

TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Regular Meeting – Thursday, January 4, 2024
In-Person AND
ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall
MEETING MINUTES

1

**TOWN OF EAST WINDSOR
BOARD OF SELECTMEN**

REGULAR MEETING
Thursday, January 4, 2024
7:00 p.m.

***THIS MEETING
IS BEING HELD IN-PERSON
In the John Daly, Jr. Meeting Room
Town Hall, 11 Rye Street, Broad Brook, CT 06016***

AND

REMOTELY via ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall

DRAFT MEETING MINUTES

********Minutes are not official until approved at a subsequent meeting********

Board of Selectmen
Jason E. Bowsza, First Selectman
Marie DeSousa, Deputy First Selectman
Alan Baker, Selectman
Sarah Muska, Selectman
Keith Yagaloff, Selectman

ATTENDANCE: First Selectman Bowsza hosted the in-person meeting. Deputy Selectman DeSousa, Selectman Baker, Selectman Muska and Selectman Yagaloff were present at the in-person meeting.

ABSENT: All members of the Board of Selectmen were present at this evening's meeting.

GUESTS/SPEAKERS in-person: First Selectman Bowsza hosted the meeting.

TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Regular Meeting – Thursday, January 4, 2024
In-Person AND
ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall
MEETING MINUTES

2

GUESTS/SPEAKERS signing in to meeting remotely: Tom Lansner; Richard Tuller;

1. **TIME AND PLACE OF MEETING:**

First Selectman Bowsza called the January 4, 2024 Regular Meeting of the East Windsor Board of Selectmen to Order at 7:00 p.m. in the John Daly, Jr. Meeting Room, Town Hall, 11 Rye Street, Broad Brook, CT 06016.

2. **PLEDGE OF ALLEGIANCE:**

First Selectman Bowsza requested Selectman Muska to lead everyone in reciting the Pledge of Allegiance.

3. **ATTENDANCE:**

See Attendance noted at the beginning of the meeting.

4. **APPROVAL OF MINUTES:**

- A. **December 7, 2023 Board of Selectmen Regular Meeting:**
Tabled for the next meeting.

5. **PUBLIC PARTICIPATION:**

Lauri Desrosiers, 101 Reservoir Road, Broad Brook, has listed several issues related to the Freedom Of Information Act (FOIA) Request regarding the Community Center.

Lynn Stanley, 87 Rye Street, Broad Brook, has expressed her frustration and experience with her FOIA complaint against the First Selectman and the Town of East Windsor.

Paul Anderson, 89 Main Street, Broad Brook, has stated positive response in the Town's handling of the FOIA. He reiterated that the Town personnel has acted professionally and with integrity.

Ranee O'Neil, 76 Elm Street, Broad Brook, has also provided a public complaint regarding Lynn Stanley's request of FOIA documents from the Town of East Windsor.

TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Regular Meeting – Thursday, January 4, 2024
In-Person AND
ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall
MEETING MINUTES

3

Rand B. Stanley, 87 Rye Street, Broad Brook, also issued a statement on the FOIA request and in support of his wife Lynn Stanley's FOIA request.

William Dove, 109 Melrose Road, Broad Brook, has also issued the statement regarding the FOIA and the Scout Hall/Community Center. He stated that Mrs. Stanley's original FOIA request has been stonewalled and delayed. In addition, according to his statement, the Town Hall had been operating in darkness without any transparency or accountability to the taxpayers. He suggested to make a motion that the Board would not discuss the issue in the Executive Session but rather held an open meeting and give access to the public participation.

Patricia Shary, 109 Post Street, Broad Brook, asked the whole Board of having its Member, Keith Yagaloff sitting separately, further apart from the rest of Selectmen. It was as if Selectman Yagaloff was not a part of the Board.

6. COMMUNICATION:
None

7. BOARD AND COMMISSIONS RESIGNATIONS AND APPOINTMENTS:

A. Resignation: None

B. Reappointments:

1. James Stremper (R), Agricultural Commission, regular member for a term expiring January 1, 2027:

MOTION: To appoint James Stremper (R) to the Agricultural Commission as a Regular Member for a term expiring January 1, 2027.

