CITY OF NORWALK

LAW DEPARTMENT

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COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

March 20, 2018
7:00 p.m. – Room 231
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1.	**ROLL CALL**	
2.	**PUBLIC HEARING (possible action on):**	401(a) Defined Contribution Plan 457 Deferred Compensation Plan
3.	**PUBLIC HEARING DISCUSSION**	
4.	**PUBLIC COMMENT**	
5.	**ACCEPTANCE OF MINUTES:**	February 20, 2018
6.	**OLD BUSINESS (possible action on):**	Indemnification (Chapter 67A) Fracking
7.	**NEW BUSINESS: (possible action on):**	
8.	**DISCUSSION ITEM:**	
9.	**ADJOURNMENT**	

401 – Defined Contribution Plan

Chapter ___

401(a) - Defined Contribution Plan

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§ __-1. Authority; establishment.

Pursuant to the authority granted to said Common Council of the City of Norwalk, Connecticut in § 189 of the Norwalk City Charter and § 7-450 of the Connecticut General Statutes, there shall be created and established for such City the 401(a) Money Purchase Plan ("401(a) Plan") in order to provide retirement benefits to certain employees of the City and Board of Education in accordance with the requirements of § 401(a) of the Internal Revenue Code of 1986, as amended.

§ __-2. Defined Contribution Board.

The Norwalk City Employees' Pension Board shall be designated as the fiduciary of the 401(a) Plan, and shall have all of the powers and responsibilities of the fiduciary of the 401(a) Plan as provided by Connecticut Uniform Prudent Investor Act, Conn. Gen. Stats. §§ 45a-541 through 45a-541l, as amended. The members of this Defined Contribution Board shall receive no compensation for their service.

§ __-3. Allocation of Defined Contributions.

A. Separate accounting. The Defined Contribution Board shall establish and maintain an account in the name of each participant to which the Defined Contribution Board shall credit all defined contribution amounts allocated to each such participant as set forth herein.

B. Allocation of contributions. The City shall provide the Defined Contribution Board with all information required by it to make a proper allocation of the City's defined contribution plan contribution for each plan year. Within a reasonable period of time after the date of receipt by the Defined Contribution Board of such information, the Defined Contribution Board shall allocate any City 401(a) plan contributions proportionately among the participants of the 401(a) Plan as provided herein.

C. The Defined Contribution Board shall have the authority to delegate these custodial responsibilities to other parties, including but not limited to, institutional trustees, investment advisors, investment managers and third-party administrators ("qualified financial institutions").

§ __-4. Defined Contribution - Participant Accounts.

A. Participant accounts. The Defined Contribution Board shall create and maintain adequate records to disclose the interest of each participant, former participant, and beneficiary in such participant's separate 401(a) Plan account. Such records shall be in the form of individual accounts to which shall be credited the participant's employee 401(a) Plan contributions, the City 401(a) Plan contributions allocable to the participant as provided herein, and the aggregate of all earnings and losses on such account.

B. Participant directed investments. Each participant may designate, in accordance with the procedures established from time to time by the Defined Contribution Board, the manner in which the amounts allocated to each of his or her account shall be invested from among the investment funds made available from time to time by the Defined Contribution Board. That portion of the interest of any participant so directing will thereupon be considered a participant's directed account. If a participant fails to make a designation, then his or her account shall be invested in the investment fund or funds designated by the Defined Contribution Board from time to time in a uniform manner. A participant may change his or her investment designation for future contributions to be allocated to his or her account. Any such change shall be made in accordance with procedures established by the Defined Contribution Board and the frequency of such change may be limited by such procedures. A participant may elect to convert his or her investment designation with respect to the amounts already allocated to his or her account. Any such conversion shall be made in accordance with the procedures established by the Defined Contribution Board, and the frequency of such conversions may be limited by such procedures.

C. All participant directed accounts shall be charged or credited with net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values in accordance with procedures established from time to time by the Defined Contribution Board. The Defined Contribution Board shall ensure proper administration of the 401(a) Plan.

D. The Defined Contribution Board shall have the authority to delegate these custodial responsibilities to qualified financial institutions.

§ __-5. Vesting.

All employees shall be 100 percent vested in the City's accounts after five (5) continuous years of service with the City. The employee is vested in his or her own contributions and any accrued interest thereon immediately. The vesting schedule is only for the purposes of ownership in the City's contributions and the accrued interest thereon. This term is subject to modification through collective bargaining between the City and unions.

§ __-6. Contributions.

The City currently contributes to each employee's account an amount of five (5.0) percent of the employee's base pay. The employee currently contributes an amount of five (5.0) percent of his or her base pay. This term is subject to modification through collective bargaining between the City and unions.

§ ___-7. **Powers and Duties of Defined Contribution Board.**

A. The Defined Contribution Board shall be responsible for establishing, monitoring, evaluating, overseeing, revising and administering the 401(a) Plan in accordance with the provisions of the Connecticut Uniform Prudent Investor Act, Conn. Gen. Stats. §§ 45a-541 through 45a-541l, as amended. The agreement may be modified or amended, as appropriate, in accordance with applicable law, upon the recommendation of the Defined Contribution Board and approval of the majority of the entire Common Council.

B. The Defined Contribution Board shall perform the duties set forth in the following documents ("401(a) Documents"):

   1. (a) 401 Government Money Purchase Plan and Trust Basic Document; (b) the City of Norwalk's 401a Defined Contribution Retirement Plan Investment Policy Statement; and (c) the Administrative Service Agreement between ICMA Retirement Corporation and the City of Norwalk.

§ ___-8. **Indemnification of Defined Contribution Board; Hold Harmless.**

No member of the Defined Contribution Board, nor any other person involved in the administration of the 401(a) Plan shall be liable to any person on account of any act or omission in good faith in performing their respective duties under the terms of the 401(a) Plan. To the extent permitted by law, except in matters involving a violation of his or her fiduciary duties, criminal liability and intentional or willful misconduct, the City shall indemnify and hold harmless the Defined Contribution Board from any and all liability and expenses, including counsel fees, reasonably incurred in any action, suit, or proceeding to which he/she is or may be a party by reason of being or having been a member, delegate or appointee of the Defined Contribution Board. If the City purchases insurance to cover claims of a nature described above, then there shall be no right of indemnification except to the extent of any deductible amount under the insurance coverage or to the extent of the amount the claims exceed the insured amount.

§ ___- 9. **Conflict of Interest.**

If any board member has a direct or indirect business relationship with a vendor or service provider, he or she must disclose it to the board. Such a business relationship can include an ownership interest, self-employment with the vendor or service provider or employment by a board member's immediate family. That board member shall recuse himself from the decisions of the board to use that vendor or service provider and it will be noted in the minutes of the meeting. No board member shall unduly profit from his or her association with any vendor or service. At the beginning of each calendar year, any board member must disclose any such interest in writing to the Chairperson of the board.

