

**BOARD OF SELECTMEN
TOWN OF EAST WINDSOR
11 RYE STREET
EAST WINDSOR CT, 06088**

Minutes of Regular Meeting

Tuesday, July 2, 2013 at 7:00 p.m.

These minutes are not official until approved at a subsequent meeting.

I. Call to Order

First Selectman Denise Menard called the Regular Meeting to Order at 7:00 p.m. in the Town Hall Conference Room.

II. Attendance

Present:

Denise Menard, First Selectwoman
Alan Baker, Deputy First Selectman
Dale Nelson, Selectwoman
Richard P. Pippin, Jr., Selectman
James C. Richards, Selectman

III. Added Agenda Items

None

IV. Approval of Minutes

A. Regular Meeting of June 18, 2013

It was MOVED (Pippin) and SECONDED (Nelson) that the Board of Selectmen postpone the approval of the Regular Meeting Minutes of June 18, 2013. Motion PASSED (4-0) In favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – none.

V. Communications

A. Recognition of Lynn Lemieux for successfully passing the certification exam. She is now a Certified Connecticut Town Clerk.

B. Ms. Menard read the Thank You letter from Donate Life recognizing the Town of East Windsor for raising the flag to honor organ donors.

C. Recognition of Bob Saunders for making the display case for the East Windsor Senior Citizen's Historical Friendship Quilt, displayed in the Town Clerk's office.

Out of Order Request

Motion made to discuss New Business, Item X,
Line C - memo regarding WPCA FCC Assessment. Motion MOVED (Nelson) and SECONDED (Pippin). Motion PASSED (4-0) In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

X. New Business

C. Discussion of WPCA FCC Assessment

Paul Anderson, Art Enderle and Ed Alibozek attended the meeting representing the WPCA. Mr. Enderle discussed the Accumulated FCC Assessment Letter dated June 17th, 2013, attached hereto as Exhibit A. He reported that the WPCA has hired an engineering firm to review FCC money. It was concluded that the assessment was reasonable and accurate. Thomas Davis, Vice Chairman of the WPCA arrived at the meeting at 7:25 p.m.

Out of Order Request

A Motion was made to take Item 13 out of order to go into Executive Session, to include William O'Connell from CIRMA. MOVED (Nelson) and SECONDED (Pippin).

PASSED (4-0) In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards;
Opposed – None.

The Board entered into Executive Session at 7:26 p.m.; came out of Executive Session at 7:44 p.m. Motion was made to return to the Order of Agenda. MOVED (Pippin) and SECONDED (Nelson). PASSED (4-0) In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

VI. Selectmen's Reports

A. First Selectman Denise Menard

Ms. Menard reported that the Town has hired a new Public Works Maintenance Worker, Alan Aldrich, and they are happy to have him on board.

The road work on Rte. 140 was completed at approximately 1:30 p.m. on Saturday, June 29th. The Fireman's Carnival suffered from the Rte. 140 closure. The American Heritage River Commission and BMX Park Committee events were cancelled due to rain. The Town should be commended for the way it dealt with the tornado. There were no lives lost and the Town was very fortunate. Ms. Menard thanked Selectman Dick Pippin for his assistance in commanding a bus to evacuate children at the East Windsor Camp, located Reservoir Park. On July 2, 2013, Governor Malloy stopped by. He was quick to offer assistance and check on the Town. Ms. Menard received phone calls from State Representative Chris Davis, US Senator Chris Murphy and State Senator Gary LeBeau offering any help the Town may need. Kathy Russoto, at the Soccer Dome, was a hero during the tornado. She had the children moved to safety within minutes. Ms. Menard handed out a letter from Governor Malloy announcing emergency assistance would be available to Connecticut farms damaged by the severe weather, attached hereto as Exhibit B. The letter will be posted on the Town of East Windsor website.

B. Deputy First Selectman Alan Baker

Mr. Baker reported that he attended the Planning and Zoning Commission meeting on June 25th. That meeting included discussions on a proposed internet café in Sofia's Plaza and a gas station at the former East Windsor Diner. He reported that the Plan and Conservation Development discussions were moving along. He said the American Heritage River Trails need help.

C. Selectman Dale Nelson

Ms. Nelson reported that the Volunteer Incentive came under what was allotted in their budget. She was unable to attend the Warehouse Point Fire District meeting. She did commend the department for saving a teenage girl who fell into the river and was transported to the hospital.

D. Selectman Richard Pippin Jr.

Mr. Pippin requested a brass plaque be placed in the Town Clerk's office in honor of Bob Saunders, who made and donated the Quilt Case for the East Windsor Senior Citizens Historical Friendship Quilt. He also recognized Melissa Maltese and staff for safely removing the children from the summer camp at Reservoir Park during the tornado. Mr. Pippin attended the WPCA meeting on June 26th. It was reported that the Town had accepted an application for a styling salon located in the new Walmart. There was discussion of the Broad Brook Brewing Company coming to East Windsor.

E. Selectman James Richards

Mr. Richards handed out a report on Commission Liaisons. He reported the Board of Education meeting was an interesting meeting with lots of personnel changes. Mr. & Mrs. Sauerhoefer presented a check for Special Education raised from a raffle for Abby's Walk and their son selling whoopee pies at Community Day. A total of \$4600.00 was raised for the Board of Education. The Sauerhoefer's expressed their joy that the community participates in this annual fundraiser. The Board of Education discussed their \$21 Million Dollar budget and the reductions in staffing – Mr. Richards believes the total reduction was 19 positions. The next Board of Education meeting will be July 10th. He also was unable to attend the Historical Preservation Commission meeting but did report they voted to move their monies to complete the purchase of the Melrose Historical Location sign (still need \$25 to complete).

