits) on House floor. Public Act 14-200 passes mandating hydraulic fracturing wastes from gas wells be regulated by DEEP (future hazardous waste permits), following a temporary moratorium. Research carve-out allows permits for small quantities. Regulations must be submitted by DEEP by July 1, 2018.
2017	HB 6329 to ban hydraulic fracturing wastes from gas wells only passes House 141-6-4. Amendment for research carve-out would allow permits for small quantities; included a roll back of mandated regulatory protections passed in 2014. Not called for vote in Senate.
2018	Environment Committee raises Senate Bill 103 to ban certain hydraulic fracturing wastes from gas wells. Substitute Senate Bill 103 receives Joint Favorable Report from Environment Committee, vote 29-1, has more comprehensive language prohibiting hydraulic fracturing and other extraction activity wastes for oil and gas wells. Bill put on “go list” Monday, May 7 th . Minutes later, Senate Leadership “PTs” bill (Passed Temporarily or postponement of vote). Bill does not get voted on before session ends.



Protecting Connecticut from Toxic, Radioactive Fracking & Oil & Gas Extraction Wastes

Current state law mandates that DEEP submit regulations for review, which means future permits. A temporary moratorium bans only some wastes, leaving loopholes for other wastes to enter the state.

2018 Senate Bill 103 was introduced to permanently ban these wastes from one process, hydraulic fracturing, from gas wells only. After public hearing, the Environment Committee passed a much stronger Substitute Bill that proposed banning all wastes from oil & gas wells. This bill was not called for a vote and died. The 2014 weaker, temporary moratorium remains in place.

- The dangers from chemical and radioactive contamination pose unacceptable risks to health and safety, municipal and private property values and natural resources, including aquifers providing well water and surface waters.
- Chemicals and naturally-occurring toxins in fracking & other extraction wastes are known to cause multiple cancers, multiple organ damage, neurological and developmental problems, birth defects, embryo toxicity and other serious health problems.
- Radium 226 is radioactive for 4,000 years and decays into lead. It is known to cause breast, bone and liver cancers, and is associated with adult and childhood leukemia.
- Radioactive and chemical contamination has spread due to accidents, spills, leaching and discharge into waterways after treatment efforts. Over 6,600 spills have been documented in just 4 states, more than half of them due to moving and transporting fracking waste.
- Regulations in other states have not stopped accidents, spills and leaks from contaminating soil, waterways, aquifers and drinking water. Over 50% of spills occurring at waste treatment plants occur due to equipment and employee error. There are no good options for bringing this waste to Connecticut to store, treat, dispose or re-use in construction or brownfield remediation fill, or for road spreading.
- Fracking and other processes used to produce oil & gas are creating billions of gallons of liquid wastes and hundreds of thousands of tons of solid wastes annually in NY & PA. 11,000 wells have been drilled, and an additional 80,000 wells may be drilled in coming years, significantly increasing the amount of waste. Waste is being shipped to at least 8 states.

Local Protection with Municipal Ordinance: 47 CT towns & cities have protected their communities from wastes with their legal authority to ban toxic wastes by ordinance, pursuant to CT General Statute 7-148:

- Andover, Ashford, Bloomfield, Bolton, Branford, Bridgeport, Bristol, Chaplin, Clinton, Columbia, Coventry, Eastford, East Hampton, Hampton, Glastonbury, Griswold, Guilford, Hamden, Hartford, Hebron, Lebanon, Litchfield, Madison, Mansfield, Meriden, Middletown, Milford, Naugatuck, New Haven, New London, New Milford, Norwalk, Pomfret, Portland, Redding, Rocky Hill, Stamford, Stratford, Southbury, South Windsor, Thompson, Washington, Wethersfield, Willington, Windham/Willimantic, Windsor, Woodstock.
- 400+ NY municipalities are protected from fracking wastes, due to laws passed by 15 NY county legislatures and local ordinances and regulations passed by town and city leaders.
- The State of Vermont; Pelham, MA; Dozens of municipalities and counties in New Jersey have also passed waste bans.