401 Governmental Money Purchase Plan & Trust Basic Document

ICMARC

ICMA RETIREMENT CORPORATION
GOVERNMENTAL MONEY PURCHASE PLAN & TRUST
BASIC DOCUMENT

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XV. ADMINISTRATION

15.1 Powers of the Employer. The Employer shall have the following powers and duties:

(a) To appoint and remove, with or without cause, the Plan Administrator;

(b) To amend or terminate the Plan pursuant to the provisions of Article XIV;

(c) To appoint a committee to facilitate administration of the Plan and communications to Participants;

(d) To decide all questions of eligibility (1) for Plan participation, and (2) upon appeal by any Participant, Employee or Beneficiary, for the payment of benefits;

(e) To engage an independent qualified public accountant, when required to do so by law, to prepare annually the audited financial statements of the Plan's operation;

(f) To take all actions and to communicate to the Plan Administrator in writing all necessary information to carry out the terms of the Plan and Trust; and

(g) To notify the Plan Administrator in writing of the termination of the Plan; and

(h) The Defined Contribution Board as defined in Norwalk's City Code shall be designated fiduciary of the 401 Plan. The Defined Contribution Board shall be responsible for establishing, monitoring, evaluating, overseeing, revising and administering the 401 Plan. The Defined Contribution Board shall monitor, evaluate, oversee, revise and administer the 401 Plan in compliance with the Connecticut Uniform Prudent Investor Act, Conn. Gen. Stats. §§ 45a-451 through 45a-541l, as amended.

15.2 Duties of the Plan Administrator. The Plan Administrator shall have the following powers and duties:

(a) To construe and interpret the provisions of the Plan;

(b) To maintain and provide such returns, reports, schedules, descriptions, and individual Account statements, as are required by law within the times prescribed by law; and to furnish to the Employer, upon request, copies of any or all such materials, and further, to make copies of such instruments, reports, descriptions, and statements as are required by law available for examination by Participants and such of their Beneficiaries who are or may be entitled to benefits under the Plan in such places and in such manner as required by law;

(c) To obtain from the Employer such information as shall be necessary for the proper administration of the Plan;

(d) To determine the amount, manner, and time of payment of benefits hereunder;

(e) To appoint and retain such agents, counsel, and accountants for the purpose of properly administering the Plan;

(f) To distribute assets of the Trust to each Participant and Beneficiary in accordance with Article X of the Plan;

(g) To pay expenses from the Trust pursuant to Section 6.03 of the Plan; and as elected by the Participant. The Employer may limit the amount of Accrued Leave to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Accrued Leave Contributions shall be accounted for in the Participant Contribution Account, and are nonforfeitable by the Participant at all times.

The Employee Designated Accrued Leave Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Accrued Leave Contribution.

19.3 **Equivalencies.** The Accrued Leave Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

19.4 **Excess Contributions.** Accrued Leave Contributions are limited to the extent of applicable law and any Code limitation. No Accrued Leave Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

XX. Liability

Neither the Employer nor the Administrator shall be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan. No member of the Defined Contribution Board, nor any other person involved in the administration of the 401 Plan shall be liable to any person on account of any act or omission in good faith in performing their respective duties under the terms of the 401 Plan. To the extent permitted by law, except in matters involving a violation of his or her fiduciary duty, criminal liability, intentional or willful misconduct, the City of Norwalk shall indemnify and hold harmless the Defined Contribution Board from any and all liability and expenses, including counsel fees, reasonably incurred in any action, suit, or proceeding to which he/she is or may be a party by reason of being or having been a member, delegate or appointee of the Defined Contribution Board.

457 – Deferred Compensation Plan

Chapter ___

457 – Deferred Compensation Plan

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§ __-1. Authority; establishment.

Pursuant to the authority granted to said Common Council of the City of Norwalk, Connecticut in § 189 of the Norwalk City Charter and § 7-450 of the Connecticut General Statutes, there shall be created and established for such City the 457 Deferred Compensation Plan ("457 Plan") in order to provide retirement benefits to certain employees of the City and Board of Education in accordance with the requirements of § 457 of the Internal Revenue Code of 1986, as amended.

§ __-2. Defined Contribution Plan Board.

The Norwalk City Employees' Pension Board shall be designated as the fiduciary of the 457 Plan, and shall have all of the powers and responsibilities of the fiduciary of the 457 Plan as provided by Connecticut Uniform Prudent Investor Act, Conn. Gen. Stats. §§ 45a-541 through 45a-541l, as amended. The members of this Deferred Compensation Plan Board shall receive no compensation for their service.

§ __-3. Allocation of Deferred Compensation Plan Contributions.

A. Separate accounting. The Deferred Compensation Board shall establish and maintain an account in the name of each participant to which the Deferred Compensation Board shall credit all deferred compensation amounts allocated to each such participant as set forth herein.

B. The Deferred Compensation Board shall have the authority to delegate these custodial responsibilities to other parties, including but not limited to, institutional trustees, investment advisors, investment managers and third-party administrators ("qualified financial institutions").

§ __-4. 457 Plan - Participant Accounts.

A. Participant accounts. The Deferred Compensation Board shall create and maintain adequate records to disclose the interest of each participant, former participant, and beneficiary in such participant's separate defined contribution plan account. Such records shall be in the form of individual accounts to which shall be credited the participant's employee 457 Plan contributions, and the aggregate of all earnings and losses on such account.

B. Participant directed investments. Each participant may designate, in accordance with the procedures established from time to time by the Deferred Compensation Board, the manner in which the amounts allocated to each of his or her account shall be invested from among the investment funds made available from time to time by the Deferred Compensation Board. That portion of the interest of any participant so directing will thereupon be considered a participant's directed account. If a participant fails to make a designation, then his or her account shall be invested in the investment fund or funds designated by the Deferred Compensation Board from time to time in a uniform manner. A participant may change his or her investment designation for future contributions to be allocated to his or her account. Any such change shall be made in accordance with procedures established by the Deferred Compensation Board and the frequency of such change may be limited by such procedures. A participant may elect to convert his or her investment designation with respect to the amounts already allocated to his or her account. Any such conversion shall be made in accordance with the procedures established by the Deferred Compensation Board, and the frequency of such conversions may be limited by such procedures.

C. All participant directed accounts shall be charged or credited with net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values in accordance with procedures established from time to time by the Deferred Compensation Board. The Deferred Compensation Board shall ensure proper administration of the 457 Plan.

D. The Deferred Compensation Board shall have the authority to delegate these custodial responsibilities to qualified financial institutions.

§ __-5. Vesting.

All employees shall be 100 percent vested in his or her own contributions and any accrued interest thereon immediately.

§ ___-6. Powers and Duties of Deferred Compensation Board.

A. The Deferred Compensation Board shall be responsible for establishing, monitoring, evaluating, overseeing, revising and administering the 457 Plan in accordance with the provisions of the Connecticut Uniform Prudent Investor Act, Conn. Gen. Stats. §§ 45a-541 through 45a-541l, as amended.