Baker moved/Muska seconded/DISCUSSION: None

VOTE: In Favor: DeSousa/Yagaloff/Baker/Muska
(No one opposed/No abstentions)

C. New Appointments:

1. Kristin Blume (U), Arts and Culture Committee, regular member for a term expiring October 21, 2024 (Attachment A):

TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Regular Meeting – Thursday, January 4, 2024
In-Person AND
ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall
MEETING MINUTES

4

MOTION: To appoint Kristin Blume to the Arts and Culture Committee as a Regular Member for a term expiring October 21, 2024.

Muska moved/DeSousa seconded/DISCUSSION: None

VOTE: In Favor: Baker/Yagaloff/DeSousa/Yagaloff
(No one opposed/No abstentions)

2. LeRoy R. Paige (R), American Heritage River Commission, Associate Member (Attachment B):

No action has been taken as LeRoy R. Paige is not a resident of East Windsor and is not eligible to be appointed to the Commission. He was not present at the meeting.

Deputy First Selectman DeSousa had commented on her findings that the process of associate members to be on the commission could be acceptable if they are just an associate member rather than a full member and continue to volunteer for the Town of East Windsor.

3. David Swaim (D), Zoning Board of Appeals, Alternate Member for a term expiring November 18, 2025 (Attachment C):

MOTION: To appoint David Swaim to the Board of Zoning Appeals as an Alternate Member for a term expiring November 18, 2025.

DeSousa moved/Baker seconded/DISCUSSION: None

VOTE: In Favor: Muska/DeSousa/Baker/Yagaloff
(No one opposed/No abstentions)

8. **OLD BUSINESS:**

First Selectman Bowsza requested a motion to postpone agenda Item 8A to be discussed after the Item 10 Executive Session.

MOTION: To POSTPONE agenda Item 8A to be discussed after agenda Item 10 Executive Session.

Muska moved/Baker seconded/DISCUSSION: None

VOTE: In Favor: DeSousa/Yagaloff/Baker/Muska

TOWN OF EAST WINDSOR

5

BOARD OF SELECTMEN

Regular Meeting – Thursday, January 4, 2024

In-Person AND

ZOOM Teleconference

Meeting ID: 332 683 3563

Passcode: townhall

MEETING MINUTES

(No one opposed/No abstentions)

9. NEW BUSINESS:

**A. Discuss Emergency Management Performance Grant (E.M.P.G.)
(Attachment D):**

First Selectman Bowsza requested a motion to postpone agenda Item 9A for the next regular meeting.

MOTION: To POSTPONE agenda Item 9A for the next regular meeting.

Muska moved/DeSousa seconded/**DISCUSSION:** None

VOTE: In Favor: Baker/Yagaloff/Muska/DeSousa
(No one opposed/No abstentions)

**B. Discussion and Potential Vote on the Broad Brook Library Association Audit
Waiver Request (Attachment E):**

Deputy First Selectman DeSousa requested if the additional information would be available in the future.

Paul Anderson responded that it would be available.

MOTION: To ACCEPT the Broad Brook Library Association
Audit Waiver Request.

DeSousa moved/Muska seconded/**DISCUSSION:** Yagaloff requested for additional information to be available before making any motions in the future.

VOTE: In Favor: Muska/DeSousa/Baker/Yagaloff
(No one opposed/No abstentions)

**C. Discussion and Potential Action on the Lynn Stanly Vs. Town of East
Windsor FOIC Decision (Attachment F):**

MOTION: To POSTPONE agenda Item 9C till after the Item 10
Executive Session.

Baker moved/Muska seconded/**DISCUSSION:** None

VOTE: In Favor: Muska/DeSousa/Baker/Yagaloff
(No one opposed/Abstention: Yagaloff)

TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Regular Meeting – Thursday, January 4, 2024
In-Person AND
ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall
MEETING MINUTES

6

D. TAX REFUND (ATTACHMENT G):

MOTION: To PASS the Tax Refund in the amount of \$11,708.00 for the Town of East Windsor.