Parents and Grandparents: A radioactive legacy is being left for future generations where spills, accidents and discharge have occurred. Radium 226, commonly found in shale drilling waste, has a radioactive half-life of 1,600 years, takes over 4,000 years to completely decay, decays into other radioactive elements and finally, lead. Areas in other states are now permanently contaminated and being left without clean-up.

Persons on Well Water: Spills and leaks have seeped into the ground and contaminated aquifers in other states. Yale University research found trace amounts of multiple chemicals used for fracking still remaining in well water 5 years after spills and leaching occurred. The costs for repeated testing, legal action and remediation often fall on property owners using well water. Restitution costs falling on the State of CT and municipalities may be exorbitant.

Watershed: Radioactivity and chemical contamination has already occurred in other states where spills and discharge have occurred after treatment efforts. Bio-accumulation up the food chain with fishing and other recreational activities in contaminated areas may pose health problems, and future flooding may distribute contaminated sediment across large areas. Water intakes for drinking water downstream from treatment discharge may also pose problems. Small amounts of bromide can react synergistically with chlorine added to drinking water used to kill bacteria and create highly carcinogenic brominated trihalomethanes.

Farming: Where spills have occurred on farm land, nothing is growing 5-10 years later. The salt/bromide content is so high, it kills everything in the soil and it is no longer arable. Radioactivity and chemicals can be taken up by crops grown in the area, contaminating produce and animal feed, bio-accumulating up the food chain.

Regarding Beneficial Re-use (BUD) Permits & Costs of Remediation: The high risk of contamination makes re-use of wastes and by-products a costly endeavor if remediation is necessary. It cannot be known if toxins have been removed or if radioactivity has been properly tested for. The State of CT, and cities and towns can prevent contamination and risk of premature crumbling and slippage in infrastructure projects by banning fracking waste turned into by-products...such as using very fine frac sand in concrete, silt-laden drill cuttings in construction fill and brine or dewatered salts as de-icers.

The West Virginia legislature commissioned an engineering study for re-using solid fracking wastes. The study concluded it was not advised, due to radioactivity levels and high silt content, potential future slippage with costly remediation where used for road base or construction, and high costs for treatment and transport from well sites.

Despite testimony from environmental and public health advocates about lack of monitoring, potential inadequate testing and treatment for radioactivity & chemicals, the State of Pennsylvania DEP issued permits for using solid wastes in construction fill and road base material. After five years, PADEP rescinded this policy echoing what they were told years earlier, citing "lack of transparency".

Example of CT costs for remediation: Greenwich has spent \$5.6 million for testing and partial remediation of PCB and arsenic contaminated fill brought in to build sports fields. It is estimated an additional \$14 million is needed to complete the remediation.

Many natural toxins, including arsenic, lead, radioactive materials, other heavy metals, and hazardous chemicals are found in fracking waste, and may contaminate by-products.

Types of Oil & Gas Drilling & Extraction Wastes	46 of 47 Local Bans in CT (Washington differs)	Moratoria & 2017 HB	2018 Senate Bill 103 TBD UPDATE: NOT VOTED ON
Gas Drilling Process Drilling Muds	X		X
Gas Drilling Process Drill Cuttings	X		X
Gas Leachate from Solid Wastes & Landfills	X		X
Gas Hydraulic Fracturing Flowback*	X	X	X
Gas Used Frac Sand from Flowback	X	X	X
Gas Production Process Brine	X	?	X
Gas Dehydration Process Brine	X	?	X
Gas Chemicals Used on Pad Surface	X	?	X
Gas Servicing Fluids for Equipment	X	?	X
Gas Underground Storage Waste	X		X
Gas LPG Well Storage Waste	X		X
Oil Drilling Process Drilling Muds	X		X
Oil Drilling Process Drill Cuttings	X		X
Oil Leachate from Solid Wastes & Landfills	X		X
Oil Hydraulic Fracturing Flowback*	X		X
Oil Used Frac Sand from Flowback	X		X
Oil Production Process Brine	X		X
Oil Chemicals Used on Pad Surface	X		X
Oil Servicing Fluids for Equipment	X		X

* Flowback is a combination of hydraulic fracturing solution pumped into the well and materials from the shale deposit that mix into this solution underground, which then flows back to the surface for a few weeks after fracturing is completed. It includes water, industry-recycled contaminated fluids, chemicals, frac sand, remaining drill cuttings, brine and naturally-occurring toxins. Wells continue to produce toxic liquid waste & brine for years while producing oil & gas.