B. The Deferred Compensation Board shall perform the duties set forth in the following documents ("457 Documents"):

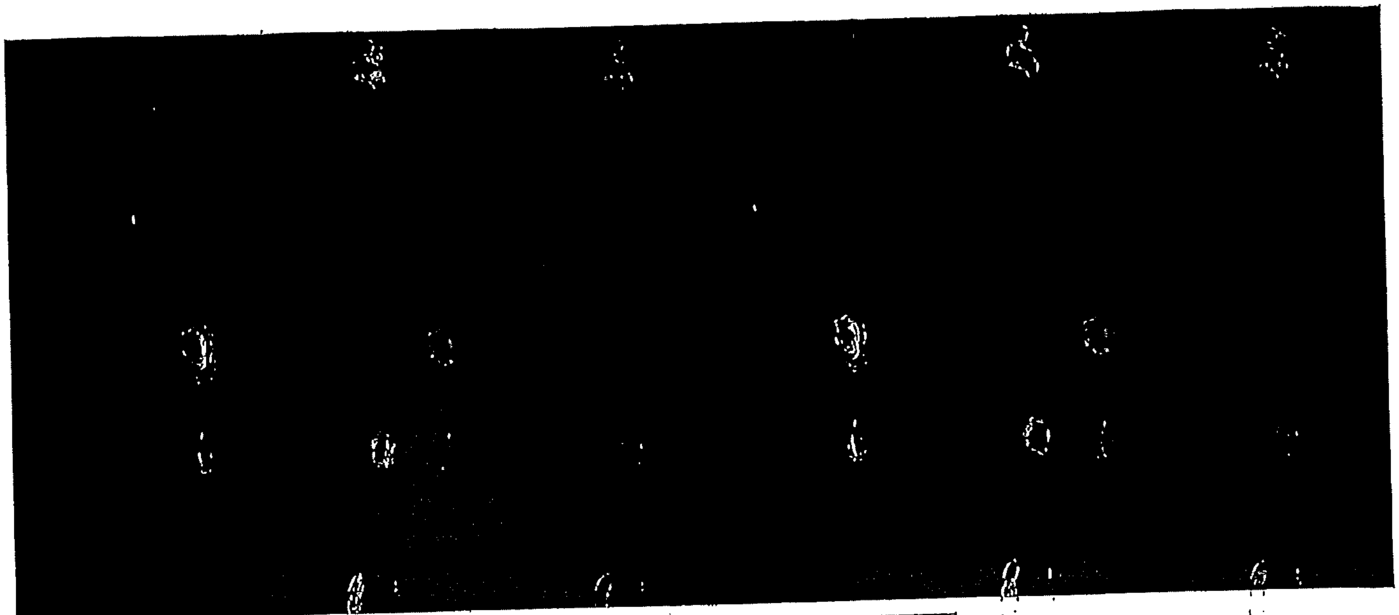
1. (a) 457 Governmental Deferred Compensation Plan and Trust; and (b) The City of Norwalk's Policy Statement for the 457 Deferred Compensation Retirement Plan. .

§ ___-7. Indemnification of Deferred Compensation Board; Hold Harmless.

No member of the Deferred Compensation Board, nor any other person involved in the administration of the 457 Plan shall be liable to any person on account of any act or omission in good faith in performing their respective duties under the terms of the 457 Plan. To the extent permitted by law, except in matters involving a violation of his or her fiduciary duties, criminal liability and intentional or willful misconduct, the City shall indemnify and hold harmless the Deferred Compensation Board from any and all liability and expenses, including counsel fees, reasonably incurred in any action, suit, or proceeding to which he/she is or may be a party by reason of being or having been a member, delegate or appointee of the Deferred Compensation Board. If the City purchases insurance to cover claims of a nature described above, then there shall be no right of indemnification except to the extent of any deductible amount under the insurance coverage or to the extent of the amount the claims exceed the insured amount.

§ ___- 8. Conflict of Interest.

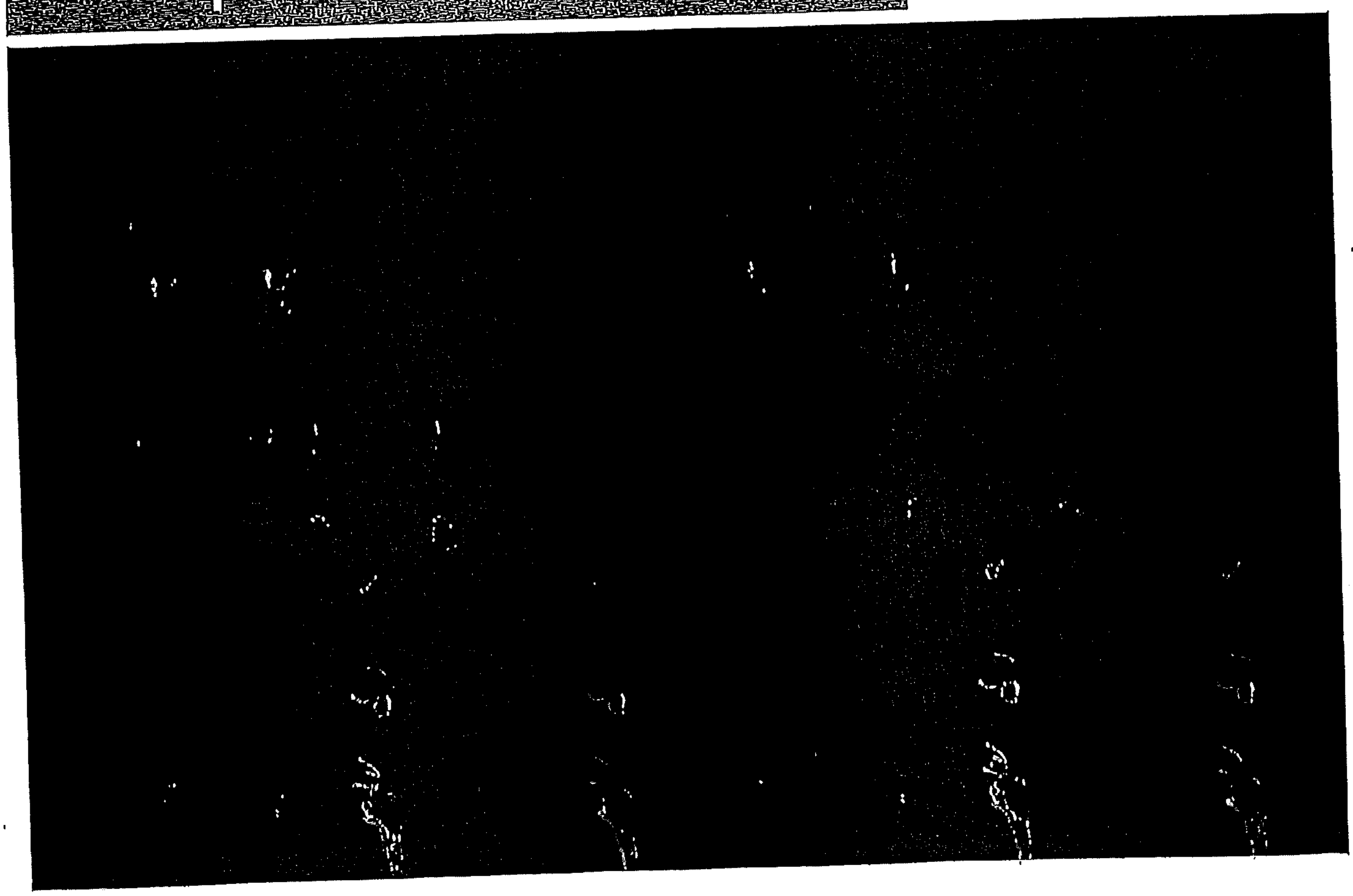
If any board member has a direct or indirect business relationship with a vendor or service provider, he or she must disclose it to the board. Such a business relationship can include an ownership interest, self-employment with the vendor or service provider or employment by a board member's immediate family. That board member shall recuse himself from the decisions of the board to use that vendor or service provider and it will be noted in the minutes of the meeting. No board member shall unduly profit from his or her association with any vendor or service. At the beginning of each calendar year, any board member must disclose any such interest in writing to the Chairperson of the board.