Muska moved/Baker seconded/DISCUSSION: None

VOTE: In Favor: Muska/Baker/DeSousa/Yagaloff
(No one opposed/No abstentions)

10. PUBLIC PARTICIPATION:
None

- 11. EXECUTIVE SESSION** – Pursuant to C.G.S. 1-200 (6)(b), (Brian McCann, re: Windsor Show Stables, Catholic Cemeteries Tax Appeal Settlement, and Bob DeCrenscenzo: re: Solar Appeal (6)(e) discussion of any matters which would result in the disclosure of possible records, or the information contained therein described in subsection 1/210 - Action possible.

MOTION: To GO INTO EXECUTIVE SESSION.

DeSousa moved/Muska seconded/DISCUSSION: None

VOTE: In Favor: Baker/Muska/DeSousa/Yagaloff
(No one opposed/No abstentions)

First Selectman Bowsza noted the Board has gone into EXECUTIVE SESSION AT 7:28 p.m; action will follow.

The Recording Secretary signed out of the meeting at 7:28 p.m.

First Selectman Bowsza reported the Board of Selectmen have exited the EXECUTIVE SESSION AT 9:01 p.m. He requested the Board to consider Agenda Item 8A – Discussion and possible settlement of Catholic Cemeteries Association of Tax Appeal.

MOTION: To APPROVE Catholic Cemeteries Tax Appeal for Church Street Tax Liens Settlement Proposal.

Baker moved/Muska seconded/DISCUSSION: None

TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Regular Meeting – Thursday, January 4, 2024
In-Person AND
ZOOM Teleconference
Meeting ID: 332 683 3563
Passcode: townhall
MEETING MINUTES

7

VOTE: **In Favor:** **Muska/DeSousa/Baker**
 Opposed: **Yagaloff**
 Abstained: **No one**

First Selectman Bowsza brought forward the agenda item 8C. He asserted that there would be no action on this item. He elaborated by citing the decision of the Freedom of Information Commission's response to Discussion and Potential Action on the Lynn Stanley Vs. Town of East Windsor FOIC Decision. Below are the findings:

Number 54 states that the Commission conducted the required balancing tests and determined the public interest in withholding the records clearly outweighed the public interest in disclosure. It has also found that the balancing test was undertaken in good faith and the reasons for non-disclosure are not frivolous or patently unfound;

Number 57 found the respondents' provided complaint with all responsive records that are maintained publicly and kept on file except for the records that are publicly available under article 30 and above and those paragraphs they claimed were exempt from disclosure described in paragraph 34;

Number 58 found that while the respondents reached out to other Town Departments, they did not have a duty to maintain or make the records of any other public agency available;

Number 60 found that the respondents testified and immediately began processing November 14th request and that such process took considerable amount of time;

Number 63 found that the complainant Miss Stanley did not inform the respondents of their particular importance of the records nor a specific time frame by when she needed the records;

Number 64 found that based on foregoing and under the facts and circumstances of this case, it is found that the respondents acted quickly and without undue delay in responding to the complaint's November 14th requests except with respect those responsive documents that were publicly available at the time of the request. Publicly available at the time of the request means that there are other ways of accessing it. It was available on the Town's website. Therefore, it is concluded the respondents violated the promptness Provisions but only with respect to those publicly available records. That is the finding of the Freedom Of Information Commission.

11. ADJOURNMENT:

TOWN OF EAST WINDSOR

8

BOARD OF SELECTMEN

Regular Meeting – Thursday, January 4, 2024

In-Person AND

ZOOM Teleconference

Meeting ID: 332 683 3563

Passcode: townhall

MEETING MINUTES

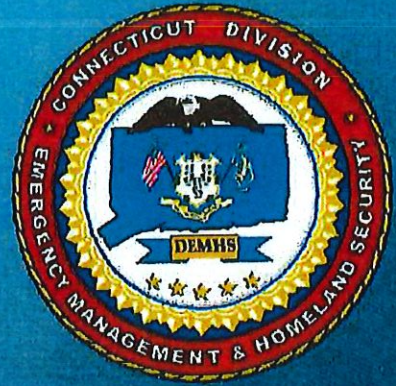
MOTION: To ADJOURN this Meeting at 9:05 p.m.

