

**From:** "Fedeli, Mary" <[Mary.Fedeli@transamerica.com](mailto:Mary.Fedeli@transamerica.com)>  
**Date:** October 31, 2018 at 2:28:09 PM EDT  
**To:** "Emmett, Kathryn" <[KEmmett@StamfordCT.gov](mailto:KEmmett@StamfordCT.gov)>  
**Cc:** "Quinones, Matt ([MQuinones@StamfordCT.gov](mailto:MQuinones@StamfordCT.gov))" <[MQuinones@StamfordCT.gov](mailto:MQuinones@StamfordCT.gov)>, "Nabel, Susan" <[SNabel@StamfordCT.gov](mailto:SNabel@StamfordCT.gov)>, "J.R. McMullen" <[jrmcmullen.stamford18@gmail.com](mailto:jrmcmullen.stamford18@gmail.com)>, "Isidro, Judith" <[JIsidro@StamfordCT.gov](mailto:JIsidro@StamfordCT.gov)>  
**Subject:** FW: Caucus Communication: Ordinance vs Resolution Request for Legal Opinion

Good Afternoon Director Emmett-

I am requesting an Opinion From Corporation Council regarding the legitimacy of the Board of Representatives relying on the use of resolutions to create or modify a fee or fine versus an ordinance. Does a Resolution carry the same impact and enforcement as an ordinance. The backup for asking for this is below – please let me know if you have any questions or regarding this matter. Thanks in advance .

**From:** J.R. McMullen [<mailto:jrmcmullen.stamford18@gmail.com>]  
**Sent:** Friday, October 26, 2018 6:41 PM  
**To:** Fedeli, Mary <[Mary.Fedeli@transamerica.com](mailto:Mary.Fedeli@transamerica.com)>  
**Cc:** Fedeli, Mary Lisa <[MFedeli@stamfordct.gov](mailto:MFedeli@stamfordct.gov)>; [tspadaccini@stamfordct.gov](mailto:tspadaccini@stamfordct.gov); Anzelmo Graziosi <[AGraziosi@stamfordct.gov](mailto:AGraziosi@stamfordct.gov)>; Bradley Michelson <[BMichelson@stamfordct.gov](mailto:BMichelson@stamfordct.gov)>; Pia Jr., Charles <[CPia@stamfordct.gov](mailto:CPia@stamfordct.gov)>; Watkins, David <[dwatkins1@stamfordct.gov](mailto:dwatkins1@stamfordct.gov)>; Dennis Mahoney <[dmahoney@stamfordct.gov](mailto:dmahoney@stamfordct.gov)>; Steven Kolenberg <[skolenberg@stamfordct.gov](mailto:skolenberg@stamfordct.gov)>  
**Subject:** Re: Caucus Communication: Ordinance vs Resolution Request for Legal Opinion

Hi Mary,

I want to know if the Board of Representative's is following a legitimate legal course of action when we rely on the use of a resolutions to create or modify a fee or fine. Will those fees and fines be enforceable should a resident choose to contest them; do we win if we go to court. An ordinance is basically a law. I was able to find state statutes telling municipalities they have the authority to impose fee and fines using ordinances. I wasn't able to find anything similar with regard to resolutions. As the Mayor indicated last night, passing resolutions is much easier and faster from a procedural standpoint; maybe it shouldn't be too easy when we are increasing the burden on our residents.

The legal definitions provided in the Black's Law Dictionary tend to support my concern when a resolution is described as an opinion or a formal expression of will. Something temporary. That definition is consistent with Honorary resolutions and Sense of the Board resolutions. The processes around ordinances and resolutions found in Stamford's Charter and Code indicate an ordinance is meant to something much more than a resolution. The bar is set a lot higher for the passing of an ordinance than it is for a resolution. Fees and fines are intended to be relatively permanent and should be subject to a process with a higher bar.

Coincidentally, fines only begin to implemented by resolutions about 15 years ago and fees not too long before that. When fees and fines first began to appear the resolutions weren't about

setting the fees and fines but rather about exempting certain classes (ie: veterans or seniors) from certain fees and fines.

On Fri, Oct 26, 2018 at 1:37 PM Fedeli, Mary <[Mary.Fedeli@transamerica.com](mailto:Mary.Fedeli@transamerica.com)> wrote:

Hi JR –

Happy to make the request but please specify exactly what you want the opinion on – I know we have had some discussions on this but when I send it to the Law department I think it would be helpful if your request was tightened up and clear. Thanks

**From:** J.R. McMullen [mailto:[jrmcmullen.stamford18@gmail.com](mailto:jrmcmullen.stamford18@gmail.com)]

**Sent:** Friday, October 26, 2018 8:52 AM

**To:** Fedeli, Mary Lisa <[MFedeli@stamfordct.gov](mailto:MFedeli@stamfordct.gov)>

**Cc:** Anthony Spadaccini <[tspadaccini@stamfordct.gov](mailto:tspadaccini@stamfordct.gov)>; Anzelmo Graziosi <[AGraziosi@stamfordct.gov](mailto:AGraziosi@stamfordct.gov)>; Bradley Michelson <[BMichelson@stamfordct.gov](mailto:BMichelson@stamfordct.gov)>; Charles Pia <[CPia@stamfordct.gov](mailto:CPia@stamfordct.gov)>; David Watkins <[dwatkins1@stamfordct.gov](mailto:dwatkins1@stamfordct.gov)>; Dennis Mahoney <[dmahoney@stamfordct.gov](mailto:dmahoney@stamfordct.gov)>; Steven Kolenberg <[skolenberg@stamfordct.gov](mailto:skolenberg@stamfordct.gov)>

**Subject:** Caucus Communication: Ordinance vs Resolution Request for Legal Opinion

Hi Mary,

I would like you to request a formal legal opinion regarding this issue.

