STATE OF RHODE ISLAND

KENT, SC. **SUPERIOR COURT**

(FILED: October 29, 2026)

HILLARY V. LIMA, in her Official Capacity as former Council President and Individually; JAMES E. LEBLANC, in his Official Capacity as former Council Vice President and Individually; JONATHAN J. PASCUA, in his Official Capacity as Councilmember and Individually; ALISA M. CAPALDI, in her Official Capacity as Councilmember and Individually; KIMBERLY A. SHOCKLEY, in her Official Capacity as Councilmember and Individually; JENNIFER M. LUDWIG, in her Official Capacity as former Councilmember and Individually; DANIEL O. PARILLO, JR., in his Official Capacity as Town Manager and Individually; STEPHEN J. ANGELL, ESQ., in his Official Capacity as former Town Solicitor and Individually,	:	
***Plaintiffs*,**	:	
	:	
v.	:	**C.A. No. KC-2025-1352**
	:	
SOSCIA HOLDINGS, LLC; STRUCTURES AT JOHNSON'S POND, LLC; BOATING AT JOHNSON'S POND, LLC; WATERFRONT AT JOHNSON'S POND, LLC; COMMON AREA AT JOHNSON'S POND, LLC; AND LAND AT JOHNSON'S POND, LLC,	:	
Defendants.	:	

DECISION

LICHT, J. This case lies at the intersection of several foundational constitutional principles: federalism, separation of powers, and the Speech in Debate Clause. Since the founding of this Nation, the Speech in Debate privilege has been essential to legislative independence. Despite its longstanding significance, the Rhode Island judiciary has only been faced with interpretating the

Rhode Island Constitution's Speech in Debate Clause a few times. The Court must now consider its scope in an untraditional manner.

I

Facts and Travel

Plaintiffs, Hillary V. Lima, in her Official Capacity as former Council President and Individually; James E. LeBlanc, in his Official Capacity as former Council Vice President and Individually; Jonathan J. Pascua, in his Official Capacity as Councilmember and Individually; Alisa M. Capaldi, in her Official Capacity as Councilmember and Individually; Kimberly A. Shockley, in her Official Capacity as Councilmember and Individually; Jennifer M. Ludwig, in her Official Capacity as former Councilmember and Individually; Daniel O. Parillo, Jr., in his Official Capacity as Town Manager and Individually; Stephen J. Angell, Esq., in his Official Capacity as former Town Solicitor and Individually, (collectively, the "Town Officials") move for the entry of summary judgment on their single-count Complaint for Declaratory Judgment.

On December 19, 2023, the Coventry Town Council convened in an executive session with the Town Officials and the Town Clerk Joanne Amitrano (the "Town Clerk") present (the "Executive Session"). (Pls.' Mem. of Law in Supp. of Mot. for Summ. J. ("Pls.' Mot. for Summ. J.") ¶¶ 1-2.) During the Executive Session, the Town Officials discussed the Town Council's potential exercise of its power of eminent domain over Johnson's Pond (the "Pond") and the Flat River Reservoir Dam (the "Dam"). *Id.* ¶¶ 3, 4; Pls.' Mot. for Summ. J. Ex. D at 1:23-28.

The Executive Session was memorialized by minutes, which the Town Officials voted to seal at the end of session (the "Minutes"). *Id.* ¶ 8; Pls.' Mot. for Summ. J. Ex. C ("Lima's Aff.") ¶ 4). However, on March 8, 2024, the Town Clerk inadvertently posted the Minutes to the Town of Coventry's public website. (Defs.' Obj. to Pls.' Mot. for Summ. J. ("Defs.' Obj.") at 3.) The

Minutes remained publicly accessible for roughly 475 days until they were removed from the website on June 26, 2025. (Pls.' Mot. for Summ. J. Ex. I at 8.) The Minutes were also republished by multiple media outlets. *Id.* at 3; *see also* Defs.' Obj. at 4. [1]

A

The Condemnation and Related Litigation

Following the Executive Session, the Town Council adopted Resolution No. 2024-37 stating the Town Council's intention to acquire by purchase or condemnation the Pond and the Dam for public use. *See* Pls.' Mot. for Summ. J. Ex. D. Thereafter, Ordinance No. 2024-03 was enacted and stated, in part, "The Town shall acquire by purchase or condemnation the dam, dam structures, Pond, and associated property at Johnson's Pond, including any and all property, rights, and interests acquired by Soscia Holdings, LLC from the Quidnick Reservoir Company." *See id.* at Ex. E.