Muska moved/Baker seconded/DISCUSSION: None

VOTE: In Favor: Muska/DeSousa/Baker/Yagaloff
(No one opposed/No abstentions)

Respectfully submitted,

Sabohat Khalilova, Recording Secretary, East Windsor Board of Selectmen



E.MERGENCY M.ANAGEMENT P.ERFORMANCE G.RANT

FFY 2023 APPLICATION

Application Deadline to your DEMHS
Regional Office is March 30, 2024



State of Connecticut

Department of Emergency Services and Public Protection
Division of Emergency Management and Homeland Security

TABLE OF CONTENTS

A. Application Instructions	3
B. EMPG Application Information and Data Sheet.....	4
C. Authorizing Resolution	5
D. EMPG SLA Financial Tool-Budget.....	6
E. Master Staffing Pattern and Training History	7
F. Optional NEMA Questionnaire	8
G. Opt Out Statement for Municipalities that elect not to participate.....	9

COMPLETION CHECKLIST FOR SUB-GRANTEE

Please use this aid to ensure all documents are included in your submission. More detailed information is available in the EMPG Manual. Note: The application front page & section A (Instructions) do not need to be submitted.

- ☐ Section B: Application Information and Data Sheet
- ☐ Section C: Municipal Resolution
- ☐ Section D: EMPG Financial Tool Budget Tab
- ☐ Section E: Master Staffing Pattern and Training History
- ☐ Section F: NEMA Survey attached (Optional)
- ☐ Job Descriptions have been attached if applicable (Available on website)

DEMHS REGIONAL CONTACT INFO

For assistance filling out this application please contact your DEMHS Regional Coordinator.

Region 1	Robert Kenny Regional Coordinator	149 Prospect Street, Bridgeport, CT 06604 Phone: 860.250.2478 Email: Robert.Kenny@ct.gov	Fax: 203.334.1560
Region 2	Nicole Velardi Regional Coordinator	OB-1 #103 12 Wintergreen Avenue New Haven 06515 Phone: 860.250.3453 Email: Nicole.Velardi@ct.gov	Fax: TBD
Region 3	Josh Cingranelli Regional Coordinator	DEMHS - 360 Broad Street Hartford CT 06105 Phone: 860.250-2548 Email: Josh.Cingranelli@ct.gov Mailing address: P.O. Box 1236 Glastonbury, CT 06033	Fax: 860.257.4621
Region 4	Michael Caplet Regional Coordinator	15-B Old Hartford Road Colchester, CT 06415 Phone: 860.250.3449 Email: Mike.Caplet@ct.gov	Fax: 860.465.5464
Region 5	John Field Regional Coordinator	55 West Main Street, Suite 300 Box 4 Waterbury, CT 06702 Phone: 860.250.2535 Email: John.Field@ct.gov	Fax: 203.591.3529

SECTION A. APPLICATION INSTRUCTIONS

Below are brief instructions for filling out each application form. Please fill out these forms completely and accurately. **Electronic signatures are accepted on all documents.** Please sign or initial where you see the following tabs:



1. **Manual:** Please print and review the EMPG Program Manual (<https://portal.ct.gov/DEMHS/Grants/Emergency-Management-Performance-Grant/Guidance-and-Forms>). The Subgrantee is responsible for the information contained in this document. More complete instructions are available in this document.
2. **Section B: Applicant Information and Datasheet:** Please fill out boxes 1-16 with the necessary information.
3. **Section C: Municipal Resolution:** Please provide a municipal resolution to grant the Chief Executive Officer the authority to sign the EMPG application package on behalf of the municipality. For more information on resolution specifics please reference the EMPG Program Manual.
4. **Section D: EMPG FINANCIAL TOOL-Budget Preparation:** Fill in your budget request for the performance period of 10/1/23-9/30/24 in the 2023 EMPG SLA Financial Tool. Please submit this budget electronically to your DEMHS Regional Office for review upon submittal of the application. Please consult the 2023 EMPG Manual for any additional forms.
5. **Section E: Master Staffing Pattern:** The Master Staffing Form comes pre-populated with the training records of local personnel who have reported completion of the IS and/or PDS course requirements. Towns may use this form to report on any additional courses completed since their last EMPG application.
6. **Additional Forms:** Please review the remaining list of forms available on our website at <https://portal.ct.gov/DEMHS/Grants/Emergency-Management-Performance-Grant/Guidance-and-Forms> to determine if any of these forms will be needed for your application:
 - Emergency Management Director Job Description** – Use this form if you have hired a new Emergency Management Director.
 - Emergency Management Deputy Director Job Description** – Use this form if you have hired a new Emergency Management Deputy Director.
 - Emergency Management Support Staff Job Description** – Use this form if you have hired new Emergency Management Support Staff (e.g. Clerical).
 - Request for Transcripts from EMI** – Use this form to request a transcript of the courses you have completed through FEMA and/or the Emergency Management Institute (EMI).