II. Public Participation

None

VIII. Board and Commission Appointments

A. Resignations: None

B. Re-appointments:

1. Conservation Commission

Jim Stremper (R), 4 year term expiring 4/1/2017

Robert Slate (R), 4 year term expiring 4/1/2017

MOVED (Nelson), SECONDED (Richards) In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

2. Economic Development Commission

Josh Kapelner (U), 4 year term expiring 1/1/2017

MOVED (Richards), SECONDED (Pippin) In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

C. New Appointments:

Police Commission

Joan Eckel (D), filling 2 year term expiring 11/5/2013

MOVED (Pippin), SECONDED (Baker) – In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

IX. Unfinished Business

None

X. New Business

A. Discussion of Warehouse Point Fire Department Letter

The June 13th WHPFD was deferred to Budget Item #11. Did not hear back from Joshua.

B. Discussion of Plumbing, HVAC, and Electrical Service Contracts

The Selectmen discussed problems with the current HVAC contractor not returning phone calls and not being available when mechanical issues occur. It was the consensus of the Selectman to go out to bid to find a new HVAC contractor for one year.

XI. Budget Matters

A. Review of Town Budgets

The Legal Opinion Regarding Town Charter Section 8-5(B)(4) was distributed to the Selectmen for review, attached hereto as Exhibit C. The Selectmen discussed the legal opinion and were comfortable with it. Each department budget will be increased by 2% according to the opinion.

B. Budget Transfers

The transfer sheet was distributed to the Selectmen, attached hereto as Exhibit D. Motion to approve Budget Transfers # S2013-36, 37, 38: MOVED (R. Pippin), SECONDED (J. Richards) In Favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

XII. Ongoing Charter Review

Chapter 7 of the Town Charter was reviewed with the following recommendations:

Charter	Page	Section
7	29	7-2 C

There was discussion to remove "regulation" from second sentence.

7	30	7-2 I
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There was discussion to remove "baths and gymnasiums".

7	31	7-2 (1)
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There was discussion to add "members at large" and define who appoints new members at large.

7	31	7-2 (2)
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Should be clarified unless there are members at large, then it will be filled by the Board of Selectmen.

XIII. Executive Session:

Pursuant to C.G.S. Section 1-200 (6) (a) Personnel, & Litigation

MOTION to go into Executive Session made by J. Richards, SECONDED by D. Nelson. The Board entered into Executive Session at 9:37 p.m.; came out of Executive Session at 10:00 p.m.

MOTION was made by J. Richards, SECONDED by A. Baker to approve settlement of CIRMA Claim #0479708903 for \$50,000 effective June 30, 2013 as recommended by CIRMA.

PASSED (4-0) In Favor – A. Baker, D. Nelson, J. Richards, R. Pippin; Opposed – one.

MOTION was made by J. Richards, SECONDED by D. Nelson to approve the Agreement By and Between Town of East Windsor and Local 1303-192, AFSCME Council 4, AFL_CIO, Clerical Unit July 1, 2012 – June 30, 2015.

PASSED (3-1) In favor – A. Baker, D. Nelson, J. Richards; Opposed – R. Pippin.

XIV. Adjournment

Motion to adjourn, made by D. Nelson, seconded by J. Richards at 10:04.

The meeting was adjourned at 10:04 p.m.

Respectfully Submitted,



Heidi Vane
Recording Secretary

**COMMITMENT & INTEGRITY
DRIVE RESULTS**

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Windsor Locks, Connecticut 06096
www.woodardcurran.com

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T 203.271.0379
F 203.271.7952

RECEIVED

JUN 28 2013

MEMORANDUM

TO: Mr. E. Arthur Enderle III
FROM: Toby Fedder, P.E. & Paul Dombrowski, P.E.
DATE: June 17, 2013
RE: Accumulated FCC Assessment



Along with our anticipated presentation at an upcoming East Windsor WPCA (WPCA) meeting, this memo constitutes the deliverable for Task Order # 1, completed under the Master Services Agreement between Woodard and Curran (W&C) and the WPCA.

Background

The WPCA is an independent entity from the Town of East Windsor, CT (Town). A significant expansion and upgrades to the WPCA facilities was completed in the mid-1990's and funding for the project was secured by the Town of East Windsor through the Clean Water Fund. The reported original principal value of the CWF loan (at 2% interest) was \$10,812,482 and it is unknown if any grant funds contributed by the state are included in this value. For the purpose of this assessment, we assume that this amount is the basis of CWF payments.

Based upon the repayment plan agreed to by the Town and the WPCA, the Town agreed to cover 2/3rd of the loan payments using tax revenue and the WPCA would contribute the remaining 1/3rd. In order to generate the funds necessary to cover their portion of the CWF debt service, the WPCA instituted a Facility Connection Charge (FCC) of \$4,994 per dwelling which would be levied against all new customers that connect to the WPCA collection system.

The funds generated by the FCC have been collected by the Town and deposited into a separate fund on the Town's books in an account identified as "Fund 10." In addition to the FCC revenues, the Town also deposits Betterment assessment revenues into this Fund along with other minor revenue sources, such as interest. Since the FCC payments have been comingled with other funds, the WPCA has requested W&C to complete an assessment of Fund 10 with the goal of identifying the value of FCC revenues which have come into the Fund since 1996, when FCC charges began to be assessed on new customers.

Data Examined

As part of our assessment, W&C reviewed the following documentation:

1. Records and meeting minutes from the WPCA;
2. Printed and electronic records for payments to Fund 10 received by the Tax Collector (1991 to present);
3. Town Comprehensive Annual Financial Reports (CAFR) (1996 to present); and
4. Printed records of Fund 10 FCC receipts from the Town Treasurer (2003 to present).

Process of Assessment

The assessment process began with a review of the Tax Collector records dating back to FY1991. The records were reviewed provided initially in paper-based format. Due to the fact that many of the payments on the records were not readily recognizable as FCC charges, W&C requested the records in electronic format and developed a search algorithm within Excel which would identify FCC payments. The output of this algorithm



differentiated certain payments within the Fund 10 payment register and allowed for the automated calculation of certain payments were likely to be FCC-based rather than for other charges. Simply put, the algorithm looked for payments of \$4,994, \$2497, and \$356.71 (and multiples thereof), these being the full buy-in, down payment, and annual payment values associated with the seven year buy-in process used by the WPCA.