The Town of Coventry (the "Town") then commenced an action in Rhode Island Superior Court (the "Condemnation Action") on June 21, 2024 to acquire the Pond and the Dam by condemnation. *See id.* at Ex. F. The Court's Condemnation Order provided the Town had acquired the relevant property by exercise of eminent domain. *See id.* at Ex. G. The Town deposited in the Court registry an amount equal to the appraised value of the Pond and the Dam. *See id.*

Under G.L. 1956 § 32-4-8 and the procedures set forth in G.L. 1956 chapter 1 of title 24, the prior owner of the condemned property had one year from the entry of the Condemnation Order to seek a determination of just compensation in this Court. No such action was filed. Instead, Soscia Holdings, LLC, Structures at Johnson's Pond, LLC, Boating at Johnson's Pond,

[1] https://www.hummelreport.org/exec-session (last accessed Oct. 29, 2026).

LLC, Waterfront at Johnson's Pond, LLC, Common Area at Johnson's Pond, LLC, and Land at Johnson's Pond, LLC, (collectively, the "Former Property Owners") filed an action against the Town and the Town Officials in the United States District Court for the District of Rhode Island (the "Federal Court Action") on June 13, 2025. (Pls.' Mot. for Summ. J. ¶ 17.) The Former Property Owners' First Amended Complaint asserts claims under 42 U.S.C. § 1983 based, in part, on the Minutes and seeks a determination of just compensation (*Id.* at Ex. H. ¶¶ 125-168, 347, 355, 361.)[2] The Federal Court action has been assigned to United States District Court Judge Melissa R. DuBose.

The Town filed a motion in this Court for the Court to either enter final judgment or hold a hearing. (*See id.* at Ex. J.) The Former Property Owners challenged this Court's jurisdiction to hear such a motion, but the Court ruled that it had jurisdiction. *See In Re: Town of Coventry,* No. KM-2024-0578, Nov. 7, 2025, Licht, J.; s*ee also* Pls.' Mot. for Summ. J. Ex. O. This Court reached out to Judge DuBose and suggested a joint trial in the state and federal courts to determine just compensation. She agreed with this until the Former Property Owners rejected the idea. This Court then scheduled a hearing for March 16, 2026 on the Town's Motion to Enter Judgment or have a trial. On March 12, 2026, the Federal Court entered an order enjoining this Court from holding that hearing. (*See* Defs.' Obj. Ex. 3.) While this Court believed the Federal Court had no basis to prevent it from holding a hearing, out of a spirit of comity and respect for Judge DuBose, this Court canceled the hearing. The injunction remains in place but the Town filed an interlocutory appeal to the First Circuit. The Attorney General, at the request of this Court, has filed an amicus brief in that appeal supporting the Town's position that the injunction was erroneously issued.

[2] Initially, the Former Property Owners challenged the constitutionality and validity of the Condemnation in both state and federal court, but they ultimately withdrew that claim.

B

The Minutes and This Action

In the Federal Court Action, the Town Officials moved to seal the Minutes and sought a Protective Order. *See* Pls.' Mot. for Summ. J. Ex. I ("Federal Court's November 4, 2025 Decision"). Judge Melissa DuBose denied the motions and held the inadvertent disclosure of the Minutes waived the attorney-client privilege. (Federal Court's November 4, 2025 Decision at 9.) In considering whether the Rhode Island Constitution's Speech in Debate Clause applies to the Minutes, Judge DuBose stated, "[s]ince the State Court may determine . . . whether the Rhode Island Constitution's Speech in Debate Clause privilege applies to the Minutes, this Court will refrain from being the first Court to consider this argument. If, however, the State Court rules on whether the Minutes are protected by this state constitutional principle, this Court may, consistent with principles of comity, revisit this issue." *Id.* at 18. However, the court expressly noted "[t]his ruling in no way represents the Court's decision on the evidentiary value or admissibility of the Minutes in later proceedings of this case[,]" thus still leaving the final evidentiary determination regarding the Minutes open. *Id.* at 16 n.2.