Understanding the Problems with Current State Moratoria Language

State law temporarily prohibits waste from one process, hydraulic fracturing, *and other substances used for or generated secondarily to the purpose of hydraulic fracturing*...which is clearly defined as the process of pumping a fluid to fracture rock.

The wording "generated secondarily to the purpose of hydraulic fracturing" is vague. This wording may not include solid and liquid wastes that come from the drilling process, which happens for a month before hydraulic fracturing takes place.

It is unclear if brine that is produced many years after hydraulic fracturing is completed would be included.

Wastes derived from the dehydration process (removing brine & impurities from gas before it is shipped by pipeline) and storage process (holding natural gas in caverns underground or LPG well storage) may also not be included. These processes produce huge amounts of brine. State law does not cover drilling and extraction activity that do not use the hydraulic fracturing process, but these activities still produce large amounts of wastes. Also, the moratorium does not include any wastes from oil wells.

In response, CT towns are passing more comprehensive ordinances, already passed by 5 NY County legislatures, written by environmental attorneys, legislative advocates and professionals that work for the oil & gas industry. The moratoria banning only some wastes remains in effect until regulations are written and approved or until the CGA & Governor pass a permanent ban.

Incomplete information in CGA Office of Legislative Research Reports:

1. 2014 error – An OLR bill summary initially stated that DEEP can ban fracking waste when writing regulations. This was incorrect. DEEP is required to submit regulations that bring hydraulic fracturing waste under federal hazardous waste guidelines. Once regulations are finalized, permits may be applied for to treat, dispose, store, transfer & use wastes. The error likely occurred because there is language which gives DEEP the discretion to specifically ban products used for "anti-icing, de-icing, pre-wetting or dust suppression" when writing regulations. DEEP may also choose to permit these products under conditions that the Commissioner deems necessary. The law lacks specific language banning re-use of wastes from the drilling process during the moratorium, though products for anti-icing, etc. are temporarily banned.
2. 2014, 2015 & 2017 OLR summaries initially mention hydraulic fracturing waste, then continuously refer to fracking waste. The additional drilling and extraction processes that are combined with hydraulic fracturing also produce wastes and are not explained by OLR as missing. Readers unfamiliar with extraction processes are left unaware that loopholes exist.
3. A 2017 OLR report on local ordinances was issued in December 2017, reporting that 19 towns passed ordinances. The accurate number for December 2017 was 34 towns and cities. This number has grown to 47 towns & cities, as of 6/5/18.

For more information, short presentations for elected & appointed officials and community events, please contact: Jennifer Siskind, Local Coordinator, Food & Water Watch, jsiskind@fwwlocal.org



TOWN of NEWTOWN, CONNECTICUT

CODE OF ORDINANCES

Ordinance Prohibiting the Storage, Disposal or Use of Fracking Waste

xxx-01 Definitions for the Purposes of this Ordinance:

- 1) For the purposes of this Ordinance, the following terms, phrases, and words shall have the meanings given here, unless otherwise clearly indicated by the context:
- 2) "Hydraulic fracturing" shall mean the fracturing of underground rock formations, including shale and non-shale formations, by manmade fluid-driven techniques for the purpose of stimulating oil, natural gas, or other subsurface hydrocarbon production.
- 3) "Natural gas extraction activities" shall mean all geologic or geophysical activities related to the exploration for or extraction of natural gas, including, but not limited to, core and rotary drilling and hydraulic fracturing.
- 4) "Oil extraction activities" shall mean all geologic or geophysical activities related to the exploration for or extraction of oil, including, but not limited, to, core and rotary drilling and hydraulic fracturing.
- 5) "Natural gas waste" shall mean: a) any liquid or solid waste or its constituents that is generated as a result of natural gas extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; b) leachate from solid wastes associated with natural gas extraction activities; c) any waste that is generated as a result of or in association with the underground storage of natural gas; d) any waste that is generated as a result of or in association with liquefied petroleum gas well storage operations; and e) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- 6) "Oil waste" shall mean: a) any liquid or solid waste or its constituents that is generated as a result of oil extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; b) leachate from solid wastes associated with oil extraction activities; and c) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- 7) "Application" shall mean the physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Town of Newtown.
- 8) As used in this Ordinance and from CGS 22a-220 (g), "collector" means any person who holds himself out for hire to collect solid waste on a regular basis from residential, business, commercial or other establishments.
- 9) As used in this Ordinance, the term Town shall mean the Town of Newtown.