Although the preceding process identified a significant number of payments, the total value of "identifiable" FCC charges amounted to only a little over \$2 Million. Based upon the output of our search algorithm, it was evident that the Tax Collector's payment register was incomplete due to the significant differences between it and the CAFR Sewer Capital Fund accounting. The Tax Collector's records also indicated substantially less revenue than should have been present given the total number of FCC charges/connections documented in the WPCA records.

To attempt to identify the source of the disparity, W&C met with staff from the Treasurer's office and reviewed the different sub-accounts for revenues to Fund 10 within the Town accounting system. By reviewing these records, it became evident that a significant amount of revenue was being applied into Fund 10 which was never entered onto the Tax Collector's payment register. It was also determined that the Town's accounting system only documented the different sources of revenue to Fund 10 from FY2003 to the present.

Findings - Expenses

Based upon our understanding of the agreement between of the Town and WPCA, the FCCs were intended to reimburse the Town for 1/3rd of the costs of the 1990's upgrade to the WPCF. In addition, FCCs are also typically used by most communities to provide funding for repair and replacement of equipment and systems in the WPCF and Pump Stations as they age. The Table below shows the value of what we understand to be the FCC-applicable expenses incurred by the Town and the WPCA.

GWF Loan Repayment Estimates	
\$ 10,812,482.00	Original Loan Principal
\$ 661,255.91	Annual DS assuming no grant @ 2%
\$ 220,418.64	1/3 Share
\$ 3,747,116.85	17 years' worth of WPCA share
WPCA Capital Spending from Fund 10	
\$ 185,000.00	FY2012 spending
\$ 216,080.75	FY2013 spending
\$ 401,080.75	Total
Total FCC Costs Incurred	
\$ 4,148,197.60	through present
\$ 4,809,453.51	through CWF Bond maturity (FY2016)

Assuming that our understanding of the WPCA's reimbursement obligations to the Town is correct, a level payment debt service calculation combined with limited capital spending at the plant over the last two years indicates that the WPCA needs to have generated approximately \$4.15 million to Fund 10 through FCC revenues in order to have fulfilled its current obligations to the Town. Without provision for future capital

spending, the final revenue obligation to cover agreed upon expenses of the Town (including full repayment of the CWF Loan) will be slightly over \$4.8 Million by the end of FY2016.

Preliminary Findings - Revenues

W&C completed a review of the records for Fund 10 with the objective of determining the value of principal revenues which accrued to the account that were identifiable as FCC-related payments. This was done using records from both the Tax Collector's and the Treasurer's offices, which presently use different accounting and



Two things are worth noting from this figure. First, we can very closely replicate the CAFR reported Fund 10 results for the fiscal years (2003-present) when we have data from the Town Treasurer's office. The small differences between the two values are likely due to the fact that W&C did not attempt to account for small, non-FCC revenues such as penalties and interest, each of which would accrue to the Town's portion of Fund 10. Second, as is evident by the gap between the CAFR results and the accessible records, there was likely a significant amount of FCC revenue in the FY1996 to FY2002 periods that was not accounted for by the previous Tax Collector. It is our understanding that the primary reason that these funds were not in the Tax Collector's record is that the down-payments (either \$4,994 or \$2,497) were not "liened" values which would be entered into the record from this office.

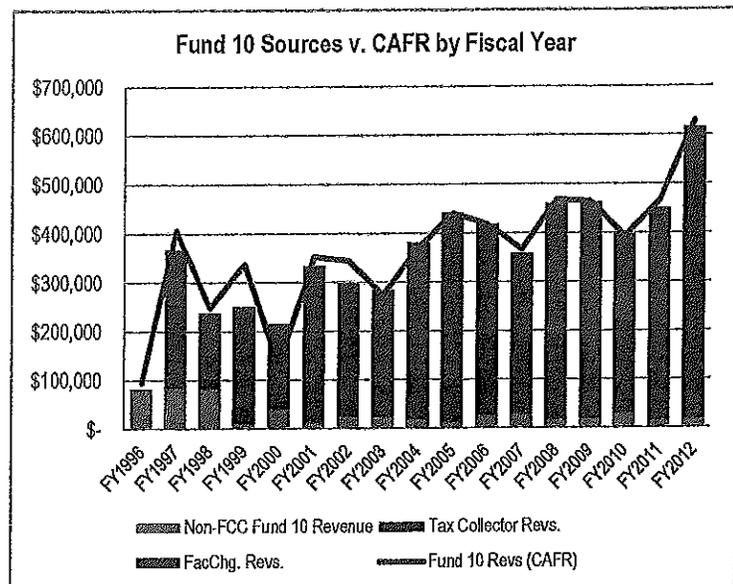
Additional Findings – Revenues

In an attempt to account for the differences between the Tax Collector's records and the CAFR in the period from FY1996 to FY2002, W&C completed an in-depth review of WPCA meeting notes which include notations on the number and value of assessments and actual payments by month. The findings from this assessment are summarized by fiscal year in the Table below.

Fiscal Year	EDUs added	FCC Accrued
FY1996	0	\$ -
FY1997	112	\$ 279,664.00
FY1998	39	\$ 137,335.00
FY1999	60	\$ 203,683.86
FY2000	27	\$ 142,685.71
FY2001	64	\$ 244,706.00
FY2002	53	\$ 240,068.71
	355	\$ 1,248,143.29

By adding this data into the assessment detailed on the preceding page, we were able to come very close to matching the Town CAFR records, as shown on the Figure to the right.