This Court was first presented with the Minutes in the Condemnation Action. On November 20, 2025, in the KM-2024-0578 case, the Former Property Owners withdrew their motion for sanctions related to the Minutes without prejudice and filed a Notice of Non-Reliance on Exhibit C (the Minutes) that had been attached to their Objection to the Town Official's motion for entry of judgment. (Pls.' Mot. for Summ. J. Ex. N.) In response and based on Judge DuBose's decision on the motion to seal, the Town Officials filed this declaratory judgment action on November 26, 2025.

This Court denied the Former Property Owners' Motion to Dismiss on August 3, 2026, concluding the Superior Court has jurisdiction to hear this action because there is a live case or controversy. The Town Officials filed their Motion for Summary Judgment on June 1, 2026. The Former Property Owners filed their Objection on September 2, 2026. The Town Officials filed their Reply Memorandum on September 14, 2026.

II

Standard of Review

"A motion for summary judgment 'is designed to decide in an expeditious fashion cases presenting groundless claims.'" *Town of Exeter by and through Marusak v. State*, 226 A.3d 696, 700 (R.I. 2020) (quoting *Hexagon Holdings, Inc. v. Carlisle Syntec Inc.*, 199 A.3d 1034, 1038 (R.I. 2019)). However, "'summary judgment is a drastic remedy, and a motion for summary judgment should be dealt with cautiously.'" *Cruz v. DaimlerChrysler Motors Corp.*, 66 A.3d 446, 451 (R.I. 2013) (quoting *DeMaio v. Ciccone*, 59 A.3d 125, 129 (R.I. 2013)). '"Summary judgment is appropriate when no genuine issue of material fact is evident from the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits if any, and the motion justice finds that the moving party is entitled to prevail as a matter of law."' *Swain v. Estate of Tyre ex rel. Reilly*, 57 A.3d 283, 288 (R.I. 2012) (quoting *Beacon Mutual Insurance Co. v. Spino Brothers, Inc.*, 11 A.3d 645, 648 (R.I. 2011)) (further internal quotation omitted); *see* Super. R. Civ. P. 56. "In deciding a motion for summary judgment, [a] [c]ourt views the evidence in the light most favorable to the nonmoving party." *Mruk v. Mortgage Electronic Registration Systems Inc.*, 82 A.3d 527, 532 (R.I. 2013); *see Beauregard v. Gouin*, 66 A.3d 489 (R.I. 2013).

Moreover, the moving party "bears the initial burden of establishing the absence of a genuine issue of fact." *McGovern v. Bank of America, N.A.*, 91 A.3d 853, 858 (R.I. 2014) (internal quotation omitted). The burden then shifts to the "nonmoving party [who] bears the burden of proving by competent evidence the existence of a disputed issue of material fact and cannot rest upon mere allegations or denials in the pleadings, mere conclusions or mere legal opinions." *Mruk*, 82 A.3d at 532 (internal quotation omitted). "'[C]ompetent evidence' . . . is generally presented on summary judgment in the form of . . . depositions, answers to interrogatories, . . . admissions on file, . . . [and] affidavits[.]'" *Flynn v. Nickerson Community Center*, 177 A.3d 468, 476 (R.I. 2018) (quoting *Leone v. Mortgage Electronic Registration Systems*, 101 A.3d 869, 872, 874 (R.I. 2014)).

III

Analysis

The Town Officials ask this Court to declare, as a matter of Rhode Island law, whether the Rhode Island Constitution's Speech in Debate Clause affords the Town Officials privileges and immunities for their words and actions taken in connection with the condemnation of the Pond and Dam, and whether the clause may be construed as an evidentiary bar precluding the use of legislative documents like the Minutes.

A

The Uniform Declaratory Judgments Act

"The Uniform Declaratory Judgments Act, G.L. 1956 chapter 30 of title 9 (the UDJA), 'vests the Superior Court with the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.'" *Benson v. McKee*, 273 A.3d 121, 129 (R.I. 2022) (quoting *Key v. Brown University*, 163 A.3d 1162, 1168 (R.I. 2017) (further quoting *N*

& M Properties, LLC v. Town of West Warwick, 964 A.2d 1141, 1144 (R.I. 2009)); *see* § 9-30-1. "'[A] necessary predicate to a court's exercise of its jurisdiction under the Uniform Declaratory Judgments Act is an actual justiciable controversy.'" *Meyer v. City of Newport*, 844 A.2d 148, 151 (R.I. 2004) (quoting *DeAscentis v. Pine,* 729 A.2d 715, 717 (R.I. 1999) (per curiam)). "'At the outset, when confronted with a UDJA claim, the inquiry is whether the Superior Court has been presented with 'an actual case or controversy.'" Benson, 273 A.3d at 129 (quoting *Key*, 163 A.3d at 1168) (further quoting *N & M Properties, LLC*, 964 A.2d at 1144)).