457 Governmental Deferred Compensation Plan & Trust

ICMA-RC

Building Retirement Security



2.16 **Participant.** Any Employee who has joined the Plan pursuant to the requirements of Article IV. For purposes of section 6.11 of the Plan, the term Participant includes an employee or former Employee of the Employer who has not yet received all of the payments of benefits to which he/she is entitled under the Plan.

2.17 **Percentage Limitation.** 100 percent of the participant's Includible Compensation available to be contributed as Deferred Compensation for the taxable year.

2.18 **Plan Year.** The calendar year.

2.19 **Retirement.** The first date upon which both of the following shall have occurred with respect to a participant: Severance Event and attainment of age 65.

2.20 **Severance Event.** A severance of the Participant's employment with the Employer within the meaning of Section 457(d)(1)(A)(ii) of the Code.

In general, a Participant shall be deemed to have experienced a Severance Event for purposes of this Plan when, in accordance with the established practices of the Employer, the employment relationship is considered to have actually terminated. In the case of a Participant who is an independent contractor of the Employer, a Severance Event shall be deemed to have occurred when the Participant's contract under which services are performed has completely expired and terminated, there is no foreseeable possibility that the Employer will renew the contract or enter into a new contract for the Participant's services, and it is not anticipated that the Participant will become an Employee of the Employer, or such other events as may be permitted under the Code.

2.21 **Trust.** The Trust created under Article VI of the Plan which shall consist of all compensation deferred under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

Article III. Administration

3.1 **Duties of the Employer.** The Employer shall have the authority to make all discretionary decisions affecting the rights or benefits of Participants which may be required in the administration of this Plan. The Employer's decisions shall be afforded the maximum deference permitted by applicable law. The Deferred Compensation Board as defined in Norwalk's City Code shall be designated a fiduciary of the 457 Plan. The Deferred Compensation Board shall be responsible for establishing, monitoring, evaluating, overseeing, revising and administering the 457 Plan. The Deferred Compensation Board shall monitor, evaluate, oversee, revise and administer the 457 Plan in compliance with the Connecticut Uniform Prudent Investor Act, Conn. Gen. Stats. §§ 45a-541 through 45a-541l, as amended.

3.2 **Duties of Administrator.** The Administrator, as agent for the Employer, shall perform nondiscretionary administrative functions in connection with the Plan, including the maintenance of Participants' Accounts, the provision of periodic reports of the status of each Account, and the disbursement of benefits on behalf of the Employer in accordance with the provisions of this Plan.

Article IV. Participation in the Plan

4.1 **Initial Participation.** An Employee may become a Participant by entering into a Joinder Agreement prior to the beginning of the calendar month in which the Joinder Agreement is to become effective to defer compensation not yet earned, or such other date as may be permitted under the Code. A new employee may defer compensation in the calendar month during which he or she first becomes an employee if a Joinder Agreement is entered into on or before the first day on which the employee performs services for the Employer.

4.2 **Amendment of Joinder Agreement.** A Participant may amend an executed Joinder Agreement to change the amount of Includible Compensation not yet earned which is to be deferred (including the reduction of such future deferrals to zero). Such amendment shall become effective as of the beginning of the calendar month commencing include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Sections 401(a)(9) and 457(d)(2) of the Code; and any distribution made as a result of an unforeseeable emergency of the employee. For purposes of distributions from other eligible retirement plans rolled over into this Plan, the term eligible rollover distribution shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), such as after-tax contributions.

(2) *Eligible Retirement Plan*: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Sections 403(a) or 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible governmental employer described in Section 457(e)(1)(A) of the Code, that accepts the distributee's eligible rollover distribution.

(3) *Distributee*: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(4) *Direct Rollover*: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

6.12 Trustee-to-Trustee Transfers to Purchase Permissive Service Credit. All or a portion of a Participant's Account may be transferred directly to the trustee of a defined benefit governmental plan (as defined in Section 414(d) of the Code) if such transfer is (a) for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under such plan, or (b) a repayment to which Section 415 of the Code does not apply by reason of subsection (k)(3) thereof, within the meaning of Section 457(e)(17) of the Code.

6.13 Treatment of Distributions of Amounts Previously Rolled Over From 401(a) and 403(b) Plans and IRAs. For purposes of Section 72(t) of the Code, a distribution from this Plan shall be treated as a distribution from a qualified retirement plan described in Section 4974(c)(1) of the Code to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in Section 4974(c) of the Code).

6.14 Employer Liability. In no event shall the Employer's liability to pay benefits to a Participant under this Plan exceed the value of the amounts credited to the Participant's Account; neither the Employer nor the Administrator shall be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan. No member of the Deferred Compensation Board, nor any other person involved in the administration of the 457 Plan shall be liable to any person on account of any act or omission in good faith in performing their respective duties under the terms of the 457 Plan. To the extent permitted by law, except in matters involving a violation of his or her fiduciary duty, criminal liability, intentional or willful misconduct, the City of Norwalk shall indemnify and hold harmless the Deferred Compensation Board from any and all liability and expenses, including counsel fees, reasonably incurred in any action, suit, or proceeding to which he/she is or may be a party by reason of being or having been a member, delegate or appointee of the Deferred Compensation Board.

Article VII. Benefits

7.1 Retirement Benefits and Election on Severance Event.

(a) *General Rule*: Except as otherwise provided in this Article VII, the distribution of a Participant's Account

Draft Meeting Minutes from 2/20/2018 Ordinance Committee Meeting

CITY OF NORWALK
ORDINANCE COMMITTEE
REGULAR MEETING
FEBRUARY 20, 2018

ATTENDANCE: Eloisa Melendez, Chair; Douglas Hempstead; Thomas Livingston; Beth Siegelbaum; Douglas Stern; Chris Yerinides

STAFF: Brian Candela, Assistant Corporation Counsel; Chris Torre, Superintendent, DPW

ROLL CALL

Ms. Melendez called the meeting to order at 7:03 p.m. and called the Roll.