xxx-02 Prohibitions:

- 1) The application of natural gas waste or oil waste, whether or not such waste has received Beneficial Use Determination or other approval for use by DEEP (Department of Energy & Environmental Protection) or any other regulatory body, on any road or real property located within the Town for any purpose is prohibited.
- 2) The Introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town is prohibited.
- 3) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town is prohibited.
- 4) The storage, disposal, sale, acquisition, transfer, handling, treatment and/or processing of waste from natural gas or oil extraction is prohibited within the Town.

xxx-03 Provision to be included in bids and contracts related to the construction or maintenance of publicly owned and/or maintained roads or real property within the Town:

- 1) All bids and contracts related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town shall include a provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.
- 2) All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the Town shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the Town.
- 3) The following statement, which shall be a sworn statement under penalty of perjury, shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and or maintained road or real property within the Town and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town: "We _____ hereby submit a bid for materials, equipment and/or labor for the Town of Newtown. The bid is for bid documents titled _____. We hereby certify under penalty of perjury that no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, subcontractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the Town of Newtown as a result of the submittal of this bid if selected."

xxx-04 Penalties

This ordinance shall apply to any and all actions occurring on or after the effective date of this ordinance. In response to a violation of this ordinance, the Town is empowered to a) issue "Cease and Desist" orders demanding abatement of the violation, b) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance; c) file a complaint with any other proper authority; and d) require remediation of any damage done to any land, road, building, aquifer, well, watercourse, air quality or other asset, be it public or private, within the Town of

Newtown. The Town may recoup from the offending person(s), jointly and severally, all costs, including experts, consultants and reasonable attorney's fees, that it incurs as a result of having to prosecute or remediate any infraction of this ordinance. Any person who violates this ordinance shall be liable for a fine of \$250 per CT Statute. The town may also pursue other penalties as applicable defined in CT General Statutes.

xxx-05 Enforcement:

Any designee authorized by the Board of Selectmen of Newtown may pursue penalties against any person(s) who commits violations of this ordinance. The involvement of any Town of Newtown officials will not require testing of waste products to determine chemical contents, this work will be done via contacting CT DEEP or other 3rd party analytical laboratories as is current practice Town of Newtown for other exposures to potentially hazardous chemical situations. Any designee authorized by the Board of Selectmen may request the Commissioner of CTDEEP pursue civil penalties defined by CT General Statutes, as applicable.

xxx-06 Severability

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered. To further this end, the provisions of this Chapter are hereby declared to be severable.

xxx-07 Transportation

Nothing in this ordinance shall be interpreted to ban the transportation of any product or byproduct described herein on any roadway or real property within Newtown.

Verbatim language for Sections 1-3 have passed in 9 CT municipalities: Andover, Ashford, Branford, Coventry, Middletown, Mansfield, Portland, Windham (includes Willimantic), and Windsor. These municipalities have individualized language in sections 4-6; As shown here, sections 4-6 is a composite of what has passed already in CT. Some towns have omitted section 7; it is not necessary, as nothing in the language defines or prohibits transportation. This draft ordinance is modeled after language crafted by legal counsel for Riverkeeper.