The Former Property Owners have renewed the jurisdictional objections raised in their Motion to Dismiss. (Defs.' Obj. at 5.) This Court has already ruled it has jurisdiction to hear this declaratory judgment because there is a present case or controversy in federal court. Accordingly, the Court does not address the arguments raised as to jurisdiction and refers to its August 3, 2026 Bench Decision denying the Former Property Owners' Motion to Dismiss.

1

Exercise of Discretion

The UDJA "confers broad discretion upon the trial justice as to whether he or she should grant declaratory relief." *Cruz v. Wausau Insurance*, 866 A.2d 1237, 1240 (R.I. 2005). The Former Property Owners assert that if the Court finds it has jurisdiction, it should decline to exercise its discretion to grant declaratory relief. (Defs.' Obj. at 7.) The Town Officials argue the Court can and should exercise its discretion and grant declaratory judgment. (Pls.' Mot. for Summ. J. at 9.)

The Court finds it is necessary and appropriate to exercise its discretion to grant declaratory relief. Generally, "[q]uestions of privilege in federal question cases are governed by federal law." *Huffman v. City of Boston,* No. 21-10986-ADB, 2023 WL 8720082, at *3 (D. Mass

2023) (citations omitted). However, "[a]s a principle of comity, federal courts will recognize state evidentiary privileges as a matter of federal common law where this can be accomplished at no substantial cost to federal procedural and substantive policy." *Id.*

The Federal Court has stated it will not address the Speech in Debate privilege until another court has weighed in on the issue, and then, at that juncture, the Federal Court will decide if it will give comity to that decision. (*See generally* Federal Court's November 4, 2025 Decision.) Specifically, Judge DuBose stated, "[s]ince the State Court may determine . . . whether the Rhode Island Constitution's Speech in Debate Clause privilege applies to the Minutes, this Court will refrain from being the first Court to consider this argument. If, however, the State Court rules on whether the Minutes are protected by this state constitutional principle, this Court may, consistent with principles of comity, revisit this issue." *Id.* at 18. The court expressly noted "[t]his ruling in no way represents the Court's decision on the evidentiary value or admissibility of the Minutes in later proceedings of this case[,]" leaving the final evidentiary determination regarding the Minutes open. *Id.* at 16 n.2.

The Former Property Owners argue a state declaration is not necessary because the Federal Court has already ruled that the attorney-client privilege was waived and therefore it would not seal the Minutes. However, the issue before this Court is neither one involving sealing the Minutes nor of attorney-client privilege. Rather, the one issue before this Court is whether the Speech in Debate Clause in the Rhode Island Constitution affects the admissibility of the Minutes. Moreover, in that same order ruling the attorney-client privilege was waived, the Federal Court invited the Superior Court to determine whether the Speech in Debate Clause privilege applies to the Minutes. Contrary to the Former Property Owners' assertion that a "state declaration . . . would serve no purpose but to serve as a second bite at the apple for the Town

Officials and invite relitigation of a matter the court with the actual live controversy has already decided[,]" it was actually the Federal Court who invited relitigation of this issue.[3] (Defs.' Obj. at 7.) In fact, in its March 12, 2026 Order, the Federal Court stated it "will face two questions regarding the executive session minutes: 1) whether to provide comity to the *Superior Court decision on the Speech in Debate clause* (if it is that court which decides that issue) and 2) whether the federal rules of evidence allow or bar admissibility of the minutes in this Court." (*Id.* at Ex. 3 at 28) (emphasis added).

This Court does not purport to determine whether the Rhode Island Constitution's Speech in Debate Clause, if applicable, should be recognized in the Federal Court Action. It only interprets Rhode Island Constitutional law, as invited to by the Federal Court. Although the Minutes are not presently before the Court and the Town Officials have pled the Speech in Debate Clause as a defense in the Federal Court Action, the Federal Court stated it will refrain from addressing the Speech in Debate privilege until a state court weighs in. Under the UDJA, this Court has the discretion to do just that. Accordingly, it is appropriate for this Court to, in its discretion, grant declaratory relief.