PUBLIC HEARING: Snow and Ice Removal (Chapter 95)

No member of the public wished to speak.

The public hearing was closed at 7:04 p.m.

PUBLIC HEARING DISCUSSION

Mr. Candela described the changes made to the Ordinance as recommended by the Law Department for snow and ice removal. Mr. Stern asked if there could be an enforcement problem. Mr. Livingston asked for clarification of "after the cessation of the storm". Mr. Torre explained that they consider any weather event they have to respond to as a storm.

Mr. Hempstead asked for clarification on how all occupants of a multi-tenant building are fined. Mr. Candela said they usually have a maintenance company come out to clear the snow.

Mr. Livingston said he would like a definition of "storm". He asked how people will know about the ordinance. Mr. Torre said the first step is to approve the ordinance.

** **MR. LIVINGSTON MOVED TO REMOVE AFTER CESSATION OF THE STORM AND REPLACE IT WITH AFTER SUCH ACCUMULATION**

** **MOTION PASSED UNANIMOUSLY**

Mr. Hempstead said he struggles with making residents maintain public property. He added that not everyone is able to do this. Ms. Melendez said she believes there are groups that find a solution to that problem. It is a conversation that is going on City wide. Mr. Livingston said they all share Mr. Hempstead's concerns, but it is a struggle for a child walking to school.

** **MR. LIVINGSTON MOVED THE ITEM AS AMENDED TO THE FULL COMMON COUNCIL**
** **MOTION PASSED WITH ONE (1) ABSTENTION (MR. HEMPSTEAD)**

PUBLIC COMMENT

Public comments are not verbatim and represent a summarization of statements unless otherwise noted.

Mr. Robert Emiger expressed concern about toxic chemicals that would be brought into Norwalk. He said he and his students are concerned about the health risks and support the local ordinance that protects Norwalk from fracking waste.

Ms. Elena Montero said she was concerned about the future generations being exposed to chemicals from fracking waste in the water. She supported the ban on fracking waste.

Mr. Dick Harris said the surrounding waters are on the uptake. He said he worked with several departments to get the Harbor in good shape. He said his goal is to look out for the oyster industry. He expressed concern about taking in fracking waste.

Ms. Marnie Smith said she has been involved in conservation in Norwalk and is upset at the idea of fracking waste coming into Connecticut. She said there is talk about taking it in as construction fill. She said no one wants fracking waste.

Ms. Lauricella thanked Mr. Candela for the backup information. She spoke about the noise ordinance and the hiring of Mr. Zwerling. She said the ordinance is in need of reform; it is a health issue. She asked that he be hired quickly and to train additional people who will do the enforcement.

Ms. Lauricella talked about fracking waste and asked that this body act before July 1st to be sure Norwalk is protected. She noted that there were many in attendance who supported this ban but did not want to speak.

Ms. Louise Washer expressed concern that the superfund site would leak and contaminate the water.

Ms. Lee Grant read the following statement: Pennsylvania which has the largest source of shale gas in the United States, the Marcellus Shale Formation, no longer allows shale gas waste to be taken to wastewater treatment plants. When the water that is pumped into the ground to release the shale gas flows back to the surface, it carries heavy metals, salts and he chemicals used in the process. The chloride is particularly difficult to remove with standard treatment. Facilities that treat wastewater from gas development are considered sources of pollution.

In Connecticut, we all know our rivers run from north to south. We, along with Rhode Island and New York, are the Soundkeepers. Rhode Island has recently heavily invested in green energy and New York has banned fracking. Norwalk has local oyster beds, lobster traps, and fishing boats. It is hard for me to believe that Connecticut, which does not even have shale from which gas is drawn, would allow fracking waste to be process and dumped into our rivers or our Sound. However, in these days of diminished EPA protections, we must take it upon shoulders as responsible citizens for responsible government to ensure that fracking waste is not allowed in Connecticut. Norwalk, please ban fracking waste from our City.

Ms. Kathleen March said she grew up in western PA and the mines ruined the water. The creek ran red and there were no fish in the water.

Ms. Allison Vallerie said it is important for Norwalk to get on board to have a statewide ban, especially since there is so much ground water here.

ACCEPTANCE OF MINUTES

December 19, 2017

The following corrections were made to the minutes:

Page 2: correct spelling of statute
Page 2: second sentence should read; He said that the proposed language will better outline that the full width of the paved surface or concrete surface of the sidewalk must be cleared.

** **MR. LIVINGSTON MOVED TO ACCEPT THE MINUTES AS CORRECTED**
** **MOTION PASSED WITH ONE (1) ABSTENTION (MR. HEMPSTEAD)**

OLD BUSINESS

Fracking

Ms. Lisa Stewart, Norwalk River Watershed said they partnered with the City and Harbor Watch. She said there have been spills in other states and as a result the aquatic life died out. Some of the chemicals identified are known carcinogens. Norwalk has the opportunity to be a leader and pas the ban which would be a huge sign to Hartford. This is a Senate bill that will be in discussion this week.

Ms. Jennifer Siskind said she has been trying to ban fracking from Connecticut for five years. Bridgeport could be a target to accept the bulk of the waste. She described how towns could be impacted. She said the waste is not adequately treated and discharges into the water ways. In addition, permits are being given to other states to re-use the waste.

Ms. Siskin said it is unfortunate that the State does not ban specific waste that comes from the materials. There is the potential for other waste to enter Connecticut and the towns will be impacted.

The ordinance written by the Riverkeeper in NY covers all of the loopholes and only bans waste coming out of the wells or that come out of storage of natural gas. Up to 37 towns have passed the ban.

Ms. Siskin said she has been trying to get the language fortified, but the State legislators are not willing to deal with the waste coming out of PA. She said towns are responsible for protecting themselves.

A public hearing is taking place this Friday to amend the language in the current moratorium to create a permanent ban. Mr. Siskin said she did not believe the waste from the drilling process is covered in the moratorium.

Mr. Hempstead asked why the State was reluctant to pass the ban. Ms. Siskin said each legislator has their own mindset. She said the bill died when it was first put forward in 2013. She added that Governor Malloy would not support a ban and the speakers will bring it to the floor.

Ms. Siskin said that in PA, 30 – 40% of the solution used in drilling comes back up to the surface. She said they are seeing fish kills and the radioactive material can bioaccumulate in plants and fish. It is not being adequately treated and it can be spilled at transfer sites.

Ms. Siskin said she will forward an analysis prepared by Halloran and Sage to Ms. Melendez.

Mr. Hempstead asked for information on how to institute fines and how to identify the product. He asked if thee are any regulations regarding notification to towns. He also asked for a copy of the SB103 bill. He said he wants this done right. Ms. Siskin said there are no regulation for towns to be notified if trucks are driving through their town.

Ms. Melendez said this item will be on the agenda next month.

Noise Ordinance (Chapter 68)

Ms. Melendez said there was a hiring freeze in place when this was approved. She said she would like to move forward with hiring Mr. Eric Zwerling. She said that she understands from Mr. Barron, that this would be paid for by an appropriation from the Zoning department.