With the sole exception of FY1999/FY2000, our assessment was able to closely replicate the data in the CAFRs. In those years, it appears that the WPCA and Town may have accounted for money on a different timeframe. (Money that the CAFR shows as posting in FY1999, the WPCA records indicate posted in FY2000) These values appear to be close to equal and off-set one another from a value standpoint.





payment posting systems. The Tax Collector's payment posting records provide data back to 1991 but appear to be significantly incomplete. The Treasurer's office uses a system which appears to be complete (or significantly more so than the Tax Collector's system) and is used as the basis for the completion of the Town's Comprehensive Annual Financial Reports. Although it is more complete in its records of payments to Fund 10, the records within the Treasurer's office are only available back to the FY2003 period.

Due to the differing completeness and timeframes of the data sets, W&C feels we can provide an accurate accounting of the FCC payments posted to Fund 10 between FY2003 and the present, but can only provide an estimate for the period between FY1996 (when the FCC was instituted) and FY2002. Using these systems, the Table below shows the FCC revenue which can be reasonably identified in each of the periods as well as totals, which should not be considered as a final accounting of FCC revenues.

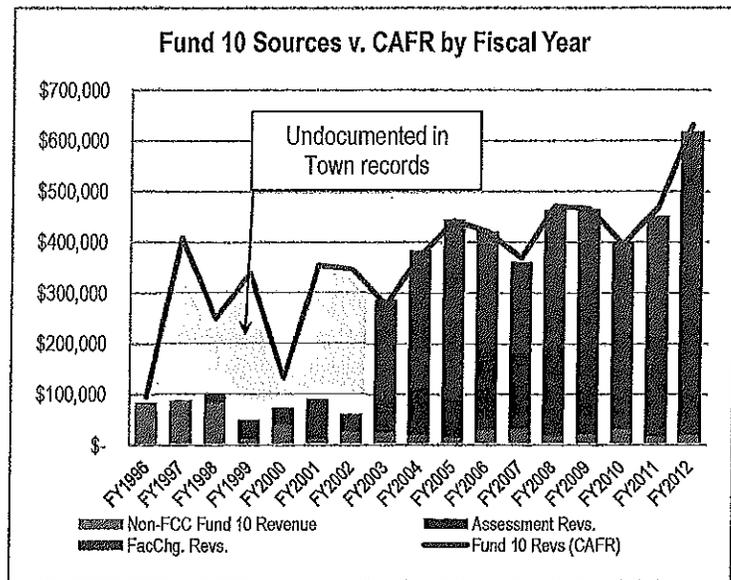
Period	FCC	Non-FCC	CAFR
FY96-FY02	\$ 200,250.12	\$ 344,623.89	\$ 1,919,022.00
FY03-FY12	\$ 4,056,915.77	\$ 226,662.31	\$ 4,300,503.00
FY13	\$ 100,177.30	\$ 14,254.05	n/a
Total	\$ 4,357,343.19	\$ 585,540.25	\$ 6,219,525.00

Notes for table:

1. The FCC and Non-FCC revenue data for FY96-FY02 and Non-FCC revenues for the FY03-FY13 periods is derived from the Tax Collector's system.
2. All CAFR numbers are based upon the Treasurer's records. The records from before FY03 were unavailable for review but there is no reason to question their accuracy as they are from audited financial statements.
3. Differences between the CAFR and combination of FCC and Non-FCC are due to other revenues (penalties and interest) not fully included within the Tax Collector's Fund 10 records.
4. The CAFR for FY13 will not be complete until after the close of the FY13 period.

Discussion of FY1996 through FY2002

As is readily apparent from the Table above, the FCC charges identified by our algorithm for the period before FY 2003 are significantly underrepresented within the Tax Collector's records. In order to make an estimate of FCC charges from this period, W&C completed several evaluations using available data. The first was to see how well we were able to match CAFR audited financials with the accessible records. The results of this assessment are shown on the Figure to the right.





Input from WPCA

The WPCA as an entity has reviewed and accepted the findings of this document.

Conclusions

Based upon the analyses completed as part of our review, it is the professional opinion of W&C that the overall amount of revenue which has accrued into Fund 10 on the Town's books have exceeded the cost which the charge was intended to cover. A summary of our estimate of revenues which have accrued to Fund 10 which are identifiable as FCC-related is shown on the Table below.

Period	FCC ¹	Non-FCC ²	GAFR	Delta ³
FY96-FY02	\$ 1,448,393.41	\$ 344,623.89	\$ 1,919,022.00	\$126,004.70
FY03-FY12	\$ 4,056,915.77	\$ 226,662.31	\$ 4,300,503.00	\$16,924.92
FY13	\$ 100,177.30	\$ 14,254.05	n/a	n/a
Total	\$ 5,605,486.48	\$ 585,540.25	\$ 6,219,525.00	142,929.62

Notes for Table:

1. Recognized revenues include revenues from the Tax Collector and WPCA minutes for the period from FY1996 through FY2002 and from the Treasurer's office for FY2003 to the present.
2. Non-FCC charges were identified using Tax Collector records for the period from FY1996 through FY2002 and Treasurer's records from FY2003 to the present.
3. The difference is assumed to be the value of interest, penalties and other non-FCC related revenue into Fund 10.

As indicated on the Table above, our evaluation identified slightly more than \$5.6 Million in FCC related revenues which have been paid into Fund 10. Compared against overall capital project and debt reimbursement costs outlined earlier in this memo, we believe the WPCA has, through collection of FCCs, been responsible for approximately \$800,000 more in Fund 10 revenues than in Fund 10 costs, up to and including full payment for its portion of the existing CWF loan (including payments to be made through 2016). The table below provides a summary of the overall FCC revenues and expenses.

Summary of Fund 10 FCC Revenues - Expenses	
\$ 5,605,486.48	FCC Revenues (including through Spring 2013)
\$ 4,408,372.80	WPCA portion of CWF Loan repayment (through bond maturity)
\$ 401,080.75	WPCA Capital Spending from Fund 10 (FY12 & FY13 to date)
\$ 796,032.97	WPCA Portion of Fund 10 through Spring 2013

Recognition

W&C would like to acknowledge the professionalism and helpfulness of the WPCA as well as staff in both the East Windsor Tax Collector's and Treasurer's offices. Given the tight schedule under which this assessment was completed, everyone who was contacted for information went out of their way to compile records in a very timely and complete manner. With significant limitations on the existing financial record sets, the Tax Collector and Treasurer's office took to time to hear our questions and then access the accounting systems in use in East Windsor to reproduce data which, in nearly all cases, predated their tenure with the Town. Our thanks.