B

***England* Reservation**

The Former Property Owners preserve the federal forum and state that, consistent with *England v. Louisiana State Board of Medical Examiners,* 375 U.S. 411 (1964), they are exposing their federal claims in this Court only for the purpose of complying with abstention doctrines. (Defs.' Obj. at 13-14.) The Town Officials assert the Federal Court has not abstained and thus an

[3] "If, however, the State Court rules on whether the Minutes are protected by this state constitutional principle, this Court may, consistent with principles of comity, revisit this issue." (Federal Court's November 4, 2025 Decision at 18.)

England reservation is a legal nullity. (Pls.' Reply Mem. in Supp. of Mot. for Summ. J. ("Pls.' Reply") at 18-19.)

"The United States Supreme Court has held that after a federal court has abstained under the *Pullman [Railroad Commission of Texas v. Pullman Co.,* 312 U.S. 496 (1941) ("*Pullman*")] doctrine, to obtain an authoritative interpretation of state law that could potentially moot or influence the federal constitutional questions presented, parties who have been remitted to state court against their will are not forced to litigate their federal claims there, but may reserve the right to a federal adjudication of these claims." *See* 183 A.L.R. Fed. 379 (2003). Under *England,* a party may reserve this right "by making [a reservation] on the state record . . . that he is exposing his federal claims there only for the purpose of complying with *Windsor*, and that he intends, should the state courts hold against him on the question of state law, to return to the District Court for disposition of his federal contentions." *England,* 375 U.S. at 421-22.[4] The First Circuit has also held that a *Pullman* abstention is a necessary prerequisite to an *England* reservation. *Atwater v. Chester,* 730 F.3d 58, 63 (1st Cir. 2013).

In its March 12, 2026 Order, the Federal Court held that none of the abstention principles raised by the Town Officials persuaded it that it must or should abstain. (Defs.' Obj. Ex. 3 at 33.) It specifically stated "*Pullman* abstention is not warranted" based on the question of whether the Speech in Debate Clause applies to the Minutes. *Id.* at 28. The court reasoned that a state court decision on the Speech in Debate Clause will not resolve the question of whether the Federal Court will ultimately provide comity to its decision. *Id.* This Court agrees and leaves it to the Federal Court to determine what it will do with this Court's declaration.

[4] In *England,* the U.S. Supreme Court clarified their holding in *Government & Civic Employees Organizing Committee, C.I.O. v. Windsor,* 353 U.S. 364 (1957) - A litigant in state court must only inform the court of his federal claims so that the state statute may be construed in light of those claims.

As the First Circuit said, "[c]lose enough counts with horseshoes and hand grenades, but not with *England* reservations. The right to reserve claims arises only when the district court abstains under *Pullman*." *Atwater,* 730 F.3d at 63. Therefore, the Former Property Owners' reservation on the record is unnecessary.

C

The Speech in Debate Clause

The Speech in Debate Clause of the Rhode Island Constitution states, "[f]or any speech in debate in either house, no member shall be questioned in any other place. . ." R.I. Const. art. VI, § 5. The Clause "confers a privilege on legislators from inquiry into their legislative acts or into the motivation for actual performance of legislative acts that are clearly part of the legislative process." *Holmes v. Farmer*, 475 A.2d 976, 983 (R.I. 1984).

The first time our Supreme Court addressed the Speech in Debate Clause was in *Holmes*. *Id.* at 980-81. To interpret the Clause as a matter of first impression, the Court looked to the history of the section and to the Speech or Debate Clause of the United States Constitution. *Id.* at 981; *see also* U.S. Const. art. I, § 6. The Court stated there is no "relevant difference" between Rhode Island's Speech in Debate Clause and the federal Speech or Debate Clause. *Holmes,* 475 A.2d at 981.

The Rhode Island Supreme Court found the purpose of the Speech in Debate Clause is "to ensure the Legislature freedom in carrying out its duties." *Id.* at 982. "This freedom ensures the separation of powers among the coordinate branches of government . . . the fact that the legislators can carry out their duties without being questioned 'in any other place' allows the free flow of debate among legislators and the maximization of an effective and open exchange of ideas." *Id.*

The Speech in Debate Clause was first recorded in England in 1542. *Id.* at 981. The language of both the federal and Rhode Island Speech in Debate Clause appears to be taken directly from the English Bill of Rights of 1689. *See id*. The privilege was included in the first draft of the United States Constitution and a member of the Constitutional Convention stated it was '"indispensably necessary"' for a representative of the public to '"enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offence."' *Id.* at 982 (quoting *Tenney v. Brandhove,* 341 U.S. 367, 372 (1951)).