Current Setup

Newtown uses a seven (7) member Board of Education with terms of a four (4) year duration, with terms expiring in alternating biennial elections. Elections alternate between three (3) seats and four (4) seats. No political party may hold more than four (4) out of seven (7) seats. In 2015, three (3) seats' terms expired; in 2017, four (4) seats' terms expired. The current board composition is four (4) Democrats and three (3) Republicans. In 2019, two (2) Democrat seats and one (1) Republican seat will be up for election. Electors should be entitled to three (3) votes and each town committee will nominate two (2) candidates.

Relevant language from the Charter

§2-10(b)(2) - Board of Education: The number of members of any one political party who may serve on the Board of Education shall not exceed 4.

§2-120(b) - Membership and Terms:

- (1) The Board of Education shall consist of 7 members.
- (2) The term of office shall be 4 years.

§3-15(b) - At each regular Town Election members of the Board of Education, the Planning and Zoning Commission, Board of Assessment Appeals, Zoning Board of Appeals, and the Police Commission shall be elected and the number to be elected shall be determined by the number of members whose terms expire on or before the December 1st after the election.

Problematic Language in Statute

The Town is currently operating under §9-204 of the Connecticut General Statutes (CGS), shown below. This states that each elector shall vote for more than half of the number of seats up for reelection in even years and a "bare majority" of the seats in odd years. This would mean voters would have two (2) votes in years when four (4) seats expire, and two (2) votes in years when three (3) seats expire.

Sec. 9-204. Minority representation on board of education

(a) Unless otherwise provided by special act or charter provision, including the charter provisions described in subsection (b) of this section, when the number of members to be elected to the board of education for the same term at any election is even, no elector shall vote for more than half that number and when the number of members to be elected to the board of education for the same term at any election is odd, no elector shall vote for more than a bare majority of that number.

(b) Any charter which (1) provides for the election of the members of a board of education at one town election for the same term, (2) incorporates section 9-167a by reference to determine minority representation for such board of education and (3) makes no reference to the number of candidates for which an elector may vote for such board of education shall be deemed to have set the number of candidates an elector may vote for and the number of candidates who

may be endorsed by any political party at the maximum levels specified in the table contained in subdivision (1) of subsection (a) of section 9-167a.

The best solution may be to adopt §9-204b of the CGS. The only possible problem with adoption of this section is that the maximum number of members in Newtown is not the same as the maximum dictated by §9-167a, which limits the majority to five (5) of seven (7) members. Since the Charter is more restrictive than the aforementioned statute, this may not be a problem.

Sec. 9-204b. Optional alternative system for towns with four-year terms for board of education

Notwithstanding the provisions of any general statute to the contrary, in any town which provides for four-year terms for members to be elected to the board of education and whose legislative body adopts the provisions of this section by charter or ordinance, and the number of members to be elected is odd or even, any elector may vote for all of that number and the persons receiving the greatest number of votes shall be elected, except that when the number of members of any one political party who would be elected without regard to section 9-167a exceeds the maximum number as determined by said section, then only the candidates of such political party with the highest number of votes up to the limit of such maximum, shall be elected. The next highest ranking candidates, not from such political party, shall be elected, up to the number of places to be filled in such election. Each political party shall have the right to nominate as many persons as there are vacancies on the board and those names shall be placed upon the ballot.

Proposed Ordinance:

Chapter 124 - Elections

Article 1 - Board of Education Elections

§124-1 Purpose

The purpose of this article is to clarify and memorialize the processes by which Board of Education members are to be elected in the Town of Newtown, pursuant to the Connecticut General Statutes.

§124-2 Adoption of Alternative Methods of Election

A. The Town of Newtown adopts section 9-204b of the Connecticut General Statutes to govern the process by which Board of Education members are to be elected.

B. The number of votes given to an elector in an election year shall be equal to the number of seats up for election in said year.

C. Each political party shall have the right to nominate as many persons as there are vacancies on the board and those names shall be placed upon the ballot.

D. If the number of candidates who would be elected exceeds the maximum number established in subdivision 2-10(b)(2) of the Charter, then only the candidates of such political party with the highest number of votes up to the limit of such maximum, shall be elected. The next highest ranking candidates, not from such political party, shall be elected, up to the number of places to be filled in each election.