The Mayor is on a mission to move the Board of Representatives to adopt fee and fine changes (increases mostly) by resolution instead of by ordinance. Given the legal definitions of the two words it doesn't appear that a resolution is the appropriate vehicle. When we pass or approve new fee and fine schedules the Board's intent would seem to be something more than offering our "opinion".

Further, the resolution approach weakens the position of the minority caucus by significantly lowering the bar to passage. The smaller the minority the bigger the impact.

For corporation counsel's reference I found a discussion of this topic online that would tend to favor the use of Ordinance. When I first started looking at this issue I came across what I

remember as a Connecticut statute indicating fines had to be enacted by ordinance. I am not able to find that reference again so I don't know if it only applied to a specific type of fine or fines in general or fines and fees.

## **LEGAL DISCUSSION:**

**Black's Law Dictionary (7th ed.) at 901 defines "ordinance" to mean: "[a]n authoritative law or decree; esp., a municipal regulation. Municipal governments can pass ordinances on matters that the state government allows to be regulated at the local level."**

**Black's Law Dictionary (6th ed.) at 1097 defines "ordinance" to mean:**

**Ordinance: A rule established by authority; a permanent rule of action; a law or statute. In its most common meaning, the term is used to designate the enactments of the legislative body of a municipal corporation. It designates a local law of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. *Morris v. Town of Newington*, 36, Conn.Sup. 74, 411 A.2d 939, 943. An ordinance is the equivalent of a municipal statute, passed by the city council, or equivalent body, and governing matters not already covered by federal or state law. Ordinances commonly govern zoning, building, safety, etc. matters of municipality.**

**The name has also been given to certain, enactments, more general in their character than ordinary statutes, and serving as organic laws, yet not exactly to be called "constitutions." Such was the "Ordinance for the government of the North-West Territory," enacted by congress in 1787.**

**Black's Law Dictionary (6th ed.) at 1018 defines "Municipal Ordinance" as meaning:**

**Municipal ordinance. A law, rule, or ordinance enacted or adopted by a municipal corporation for the proper conduct of its affairs or the government of its inhabitants; e.g. zoning or traffic ordinances, building codes. Particularly a regulation under a delegation of power from the state.**

**Black's Law Dictionary (7th ed.) at 1052 defines "resolution" to mean: "[a] formal expression of an opinion, intention or decision by an official body or assembly (esp. a legislature)." - 3 -**

**Black's Law Dictionary (6th ed.) at 1310 and 1311 defines "resolution" as meaning:**

**Resolution. A formal expression of the opinion or will of an official body or a public assembly, adopted by vote; as a legislative resolution. Such may be either a simple, joint or concurrent resolution.**

**The term is usually employed to denote the adoption of a motion, the subject-matter of which would not properly constitute a statute, such as a mere expression of opinion; an alteration of the rules; a vote of thanks or of censure, etc. Such is not law but merely a form in which a legislative body expresses an opinion. Baker v. City of Milwaukee, 271 Or. 500, 533 P.2d 772, 775.**

**The chief distinction between a "resolution" and a "law" is that the former is used whenever the legislative body passing it wishes merely to express an opinion as to some given matter or thing and is only to have a temporary effect on such particular thing, while by a "law" it is intended to permanently direct and control matters applying to persons or things in general.**

....

**Ordinance distinguished. "Resolution" denotes something less formal than "ordinance"; generally, it is mere expression of opinion or mind of council concerning some matter of administration, within its official cognizance, and provides for disposition of particular item of administrative business of a municipality; it is not a resolution, order and motion. City of Salisbury v. Nagel, Mo.App., 420 S.W.2d 37, 43. (Emphasis added)**

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Trying to help other people at all times,

J.R. McMullen

(203) 979-8360

Representative District 18

165 Slice Drive

Stamford, CT 06907

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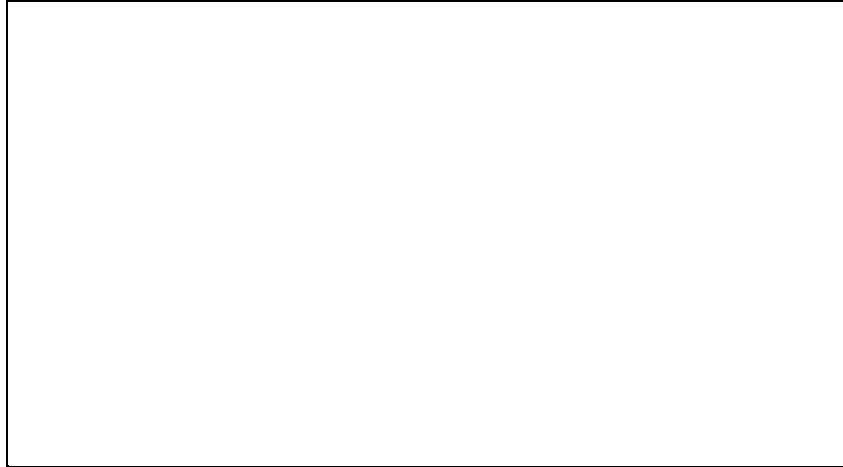
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