The Massachusetts Supreme Judicial Court was the first court in this country to interpret the privilege. *See Coffin v. Coffin,* 4 Mass. 1 (1808); *see also Holmes,* 475 A.2d at 982. The court held the privilege was not to protect the legislators from prosecution for their benefit, but for the benefit of the people so that their representatives may execute the functions of their office without fear of prosecution. *Coffin,* 4 Mass. at 27. The court continued that "the article ought not to be construed strictly, but liberally, that the full design of it may be answered." *Id.*

The Rhode Island Supreme Court has held the Speech in Debate Clause is applicable to members of the General Assembly as well as municipal officials involved in the legislative process. *Maynard v. Beck*, 741 A.2d 866, 872 (R.I. 1999). Federal District Courts have come to similar conclusions. *See Sable v. Myers,* 563 F.3d 1120, 1123 (10th Cir. 2009) (holding "[i]mmunity is not limited to members of Congress and state legislators, but extends to local-government legislators"). Moreover, "[t]he privilege applies equally to legislative aides and commission staff members who are engaged in legislative activity. For the purpose of construing the privilege, legislators and legislative aides are to be treated as one." *Holmes*, 475 A.2d at 984 (internal quotations omitted).

It does not matter whether an official is sued in their individual capacity or their official capacity; the "immunity is absolute when such officials are sued for performing legislative actions, and its availability does not turn on whether they are named as parties in an individual or official capacity." *Maynard*, 741 A.2d at 871. The physical setting or informality of a meeting also does not impair the privilege. *Holmes*, 475 A.2d at 984.

1

Legislative Actions

Only acts that are "clearly part of the legislative process" are privileged under the Speech in Debate Clause. *Holmes,* 475 A.2d at 983. "To determine whether challenged conduct is legislative . . . a court must consider the nature of the acts in question, rather than the motive or intent of the official performing them." *Maynard,* 741 A.2d at 870 (citing *Bogan v. Scott-Harris,* 523 U.S. 44, 54 (1998)). '"[A]s long as [a legislator's] challenged actions, stripped of all considerations of intent and motive, were legislative in character, the doctrine of absolute legislative immunity protects them from such claims."' *Irons v. Rhode Island Ethics Commission,* 973 A.2d 1124, 1131 (R.I. 2009) (quoting *Maynard*, 741 A.2d at 870).

The parties do not dispute that the nature of the Town Officials' actions is legislative. In the Executive Session, the Town Officials discussed whether to exercise the Town Council's power of eminent domain, and those deliberations eventually culminated in the adoption of Ordinance No. 2024-03. Our Supreme Court has explicitly stated "[a]ctions of legislators 'in proposing, passing, or voting upon a particular piece of legislation' are core legislative acts that fall 'clearly within the most basic elements of legislative privilege.'" *Irons,* 973 A.2d at 1131 (quoting *Holmes,* 475 A.2d at 984). The Tenth Circuit has held that a city's decision to exercise the power of eminent domain was legislative because it was "undoubtedly an exercise of discretion regarding a matter of public policy," regardless of whether the discretion was based on

motives irrelevant to public purposes. *Sable,* 563 F.3d at 1126. It follows that the Minutes are also legislative in nature because they memorialize the discussions of the Town Officials and are part of the legislative process.

Accordingly, the Speech in Debate Clause confers a privilege on the Town Officials from inquiry into their legislative acts during the Executive Session. This privilege is conferred on all the Town Officials present at the Executive Session, regardless of whether they were a councilmember, consistent with the Supreme Court's holding that the legislative privilege extends to legislators and their aides. *See Holmes*, 475 A.2d at 984.

2

Immunity from Suit and Testimonial Privilege

The Town Officials argue this Court should declare the Speech in Debate Clause affords them complete immunity from suit and an absolute testimonial privilege. (Pls.' Mot. for Summ. J. at 16, 18.) The R.I. Supreme Court has held, "[i]n order fully to effectuate the purpose and design of the speech in debate clause, it must be construed as an immunity from suit as well as a testimonial privilege." *Holmes*, 475 A.2d at 984. The Former Property Owners acknowledge the Rhode Island Supreme Court has construed the Speech in Debate Clause in this way and do not dispute this is true in state court. (Defs.' Obj. at 11-12.)