Once all of the necessary forms are filled out and signed, complete the application by signing and dating the Applicant Information and Data Sheet. Attach the Budget and all other forms and submit the Application Package to your DEMHS Regional Office.

SECTION B. EMPG APPLICATION INFORMATION AND DATA SHEET

All Forms Must Be Original - Copies Will Not Be Accepted

SPCP Unit Use Only

Mail Completed Applications To:
DEMHS Regional Coordinator (See Page 2 of this application for contact information)

1. Name of Municipality or Agency Applying for Subgrant:
Town of East Windsor, CT

2. Period of Award for this Subgrant: 10/1/23 – 9/30/24

3. Emergency Management Director Name & Address
Name: Matthew Carl Title: EM Director
Organization: Town of East Windsor
Address Line 1: 25 School Street
Address Line 2:
City/State/Zip: East Windsor, CT 06088
Phone: 860-292-8240 Fax: 860-292-8248
E-mail: carlm@eastwindsorpd.com

4. Official Authorized to Sign for the Applicant:
Name: Jason Bowsza Title: First Selectman
Organization: Town of East Windsor, CT
Address Line 1: 11 Rye Street
Address Line 2:
City/State/Zip: Broad Brook, CT 06016
Phone: 860-623-8122 Fax: 860-623-4798
E-mail: jbowsza@eastwindsorct.com

5. Municipal/Agency Financial Officer
Name: Amy O'Toole Title: Finance Director
Organization: Town of East Windsor, CT
Address Line 1: 11 Rye Street
Address Line 2:
City/State/Zip: Broad Brook, CT 06016
Phone: 860-292-5909 Fax: 860-623-4798
E-mail: aotoole@eastwindsorct.com

6. Fiscal Point of Contact: (If Different than Financial Officer)
Name: Gayle Carolus Title: Assist. Treasurer
Organization: Town of East Windsor CT
Address Line 1: 11 Rye Street
Address Line 2:
City/State/Zip: Broad Brook, CT 06016
Phone: 860-698-1408 Fax: 860-623-4798
E-mail: gcarolus@eastwindsorct.com

7. Applicant FEIN: 06-6001993

8. Applicant DUNS #: 010182178

9. Applicant Fiscal Year End: June 30

10. Date of Last Audit: 12/20/23

11. Dates Covered by Last Audit: 7/1/22 to 6/30/23

12. Date of Next Audit: 12/18/24

13. Dates to be Covered by Next Audit: 7/1/23 to 6/30/24

Please note that the information required for boxes 9 through 13 refers to the sub-grantee's audit cycle.

FEDERAL AUDIT AND DEBARMENT REQUIREMENT CERTIFICATION

14. ACKNOWLEDGEMENT OF FEDERAL SINGLE AUDIT SELF REPORTING REQUIREMENTS

- Sub-grantees that are required to undergo a Federal Single Audit as mandated by OMB Circular A-133 must alert CT DEMHS, in writing, to any specific findings and/or deficiencies with regard to the use of federal grant funds within 45 days of receipt of their audit report. This notification must identify the finding(s) / deficiencies and a corrective action plan for each.
- All sub-grantees must submit to CT DEMHS a copy of the audit report section pertaining to use of federal grant funds regardless of any findings or deficiencies, within 45 days of the receipt of that report.