RPF/as



STATE OF CONNECTICUT
GOVERNOR DANIEL P. MALLOY

**GOVERNOR MALLOY ANNOUNCES EMERGENCY ASSISTANCE FOR
STATE'S WEATHER-DAMAGED FARMS**

(Hartford, CT) — Governor Dannel P. Malloy today announced emergency assistance is available to the Connecticut farms that have suffered unrecoverable losses in production and property damage in 2013 due to severe weather events, including excessive precipitation this past month. A total of \$5 million has been designated for these grants, with individual awards based on the number of qualifying applications received by the July 15, 2013, deadline.

"Over the last two years, our state's farm sector endured a series of severe weather-related blows that have put many of their businesses in peril," said Governor Malloy. "Agriculture is an industry with tremendous growth potential, contributing \$3.5 billion to Connecticut's economy and accounting for about 28,000 jobs in our state. Unfortunately, federal crop insurance programs that protect large farms in other parts of the country aren't designed for small diversified farms like ours. This puts our farmers at an unfair disadvantage when extreme weather events occur, but I am committed to helping these hard-working families recover their losses and to seeing Connecticut's small farms succeed and thrive."

Agriculture Commissioner Steven K. Reviczky praised Governor Malloy's swift action, adding, "Farmers are resilient by nature and skilled at diversifying the risks associated with such a weather-dependent profession. But some events, such as February's blizzard and this month's excessive rains, are beyond expectation and defy the best-laid plans and business models. This timely assistance will help farmers who have suffered substantial loss salvage this season and keep their small businesses afloat, in turn, allowing them to continue providing the fresh Connecticut Grown products sought by our state's residents and visitors."

The Department of Economic and Community Development (DECD) will partner with the Department of Agriculture (DoAg) to offer the grants and the two state agencies will work with the non-profit Connecticut Farm Bureau Association to review applications and administer awards.

"The state has responded to businesses impacted by natural disasters in the past, and I believe this year's weather circumstances dictate a similar response from the state," said Catherine Smith, DECD Commissioner. "The recent rainfall, on top of snow damage suffered this winter, has put many of Connecticut's farmers in an untenable situation. We're concerned about their operations and are here to help them get back on their feet and back in their fields."

Assistance may be used in a variety of ways to help small farms recover from weather-related losses:

- To repair damaged property and equipment;
- To replant lost crops;
- To plant new/different crops in place of lost crops;
- To purchase feed to supplement lost hay, corn, and other crops for livestock;
- To apply fertilizer and other soil amendments;
- To apply any necessary products to prevent disease and/or pest outbreaks;
- To perform other activities needed to recover from the storms, as deemed appropriate by the Commissioner of Agriculture.

Applicants must demonstrate a loss, file a Schedule F form or similar tax return, submit photos of the damage, and provide information regarding business ownership and proof of good standing with respect to state and local taxes.

On-line applications for assistance can be found on the DECD and DoAg websites. Farmers can also call 860-713-2573 for more information.

###

For Immediate Release: June 23, 2013

Contact: George Krivda

Department of Agriculture

George.Krivda@ct.gov

860-713-2573 (office)

Twitter: [@GovMalloyOffice](https://twitter.com/GovMalloyOffice)

Facebook: [Office of Governor Dannel P. Malloy](https://www.facebook.com/OfficeofGovernorDannelP.Malloy)



STATE OF CONNECTICUT

DEPARTMENT OF AGRICULTURE

2013 PLANT Grant Application

Production Loss Assistance Needed Today



FARM NAME: _____

FARM OWNER: _____

CONTACT NAME: _____

CONTACT ADDRESS: _____

PHONE NUMBERS (farm): _____ (home): _____ (cell): _____

EMAIL: _____

FARM ADDRESS: _____

FARM TAX ID/SOCIAL SECURITY NUMBER: _____

TYPE OF FARM: _____

NUMBER OF ACRES/SF: _____ total _____ in production

WHICH 2013 WEATHER EVENT(S) CAUSED YOUR LOSS(ES)?

May-June rain/floods February blizzard Other: _____

BRIEFLY DESCRIBE YOUR CROP OR STRUCTURAL LOSS RESULTING FROM ABOVE:

(Include crops, structures, seed, fertilizer, pesticides, land preparation, labor, etc. Attach separate sheet if necessary.)

TOTAL CROP ACREAGE: _____ NO. ACRES DAMAGED: _____ NO. STRUCTURES DAMAGED: _____

TYPE OF STRUCTURE(S) DAMAGED: _____ TOTAL NET VALUE OF LOSS: \$ _____

EXPLAIN WHAT YOU WILL DO WITH THIS FINANCIAL ASSISTANCE (attach separate sheet if necessary):

ATTACH THE FOLLOWING REQUIRED DOCUMENTS (if not available, explain why):

1. Completed and signed application form
2. Proof of filing from most recent tax year IRS Schedule F or Federal Farm Activity Schedule
3. Copy of Connecticut Department of Revenue Services tax exemption
4. Google Earth/satellite image or tax map of farm (available from municipal tax assessor's office), marked up to show affected site and area to be remedied by this financial assistance
5. Photos of damaged area in printed or electronic form
6. Supporting documentation of loss (invoices, receipts, etc.)
7. Completed W-9 form

By signing, applicant declares under penalty of law that he/she has completed the application, including any accompanying schedules and statements, to the best of his/her knowledge; believes all information is true, complete, and correct; and has the legal authority to execute this application.