Indemnification (Chapter 67A)

Mr. Candela recommended one change – insert the words public member. He explained that the Pension Board is the fiduciary for the 401A and 457 plans. There is concern that there is no ordinance for those plans. Mr. Livingston said fiduciaries are held to a higher standard. The City indemnifies people for negligence, but he does not believe they can indemnify fiduciaries for negligence. Mr. Candela said he will check. He said he believes they have to understand their fiduciary duties. He said he will work on the language and this will be discussed further.

Ms. Melendez will ask Mr. Burney and Mr. Barron to attend the next meeting. Mr. Livingston said it is important for each member to know their responsibility.

NEW BUSINESS

Possible Action on: 401A Defined Contribution Plan
457 Deferred Compensation Plan

** **MR. LIVINGSTON MOVED TO HOLD A PUBLIC HEARING ON THE 401A DEFINED CONTRIBUTION PLAN AND THE 457 DEFERRED COMPENSATION PLAN AT THE MARCH 20, 2018 MEETING**
** **MOTION PASSED UNANIMOUSLY**

DISCUSSION ITEM:

There was no further discussion.

ADJOURNMENT

** **MR. YERINIDES MOVED TO ADJOURN**
** **MOTION PASSED UNANIMOUSLY**

There was no further business and the meeting was unanimously adjourned at 8:33 p.m.

Respectfully submitted,

Rosemarie Lombardi
Telesco Secretarial Services

Indemnification
Norwalk City Code Sections
Chapter 67A

Chapter 67A. Municipal Liability

§ 67A-1. Indemnification.

(a) The City of Norwalk shall protect and save harmless and shall defend any lawsuit or administrative proceeding instituted against any municipal officer or public member, whether elected or appointed, of any board, committee, council, agency or commission of the City of Norwalk, or any municipal employee of the City of Norwalk from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence, or for alleged infringement of any person's civil rights, on the part of such officer, public member or ~~such~~ employee while acting in the discharge of his or her duties in accordance with applicable provisions of the Connecticut General Statutes including, but not limited to, Section 7-101a, as that section may be amended from time to time.

(b) In addition to the protection provided under subsection (a) of this section, the City of Norwalk shall protect and save harmless any such municipal officer, public member or municipal employee from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand or suit instituted against such officer, public member or employee by reason of alleged malicious, wanton or willful act or ultra vires act, on the part of such officer, public member or employee while acting in the discharge of his or her duties. In the event such officer, public member or employee has a judgment entered against him or her for a malicious, wanton or willful act in a court of law or administrative body, the City of Norwalk shall be reimbursed by such officer, public member or employee for expenses it incurred in providing such defense and shall not be held liable to such officer, public member ~~and~~ or employee for any financial loss or expense resulting from such act.

§ 67A-2. Defense provisions.

Except as otherwise provided in this chapter, the City of Norwalk shall defend any action brought against any municipal officer, public member or municipal employee. It shall not be liable for any judgment, settlement or for fees of attorneys or other costs if a municipal officer, public member or municipal employee does not notify the City Clerk, in writing, within 10 days of his/her first notice of presentation or institution of a claim or a lawsuit or chooses to defend any action on his or her own without the authority of the Mayor or the Corporation Counsel, unless it is determined that the City of Norwalk was required to represent the interests of such person and has failed to provide counsel for such person.

§ 67A-3. Notice of withdrawal of defense.

In the event that the City of Norwalk determines at any time that it will not defend or save harmless any municipal officer, public member or municipal employee as a result of the person's acts or omissions occurring not in the performance of governmental functions or within the scope of the person's duties or if the person has acted in bad faith and not in the exercise of honest judgment or has acted maliciously, wantonly or in abuse of his or her discretion or in violation of his or her fiduciary duties, the Mayor or the Corporation Counsel shall give prompt written notice to the person that the City of Norwalk will withdraw coverage and provision of defense as established by this chapter. The Mayor shall deliver written notice of the withdrawal to the Common Council at its next regular meeting. The withdrawal shall be effective unless rejected by a resolution of the Common Council.

§ 67A-4. Notice of withdrawal of policy to save harmless.

In the event that the City of Norwalk determines, at the time of the institution of any suit or administrative proceeding or at any time during the course of said suit or proceeding, that it will not defend said action or proceeding or protect and save harmless any municipal officer, public member or municipal employee as a result of the person's acts or omissions occurring not in the performance of governmental functions or within the scope of the person's duties or if the person has acted in bad faith and not in the exercise of honest judgment or has acted maliciously, wantonly or in abuse of his or her discretion, the Mayor or the Corporation Council shall give prompt written notice to the person that the City of Norwalk will not defend and shall not protect and save harmless from any judgment or order entered in the lawsuit or administrative proceeding. The Mayor shall deliver written notice of the withdrawal to the Common Council at its next regular meeting. The withdrawal shall be effective unless rejected by a resolution of the Common Council: provided, further, that, in an appropriate case as determined by the Corporation Counsel, the City of Norwalk may elect to defend said person under a reservation of rights upon written notice to the person of such reservation of rights and upon informing the individual of a right to seek independent counsel.

§ 67A-5. Effect of existing coverage.

In the event that any municipal officer, public member or municipal employee are covered by an insurance policy in effect at the effective date of this chapter, this chapter shall not take effect as to the municipal officer, public member or municipal employee until the City Clerk has been advised, in writing, by the board, committee, council, agency or commission that the current insurance has terminated by reason of expiration or nonrenewal by the insurer.

Fracking Waste

MEMORANDUM TO FILE

Date: March 14, 2018
From: Brian Candela
RE: Fracking Waste for the March 20, 2018 committee meeting

1) **Enclosed please find documents concerning Fracking Waste**

Enclosed as Exhibit A please find an initial draft of Norwalk's proposed fracking ordinance for your review. This ordinance is based on other municipal ordinances in Connecticut, including Middletown, South Windsor and Milford.

Enclosed as Exhibit B please find a map of other municipalities in Connecticut that have passed local ordinances.

Enclosed as Exhibit C please also find the State of Connecticut's proposed bill concerning hydraulic fracturing waste in Connecticut, SB-103.

Exhibit A

Chapter _______: Prohibiting Natural Gas Waste and Oil Waste from Natural Gas Extraction Activities within the City of Norwalk

A. Purpose

The purpose of this ordinance is to protect the health, safety, welfare and property of the residents of the City of Norwalk (hereinafter the "City") pursuant to the provisions of § 7-148 of the Connecticut General Statutes, as amended, by prohibiting the waste associated with drilling and extraction of natural gas and oil from being used for any purpose on any road or real property in the City.

B. Definitions

1) **Application:** The physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the City.

2) **Hydraulic Fracturing:** The fracturing of underground rock formations, including shale and non-shale formations, by manmade fluid-driven techniques for the purposes of stimulating oil, natural gas or other subsurface hydrocarbon production.

3) **Natural Gas Extraction Activities:** 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) **Natural Gas Waste:**
   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.

5) **Oil Extraction Activities:** 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.