Accordingly, under Rhode Island law, the Town Officials are immune from suit and enjoy an absolute testimonial privilege as to the Executive Session and Minutes.

3

Evidentiary Bar

The remaining issue is whether the Speech in Debate Clause should be construed as an evidentiary bar and protect the Minutes as a document. The Town Officials assert the Minutes

should be protected because they reflect and memorialize words spoken or actions taken by local legislators and their aides in the legislative process. (Pls.' Mot. for Summ. J. at 12-14.) They further assert that the introduction of the Minutes into evidence would circumvent the constitutional bar on questioning legislators or their aides "in any other place." *Id.* at 20. The Former Property Owners argue the Court should decline, in the exercise of its discretion, to extend the Speech in Debate Clause to the protection of a document because the Rhode Island Supreme Court has yet to recognize such an evidentiary bar. (Defs.' Obj. at 8.)

The parties agree that the Rhode Island Supreme Court has not been called upon to address whether the privilege applies to memoranda, notes, and other documents that memorialize legislative statements. *See id.* at 12; *see also* Pls.' Mot. for Summ. J. at 19. As the Rhode Island Supreme Court did in *Holmes*, this Court will look to the history and purpose of the Speech in Debate Clause for guidance.

The purpose of the Speech in Debate Clause is to ensure legislators are able to speak freely in the legislative process without fear of being examined "in any other place." *See Holmes,* 475 A.2d at 982. The purpose is not to protect legislators for their own benefit, but to support the rights of the people. *Id.* (citing *Coffin*, 4 Mass. at 27). The Massachusetts Supreme Judicial Court in *Coffin* stated, "the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature, and in the execution, of the office . . ." *Coffin,* 4 Mass. at 27.

The United States Supreme Court has continually read the federal Speech or Debate Clause '"broadly to effectuate its purposes"' and has "included within its reach anything

'generally done in a session of the House by one of its members in relation to the business before it.'" *Gravel v. U.S.*, 408 U.S. 606, 624 (1972) (first quoting *U.S. v. Johnson,* 383 U.S. 169, 180 (1966) and then *Kilbourn v. Thompson,* 103 U.S. 168, 204 (1880)).

In *U.S. v Peoples Temple of the Disciples of Christ*, 515 F. Supp. 246 (D.D.C. 1981), members of Congress investigated a congressman's death after the Jonestown tragedy and documented their findings. *Peoples Temple of the Disciples of Christ*, 515 F. Supp. at 247. The defendants were sued by the government and sought the documents to formulate their defense, and the U.S. moved to quash based on the Speech or Debate Clause of the U.S. Constitution. *Id.* at 248. The United States District Court for the District of Columbia granted the motion to quash and held the document was protected by the Speech or Debate Clause. *Id.* The court reasoned the documents were clearly within the sphere of legitimate legislative activity and that once a party's actions "fall within the 'legitimate legislative sphere', judicial inquiry is at an end." *Id.* at 249. Otherwise, legislators conducting investigations "would be forced to consider at every turn whether evidence received pursuant to the investigation would subsequently have to be produced in court. This would imperil the legislative independence protected by the Clause." *Id.* (internal quotations omitted).

The Rhode Island Supreme Court has stated, "[i]nquiry by the court into the actions or motivations of the legislators in proposing, passing, or voting upon a particular piece of legislation . . . falls clearly within the most basic elements of legislative privilege." *Holmes*, 475 A.2d at 984. Further, "inquiry into the purpose behind legislative discussions or actions would dilute the rationale for the very existence of the privilege." *Id.*

The Court concludes that to fully effectuate the purpose and design of the Speech in Debate Clause, the privilege should extend to documents that are legislative in nature and part of

the legislative process. It is a logical extension of the privilege to preclude introduction of documents that memorialize legislative deliberations. Otherwise, parties could effectively examine the legislative acts or motivations of legislators through documents. As the District Court stated in *Peoples Temple of the Disciples of Christ*, the Minutes here are part of the legislative sphere, and therefore judicial inquiry should be at an end. To hold otherwise would be to dilute the effect of the privilege and improperly interpret the privilege narrowly.

Accordingly, consistent with the history and purpose of the Speech in Debate Clause, under Rhode Island law, documents memorializing legislative deliberations and conduct are protected.