SIGNATURE OF FARM OWNER(S): _____

(print name): _____

(date): _____

Return by: **4:30 p.m. on July 15, 2013**, to
George Krivda, Office of the Commissioner, CT Dept. of Agriculture, 165 Capitol Avenue, Room 161, Hartford, CT 06106

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

²However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

²Circle the minor's name and furnish the minor's SSN.

³You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**PULLMAN
& COMLEY LLC**
ATTORNEYS

Joshua A. Hawks-Ladds
90 State House Square
Hartford, CT 06103-3702
p 860 541 3306
f 860 424 4370
jhawks-ladds@pullcom.com
www.pullicorn.com

July 2, 2013

Via Email and U.S. Mail

First Selectman Denise Menard
Town of East Windsor
Town Hall
11 Rye Street, P.O. Box 213
Broad Brook, CT 06016

Re: Legal Opinion Regarding Town Charter Section 8-5(B)(4)

Dear Denise:

This letter is in response to the Town's request for a legal opinion regarding the proper interpretation of Section 8-5(B)(4) of the Town Charter.¹ Specifically, this opinion addresses how to allocate the automatic two percent increase to the Town's budget following a failed third referendum of a proposed budget.

Section 8-5(B)(4) of the Town Charter states:

If the budget fails at the Third Referendum the budget reverts to last year's approved budget, plus 2%, and shall be deemed to be the approved budget for such year. The budget shall be returned to the Board of Finance for the sole purpose of establishing a mil rate. The budget and mil rate shall be adopted no later than midnight on the 15th of June.

It is my understanding that an issue has arisen because, after the 2013-2014 proposed Town budget ("FY2014 Budget") failed to pass at a third budget referendum, the Town, at the direction of its Board of Finance, created a new line item in the FY2014 Budget as a "2% contingency fund"² -- as opposed to increasing each departmental budget line item of last year's budget by an across the board two percent increase.³ The effect of this new "2% contingency fund" is that the Town will be unable to spend the two percent increase in the FY2014 Budget without first seeking an appropriation from the Board of Finance or approval at a Town Meeting on every occasion that moneys are needed to be transferred from this contingency fund. A request to spend the increased funds could then be denied by the Board of Finance or at Town Meeting,

¹ This formal legal opinion of the Town's Counsel supersedes all prior opinions written concerning this topic.

² Apparently, unlike the Town side of the budget, the Board of Education side was increased by two percent across the board.

³ This contingency line was set up based on a legal opinion by another attorney received in 2010 -- the last time the budget failed to pass after three referendums.

**PULLMAN
& COMLEY, LLC**
ATTORNEYS

First Selectman Denise Menard

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thereby resulting in no increase to the Town's appropriations, notwithstanding the Charter provision that calls for an increase of two percent. This potential anomalous result caused the Town to seek this formal legal opinion.

My conclusion is that the automatic two percent increase must be uniformly allocated to all department budget line items⁴ in the Town's 2012-13 Town Budget ("FY2013 Budget") to create the FY2014 Budget. The Board of Education operating budget must also be allocated a two percent across the board increase,⁵ as I understand has already occurred.

Analysis

Home Rule

In order to interpret Section 8-5(B)(4) it is first important to examine the legal authority of the Town as it pertains to budgeting and spending issues. By way of background, the Home Rule Act, codified at Conn. Gen. Stats. §§ 7-187 through 7-201, provides a mechanism by which municipalities, by grant of the legislature, may "conduct their own business and control their own affairs to the fullest possible extent, in their own way ... upon the principle that the municipality itself knew better what it wanted and needed than did the state at large..." *Caulfield v. Noble*, 178 Conn. 81, 87, 420 A.2d 1160, 1163 (1979). To this end, the Home Rule Act "prohibits the legislature from encroaching on the local authority to regulate matters of purely local concern, such as the organization of local government or local budgetary policy." *City of Shelton v. Comm'r of Dep't of Envtl. Prot.*, 193 Conn. 506, 521, 479 A.2d 208, 216 (1984). Through Conn. Gen. Stat. § 7-148(c)(2), the General Assembly has designated the areas of municipal finance and appropriation as within the scope of municipal powers.

While a number of Connecticut statutes address municipal budgeting in detail, the Connecticut Supreme Court has repeatedly found that town Home Rule charter provisions on budgeting supersede contradictory statutes. For instance, the provisions of Conn. Gen. Stat. § 7-344 – which spell out the procedures by which municipal boards of finance are to develop annual budgets and lay municipal taxes – has been found to be effectively superseded by conflicting town charter provisions because local budget matters have been deemed a matter of local rather than state-wide interest. *See, Bd. of Educ. of Town & Borough of Naugatuck v. Town of Borough of Naugatuck*, 268 Conn. 295, 307, 843 A.2d 603, 612 (2004) (town charter provision providing for separate referenda on town and board of education proposed budgets upheld despite seeming contradiction with provisions of Conn. Gen. Stat. § 7-344); *Caulfield*, at 94 (holding that town

⁴ Based upon my review of the Town's budget the most logical way to apply the two percent in increased expenditures is to each Town department budget line item rather than to each specific category within each departmental budget. For example, line item "1010 Selectmen" would receive a two percent increase in expenditures, as opposed to increasing each individual category within the department budget.

⁵ This increase would be applied to the Board of Education's FY2013 budget total noted as line item "9800" on the Town Budget.

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board of finance's withholding of surplus revenue in apparent violation of Conn. Gen. Stat. § 7-344, was authorized by Home Rule charter notwithstanding statutory language to the contrary).

The Town Charter's Budgeting Process

With this legal framework in mind, it is now appropriate to review the applicable terms of the Charter relating to the budgeting process.