6) **Oil Waste:**

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.

C. 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 and Environmental Protection) or any other regulatory body, on any road or real property located with the City 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 City is prohibited.

3) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the City 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 City.

D. 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 City.

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 City 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 City shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the City.

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 City 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 City:

"We _______________ hereby submit a bid for materials, equipment and/or labor for the City of Norwalk. 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, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any contractor, sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the City of Norwalk as a result of the submittal of this bid if selected."

E. Penalties for Offenses

1) 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 City is empowered to:
   a. Issue "Cease and Desist" orders demanding abatement of the violation of the prohibitions and provisions stated in this ordinance.
   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.
   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 City of Norwalk.
   e. The City 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.
   f. Issue citations in the amount of $250.00 per violation per day for any violation of this section and seek any other remedies allowable under the law.

F. Enforcement

1) The City's __(Chief of Police, Building Manager and/or Director of Health)________, or his/her designee(s), is hereby empowered and authorized to, if appropriate, issue orders and other directives under this ordinance and refer matters in connection therewith to the Common Council. The Norwalk Police Department and/or any other designee(s) of the ___(Chief of Police, Building Manager and/or Director of Health)____ are also authorized to enforce this Chapter. In addition to any equitable relief available, this Chapter shall be enforced by citations issued by said designated officers or employees.

2) City employees, officers and officials are not required to personally carry out testing of waste products to determine chemical contents, as this work may be done via contacting the State of Connecticut Department of Energy and Environmental Protection or the appropriate analytical laboratory or laboratories. If appropriate, the City's ____(Chief of Police, Building Manager and/or Director of Health)_____, or designee(s), may request that the State of Connecticut Department of Energy and Environmental Protection pursue civil penalties allowable under the law.

3) A citation hearing procedure is hereby established pursuant to Connecticut General Statutes § 7-152(a). The City ___(Chief of Police, Building Manager and/or Director of

Health)____ shall appoint one or more citation hearing officers, other than police officers or employees or persons who issue citations, to conduct the hearings authorized by this section. The citation hearing procedure provisions of Connecticut General Statutes § 7-152c, Subsections (c) through (g), inclusive, are hereby adopted by reference as if fully set forth herein.

G. Severability

If any clause, sentence, paragraph, subdivision, section of part of this ordinance or the application thereof to any person, individual, private 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 ordinance or in its application to the person, individual, private 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 ordinance are hereby declared to be severable.

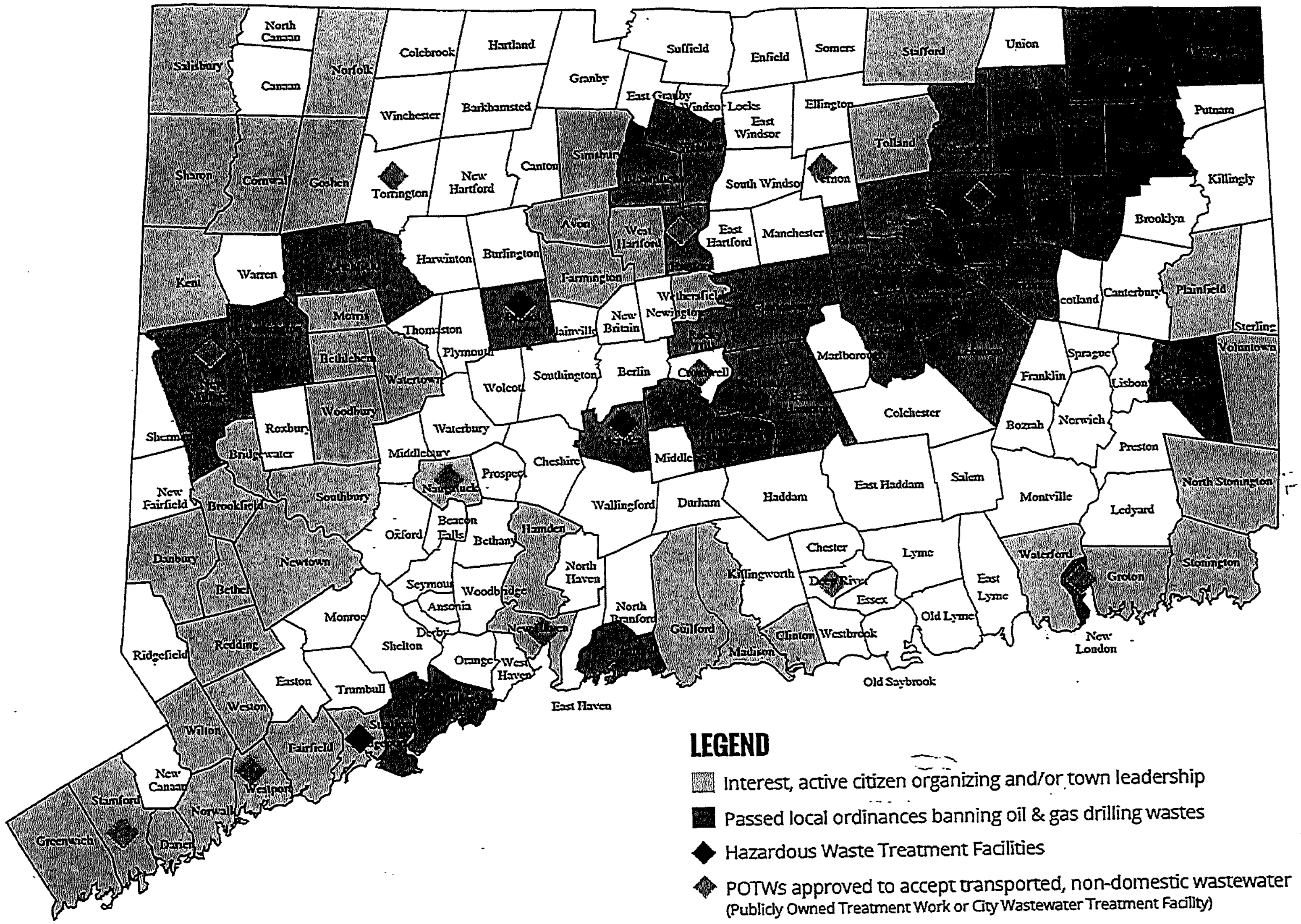
H. Conflicts with other Ordinances or Codes

In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of the City, the provision that establishes the higher standard for the protection of the health, safety, welfare and property of the residents of the City shall prevail. In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of the City, which other ordinance or code establishes a lower standard for the protection of the health, safety, welfare and property of the residents of the City, the provisions of this ordinance shall be deemed to prevail.

I. Transportation

Nothing in this ordinance shall be interpreted to ban the transportation of any product or by-product described herein on any roadway or real property within the City of Norwalk.