4

Waiver

The Town Officials assert any privilege or immunity they enjoy has not been and cannot be waived. (Pls.' Mot. for Summ. J. at 21.) They argue there is a distinction between the constitutional privilege against questioning legislators and confidentiality, and thus the public accessibility of the Minutes is irrelevant to the scope of the Speech in Debate Clause. (Pls.' Reply at 13.) The Former Property Owners assert the Minutes cannot be declared privileged because they remain publicly available online. (Defs.' Obj. at 8.)

In considering whether the legislative privilege can be waived, the Supreme Court in *Holmes* again turned to its purpose. *Holmes*, 475 A.2d at 985. It found it has two definite purposes: (1) "to preserve the constitutional structure of separate, coequal, and independent branches of government," and (2) "to protect [the] individual legislators from executive and judicial oversight that realistically threatens to control his conduct as a legislator." *Id.* (internal quotations omitted). The Court held that "[t]o allow the privilege to be waived would be

inconsistent with these purposes." *Id.* Moreover, "[t]o allow an individual legislator to waive the institution's privilege would be to allow one to act on behalf of the whole in waiving the protection of a significant bulwark of our constitutionally mandated system of government." *Id.*

The Court in *Holmes* noted the question of whether an individual legislator can waive the privilege when being sued or prosecuted individually was not before the court and therefore not addressed. *Id.* However, the Supreme Court later held that "immunity is absolute when such officials are sued for performing legislative actions, and its availability does not turn on whether they are named as parties in an individual or official capacity." *Maynard*, 741 A.2d at 871.

Applying the reasoning of *Holmes* and *Maynard*, the legislative privilege is meant to preserve a separation between the executive and judicial branches and to protect legislators from judicial oversight. Allowing waiver and therefore judicial inquiry into legislative activities because they were inadvertently posted online would not serve these purposes. The Town Officials have never voted to publicly disclose or unseal the Minutes. (Lima's Aff. ¶¶ 5, 6.) The Town Clerk cannot individually waive the privilege for all Town Officials.

In *Cranston Police Retirees Action Committee v. City of Cranston by and through Strom,* 208 A.3d 557 (R.I. 2019)*,* the trial justice granted the defendant's motion for a protective order prohibiting plaintiffs from deposing a Cranston city councilmember, on the basis that the councilmember enjoyed the privilege of legislative immunity. *Cranston Police Retirees Action Committee,* 208 A.3d at 588. Although the information sought was publicly available on the councilmember's website and otherwise easily obtainable, the Supreme Court found the trial justice did not abuse their discretion in granting the motion. *Id.* at 589. The Court reasoned the information sought formed part of the consideration and approval of relevant ordinances and therefore was protected under the legislative privilege.

A similar conclusion is warranted here. The Minutes, although public, are legislative in nature and memorialize the Town Council's consideration of its exercise of eminent domain and subsequent adoption of Ordinance No. 2024-03. The confidentiality of the Minutes is not at issue; rather, it is whether *a court* may inquire into the Minutes as they relate to the legislative process. The answer is no. Accordingly, the legislative privilege has not been waived.

IV

Conclusion

Accordingly, Plaintiffs' Motion for Summary Judgment is **GRANTED.** The Court makes the following declarations of Rhode Island law:

1. The actions of the Town Officials in the Executive Session are legislative in nature and part of the legislative process within the meaning of the Speech in Debate Clause;
2. Under the Speech in Debate Clause, the Town Officials enjoy absolute immunity from suit and testimonial privilege;
3. The Speech in Debate Clause extends to the introduction of legislative documents and documents that otherwise memorialize legislative deliberations or actions, including the Minutes;
4. The legislative privilege conferred by the Speech in Debate Clause cannot be waived and has not been waived here.

Counsel shall prepare the appropriate order and judgment.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**Hillary V. Lima, et al. v. Soscia Holdings, LLC, et al.**
CASE NO:	**KC-2025-1352**
COURT:	**Kent County Superior Court**
DATE DECISION FILED:	**October 29, 2026**
JUSTICE/MAGISTRATE:	**Licht, J.**
ATTORNEYS:	
For Plaintiff:	**J. Richard, Ratcliffe, Esq.** **Michael T. Eskey, Esq.**
For Defendant:	**Michael A. Kelly, Esq.** **Gregory S. Estabrooks, Esq.** **Scott D. Levesque, Esq.**