Chapter VIII of the Charter delineates the Town's budget process and the respective roles of the Board of Finance, Board of Selectmen and First Selectman within that process. The Charter provides that the First Selectman, with oversight by the Board of Selectmen, "coordinate(s) and manage(s) the preparation of the Town Budget for each fiscal year." Charter, Section 8-4(C)(1). After submission of the Town Budget to the Board of Selectmen, the Board of Selectmen deliberates over the budget and at least one public hearing on the proposed budget is conducted. Charter, Section 8-4(D)(1)(b). The Board of Selectmen then approves and submits the Town Budget to the Board of Finance. *Id.*

After conducting a public hearing on both the Town and Board of Education⁶ budgets, the Board of Finance is then empowered to perform the following discretionary functions in accordance with Section 8-4(E)(1):

- (b) Adjust by line item the requested appropriations set forth in the Town Budget and the requests for appropriations for capital expenditures within the Board of Education Budget;
- (c) Adjust the total appropriation requested for operating expenditures within the Board of Education Budget;
- (d) Make other adjustments to the proposed Budgets by, among other things; recommending appropriations to incur or pay off any Town debt; providing a fund for public improvements or contingent funds for general or targeted purposes; or creating a reserve for uncollectible taxes;
- (e) Calculate the Mil Rate to be assessed on the Grand List based on the Board's adjustments, if any, to the proposed Budgets; and
- (f) Approve the adjusted proposed Budgets (including a Budget Message containing the information set forth in Section 8-3 (C)(3)(d)), and the recommend Mil Rate.

Charter, Section 8-4(E)(1).

⁶ The Board of Education Budget comes to the Board of Finance by way of approval and submission by the Board of Education. Charter, Section 8-4(D)(2).

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Once the Board of Finance has completed its work, the proposed Budget is then submitted to the Town's voters for approval through a referendum process. Charter, Section 8-5. If the proposed Budget fails on either the initial or second referendum, "the budget shall be returned to the Board of Finance who shall, following a public hearing, resubmit a budget to a subsequent Referendum." Charter, Section 8-5(B)(2). As noted above, if the budget fails at a third referendum "the budget reverts to last year's approved budget, plus 2%." Charter, Section 8-5(B)(4). After the third referendum, the budget is returned to the Board of Finance "for the sole purpose of establishing a mil rate." *Id.* No further action by the Board of Finance is authorized.

The Town Charter's Intent

Municipal charters, like statutes, are ordinarily reviewed in accordance with the so-called rules or canons of statutory interpretation. To this end when construing the Town Charter,

we must determine the intent of the legislative body (the Charter Review Commission) that promulgated the rules.... To determine the intent of the charter, the enactment must be examined in its entirety and its parts reconciled and made operative so far as possible.... Intent is to be ascertained from the language used, if it is plain and unambiguous; or, if it is not, by considering the legislation in the light of all of its provisions, the object which it seeks to accomplish, the pre-existing legislation upon the same subject matter, and all other relevant circumstances."

Alexander v. Ret. Bd. of City of Waterbury, 57 Conn. App. 751, 759, 750 A.2d 1139, 1145 (2000) (internal bracketing omitted). One of the foremost tenets of interpretation is that "[t]he intention of the legislative body is found in the words employed in the charter provisions, and these words are given their plain and obvious meaning." *Buonanno v. Merly*, 4 Conn. App. 148, 149, 493 A.2d 245, 246 (1985).

My conclusion that FY2014 Budget's automatic two percent budget increase must be appropriated as a two percent increase to all FY2013 Budget department line items is supported by a number of factors.

The plain language of Section 8-5(B)(4) when read in conjunction with the Charter's budgetary scheme, strongly supports that conclusion. To begin with, the second sentence of Section 8-5(B)(4) is critical: "*The budget shall be returned to the Board of Finance for the sole purpose of establishing a mil rate.*" This limiting language, when read in conjunction with the rest of Chapter VIII has obvious import. Before the proposed budget is voted upon by the Town's voters, Section 8-4(E)(1) of the Charter provides the Board of Finance with explicitly enumerated discretionary duties it is permitted to perform after receiving the draft budgets of the Board of Selectmen and Board of Education. But the Board of Finance's role after the draft budget fails at the third referendum is specifically limited by Section 8-5(B)(4): it may only set

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the new mil rate. The Charter Revision Commission's insertion of this important limiting language is key to ascertaining the Commission's intent. Such intent could only have been to limit the Board of Finance from doing anything other than establishing a mil rate after the third budget referendum fails. The creation of a contingency fund for the use of the two percent increase in expenditures is not permitted.

Section 8-5(B)(4) must also be interpreted in a way that is consistent with other Charter provisions. *Bateson v. Weddle*, 306 Conn. 1, 19, 48 A.3d 652, 662 (2012) ("Just as the legislature is presumed to enact legislation that renders the body of the law coherent and consistent, rather than contradictory and inconsistent...we likewise read related charter provisions harmoniously.") The conclusion that the FY2014 Budget's automatic two percent budget increase must be applied to all FY2013 Budget department line items is amply supported by a review of the provisions of Section 8-5(B)(2). That section addresses the procedure to be taken after a budget fails at either the initial or second referendum, as opposed to the third. The text reads:

Failure of the Budget following Initial and Second Budget Referendum. If the budget fails at either the initial or second Referendum, the budget shall be returned to the Board of Finance who shall, following a public hearing, resubmit a budget to a subsequent Referendum.

Id. Section 8-5(B)(2) implies that the Board of Finance has discretion to make budgetary revisions following the failure of a proposed budget at an initial or second referendum. But no such discretion exists after a third failed referendum.

Within East Windsor's budgetary scheme, the Board of Finance's budget submission process and the community's referendum vote act as a check and balance upon one another. If the community rejects the Board of Finance's first or second submitted budget, the Board is given a subsequent opportunity to make changes to the proposed budget in order to garner public acceptance. After the third failed referendum, however, this interactive process stops. The budget automatically reverts to last year's budget plus a two percent increase in expenditures. The Charter Revision Commission made a policy decision to end debate over the budget after the electorate's fails to pass it after three chances; a two percent increase in expenditures is automatically added to the prior year's budget.