Exhibit B



BASE MAP COURTESY OF THE CONNECTICUT DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Bold Type = Towns with Boards of Selectmen = 18

34 CT towns & cities - **Andover, Ashford,** Bloomfield, **Bolton,** Branford, Bristol, **Chaplin, Columbia, Coventry, Eastford, Hampton,** Glastonbury, **Griswold,** Hartford, **Hebron, Lebanon, Litchfield,** Mansfield, Meriden, Middletown, Milford, New London, New Milford, **Pomfret, Portland,** Stratford, **Thompson, Washington, Willington,** Windham/Willimantic, Windsor, **Woodstock.**

Exhibit C

General Assembly

Raised Bill No. 103

February Session, 2018

LCO No. **888**

00888_______ENV

Referred to Committee on ENVIRONMENT

Introduced by:

(ENV)

AN ACT CONCERNING HYDRAULIC FRACTURING WASTE IN CONNECTICUT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22a-472 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purposes of this section:

(1) "Dispose" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste, or any constituent of such waste, may enter the environment, be emitted into the air or discharged into any waters of the state;

(2) "Fluid" means any material or substance that flows or moves whether in semisolid, liquid, sludge, gas or any other form or state;

(3) "Gas" means all natural gas, whether hydrocarbon or nonhydrocarbon, including, but not limited to, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen and casinghead gas;

(4) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for exploration, development, production or recovery of gas. "Hydraulic fracturing" does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes;

(5) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the state;

(6) "Radioactive materials" means any material, solid, liquid or gas, including, but not limited to, waste that emits ionizing radiation spontaneously;

(7) "Store" means holding waste for a temporary period, at the end of which the waste is treated, disposed of or stored elsewhere;

(8) "Transfer" means to move from one vehicle to another or to move from one mode of transportation to another;

(9) "Treat" means any method, technique or process designed to change the physical, chemical or biological character or composition of any waste, including, but not limited to, the reclaiming or rendering of waste from hydraulic fracturing as suitable for use or reuse; and

(10) "Waste from hydraulic fracturing" means any wastewater, wastewater solids, brine, sludge, drill cuttings or any other substance used for or generated secondarily to the purpose of hydraulic fracturing.

(b) No person may accept, receive, collect, store, treat, transfer or dispose of waste from hydraulic fracturing, including, but not limited to, the discharge of wastewaters into or from a pollution abatement facility. [, until the Commissioner of Energy and Environmental Protection adopts regulations, in accordance with the provisions of chapter 54, including approval of such regulations by the standing legislative regulation review committee, to: (1) Eliminate the exemption in the state's hazardous waste management regulations, adopted pursuant to subsection (c) of section 22a-449 for the wastes identified in 40 CFR 261.4(b)(5) and to provide that such wastes shall be subject to the state's hazardous waste management regulations, as applicable, as set forth in sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and section 22a-449(c)-11 of the regulations of Connecticut state agencies, (2) ensure that any radioactive materials that may be present in wastes from hydraulic fracturing do not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state and do not otherwise pose a threat to the human health or the environment of this state, and (3) require disclosure of the composition of the waste from hydraulic fracturing. The commissioner shall not submit regulations authorized by this subsection to the standing legislative regulation review committee earlier than July 1, 2017, provided the commissioner shall submit such regulations to said committee not later than July 1, 2018.]

(c) [After the adoption of the regulations, including the approval of such regulations by the legislative regulation review committee, required by subsection (b) of this section, no] <u>No</u> person shall collect or transport waste from hydraulic fracturing for receipt, acceptance or transfer in this state. [unless such person obtains a permit, prior to any such collection or transport, issued in accordance with the provisions of section 22a-454. Such permit shall be required even if such collection or transportation is undertaken by a person whose principal business is not the management of such wastes. In any such permit the commissioner shall require, in addition to any other conditions, that records be maintained concerning the origins and all intermediate and final delivery points of such wastes from hydraulic fracturing.]

(d) No person may sell, offer for sale, offer, barter, manufacture, distribute or use any product for anti-icing, de-icing, pre-wetting or dust suppression that is derived from or that contains waste from hydraulic fracturing. [until the commissioner adopts regulations in accordance with the provisions of chapter 54, including approval of such regulations by the legislative regulation review committee, authorizing such sale, offer, barter, manufacture, distribution or use. Such regulations shall either prohibit any such products or shall contain any conditions that the commissioner deems necessary to protect human health and the environment and to ensure that the sale, offer, barter, manufacture, distribution or use of any such product does not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state. Such conditions may include, but are not limited to, a written statement to accompany such product indicating that such product contains or is derived from wastes from hydraulic fracturing.]

(e) In implementing the provisions of this section, the commissioner shall request of any person information, including, but not limited to, whether and to what extent an anti-icing, de-icing, pre-wetting or dust suppression product is or may be derived from or contain wastes from hydraulic fracturing, where the materials used to manufacture any such product were obtained, and the chemical composition of such product or waste from hydraulic fracturing. If any person fails to provide the information requested by the commissioner pursuant to this subsection, such failure shall provide a basis for the commissioner to prohibit the sale, offering for sale, bartering, manufacturing, distribution or use of such anti-icing, de-icing, pre-wetting or dust suppression product. [or to not adopt regulations required pursuant to subsection (b) or (d) of this section, as applicable.]

(f) Any information acquired by the commissioner under this section shall be subject to disclosure in accordance with the provisions of chapter 14.

(g) [Until the adoption of regulations in accordance with subsection (b) of this section, the] The commissioner may approve, in writing, not more than three requests to allow a person, who the commissioner determines to be professionally qualified, to treat waste from hydraulic fracturing, provided such treatment is solely for the purpose of conducting research to determine whether such waste can be treated to make such waste suitable for use or reuse. The commissioner shall prescribe the form to be used for submitting any such request, including any information that the commissioner deems necessary for evaluating any such request. In approving any such request, the commissioner shall prescribe any conditions or requirements the commissioner deems necessary to prevent pollution to the air, land or waters of the state or to protect human health or the environment and shall include requirements regarding the disposal of any waste from any such research. [From July 1, 2014, until the adoption of regulations in accordance with subsection (b) of this section, no] No person whose request is approved pursuant to this section shall: (1) Apply for or obtain more than three such approvals pursuant to this subsection, and (2) treat more than three hundred thirty gallons of waste from hydraulic fracturing in accordance with this subsection, regardless of the number of approvals issued to such person. The commissioner may authorize a single treatment in excess of such gallon limitation by one person provided such authorization allows for the treatment of not more than five hundred gallons of waste from hydraulic fracturing. For the purposes of this subsection, all wastes from hydraulic fracturing shall be considered to be hazardous waste, as defined in section 22a-448, regardless of the state's incorporation by reference of 40 CFR 261.4(b)(5).

(h) Any person exploring for oil or gas [on or after the effective date of regulations required by this subsection] shall register with the Commissioner of Energy and Environmental Protection on a form prescribed by him. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 setting forth (1) standards for oil and gas exploration and production wells, including, but not limited to, standards for the abandonment of exploration and production activities, and (2) the amount of a fee to be paid by registrants which shall be sufficient to pay the cost of administering the registration program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	22a-472

Statement of Purpose:

To prohibit the receipt, collection, storage, treatment and disposal of waste from hydraulic fracturing.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]