The failure to pass a budget after the third referendum, however, does not give the Board of Finance any authority over how that additional two percent in expenditures is spent – that opportunity ended when the electorate rejected the proposed budget after being given three chances to approve it. Thus, the Board of Finance's involvement with the budget ends after the new mil rate is set. It is not authorized to control how (or whether) the increased expenditures pursuant to Section 8-5(B)(4) is spent or allocated. The creation of a contingency fund that

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would require the Town to apply to the Board of Finance every time it required the use of the two percent increased funds mandated by Section 8-5(B)(4) is simply not provided for nor authorized in the Charter.

The Charter must also be interpreted in a way that will not yield absurd results. *Kelly v. City of New Haven*, 275 Conn. 580, 615, 881 A.2d 978, 1000 (2005) (civil service provisions of City charter could not be read in a way that would “thwart [their] intended purpose or lead to absurd results...”). And it must be interpreted in a way that reasonably promotes its ultimate purpose.” *Arminio v. Butler*, 183 Conn. 211, 218, 440 A.2d 757, 760 (1981). In this instance, the Charter must be interpreted in a way that permits the Town to perform its fiscal and financial duties and obligations in accordance with the authority vested in it by the Charter and state law.

An interpretation of Section 8-5(B)(4) that permits the creation of a two percent contingency fund that the Town must apply to the Board of Finance or Town Meeting in order to utilize the increased funds, would yield absurd results that are contrary to the Charter’s overall purpose. If on every occasion that the Town requires additional funds from the two percent increased expenditures (for example for previously contracted insurance or salaries), the Town had to apply to the Board of Finance (or Town Meeting) for approval, and such approval could be denied by the lack of a quorum or by a vote of the Board of Finance or the voters at a Town Meeting, then the Charter’s mandate (as a result of the failed third referendum) to increase expenditures by two percent compared to the last year’s budget could be invalidated by the Board of Finance’s or Town Meeting’s rejection of the transfer from the contingency fund. That could not have been the intent of Section 8-5(B)(4).

How Appropriations are to be Effectuated During the Fiscal Year

The next question that must be answered is: If the two percent increase in expenditures is applied across all lines of the FY2013 Budget in order to finalize the FY2014 Budget, how can the various internal Town budget line items be adjusted when more (or less) money is needed for a specific line item.

The Charter provides that the Board of Finance “shall have the authority, powers, duties and responsibilities conferred upon Boards of Finance by C.G.S.⁷ and applicable Special Acts and ordinances, and shall perform all the functions of that Board.” Section 8-1(A). Conn. Gen. Stat. § 7-347 delineates board of finance authority to make transfers among unexpended fund balances. That statute specifically states the following:

The board may transfer unexpended balances from one appropriation to another, but no amount appropriated for any purpose, whether general or special, shall be

⁷ An abbreviation for the Connecticut General Statutes.

**PULLMAN
& COMLEY, LLC**
ATTORNEYS

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used or appropriated for any other purpose unless the same is recommended by the board.

It is my understanding that the Town has routinely transferred funds between unexpended line items within department budgets in the past and that the existing procedure is for the Board of Selectmen to bring requests for transfers to the Board of Finance for its consideration and ultimate approval or rejection. This practice is supported by the Charter and Connecticut law and should be continued for any line item adjustments (positive or negative) required under the FY2014 budget.

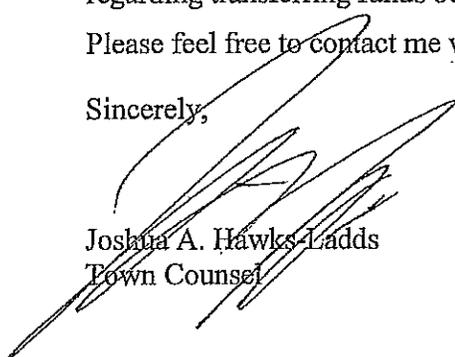
While certain line items in the FY2013 Budget may not be appropriate for additional funding (for example a single item purchased in 2012 for which funding is no longer necessary), any appropriations dedicated to such items can be transferred as necessary with Board of Finance approval. The Board of Finance must wield its authority to approve these line item transfers in accordance with its obligations to permit the Town to perform its fiscal and financial duties and obligations in accordance with the authority vested in it by the Charter and state law.

Conclusion

In conclusion, the automatic two percent increase in expenditures required by Section 8-5(B)(4) of the Town Charter must be uniformly allocated as an across the board two percent increase to all Town department budgets in the Town's FY2013 Budget in order to create the FY2014 Budget. The Board of Education operating budget must also be appropriated a two percent across the board increase to its budget at line "9800," as has already occurred. The improper "2% contingency fund" that was created must be closed with the moneys redistributed to all Town department budgets. The Town should follow the same practice that it has in the past regarding transferring funds between departmental budget line items.

Please feel free to contact me with any questions.

Sincerely,



Joshua A. Hawks-Ladds
Town Counsel

cc: Jason Bowsza, Chairman of the Board of Finance (via email only)

TOWN OF EAST WINDSOR
2012 -2013
BUDGET TRANSFER

Exhibit D

Transfer #	Transfer To/From	Account Dept/Line	Department	Amount	Reason	Town Meeting
S2013-36	From	1-01-20-5295-2-200	Conservation of Health /Life Ins.	\$1,550.00		
	To	1-01-40-6395-2-201	P & R - FICA & Medicare		To cover the shortfall in the Park & Rec/Employee Benefit, FICA & Medicare line.	
S2013-37	From	1-01-10-1085-1-100	Town Property Salary F/T	\$10.00		
	To	1-01-10-1085-1-102	Town Property Salary Overtime		To cover the cost of Custodian to work overtime due to a leak at the Town Hall.	
S2013-38	From	1-01-10-1030-1-101	Town Clerk Salary P/T	\$10.00		
	To	1-01-10-1030-1-102	Town Clerk Salary Overtime		To cover the cost of Assistant Town Clerk to take Town Meeting minutes.	