Initial to indicate that this requirement has been read and understood:

INITIAL

15. ACKNOWLEDGEMENT OF DEBARMENT REQUIREMENTS:

- The sub-grantee will confirm the eligibility status (via Sam.gov) of all vendors/contractors that the sub-grantee pays with EMPG SLA funds. The subgrantee will confirm that the vendors/contractors do not appear on the SAM's Exclusion List of federally debarred or suspended vendors.

Initial to indicate that this requirement has been read and understood:

INITIAL

16. I, the undersigned, for and on behalf of the named municipality, state agency, or regional planning organization, do herewith apply for this subgrant, attest that, to the best of my knowledge, the statements made herein are true, and agree to any general or special grant conditions attached to this grant application form.

SIGN & DATE

Authorized Signatory: X _____ Date: _____

SECTION C. AUTHORIZING RESOLUTION

All Forms Must Be Original - Copies Will Not Be Accepted

This Blanket Resolution Can Also Be Used to Satisfy the Requirements of the Homeland Security Grant Program

AUTHORIZING RESOLUTION OF THE

East Windsor Board of Selectmen

(Insert name of governing body--for example, town council)

CERTIFICATION:

I, Amy Lam, the Town Clerk of Town of East Windsor,
(keeper of the records—for ex. town clerk or secretary of council)

do hereby certify that the following is a true and correct copy of a resolution adopted by
Board of Selectmen at its duly called and held meeting on _____, 20____,
(name of governing body) (Month, Day)

at which a quorum was present and acting throughout, and that the resolution has not been modified, rescinded, or revoked and is at present in full force and effect:

RESOLVED, that the Board of Selectmen may enter into with and deliver
(name of governing body)

to the State of Connecticut Department of Emergency Services and Public Protection, Division of Emergency Management and Homeland Security, any and all documents which it deems to be necessary or appropriate; and

FURTHER RESOLVED, that Jason Bowsza, as First Selectman of
(name and title of officer)

Town of East Windsor,
(Name of governing body)

is authorized and directed to execute and deliver any and all documents on behalf of the
East Windsor Board of Selectmen

(name of governing body)
and to do and perform all acts and things which he/she deems to be necessary or appropriate to carry out the terms of such documents.

The undersigned further certifies that Jason Bowsza
(name of officer)

now holds the office of First Selectman and that he/she has held that office since
November 19, 2019.

IN WITNESS WHEREOF: The undersigned has executed this certificate this _____ day of

_____ 20____

(Name and title of record keeper)

INSERT
TACTILE
TOWN
SEAL HERE

The Chief Executive Officer has not changed since the
previous resolution was authorized on _____
(Date)

SECTION D. EMPG SLA FINANCIAL TOOL-BUDGET

Please Note: Applications will not be reviewed without the submittal of the EMPG Financial Tool "Application Budget" tabs.

Fill out the Application Budget portion of the tool by filling out the teal boxes for the following:

1. Award Amounts:

Per Capita Award: This amount is based on your town's population as listed in the State Register and Manual.

Sub grant Allocation: This totals as you fill in the categories below.

2. Enter Categories:

- **Personnel**- Enter the total estimated cost for salaries or stipends for full or part-time EMDs, Deputy EMDs and support staff.
- **Organization**- Enter the total estimated cost for your phone bills, fax, internet bills, cable TV, WIFI etc. Please note that all services must be concluded and paid before seeking reimbursement.
- **Equipment**-Enter the total estimated cost for your anticipated equipment needs including printers, computers, radios, phone systems, EOC furniture etc.
- **In kind**-Enter the total estimated cost for any in-kind costs including Volunteer EMDs, Deputy EMDs or Support Staff time and any donated new equipment. Note: In-Kind Allocations require 2X the match.
- **Personal Protective Equipment (PPE)**
Enter the PPE allocation from the front page into this cell. **Note: The PPE allocation can only be spent on PPE. PPE allocations are matched by state funding.**
- **All other**- Enter the total estimated cost for all other items. Must receive pre-approval from DEMHS Regional Coordinator.
- **Unallocated** – This is the remaining balance of funding that you have not yet allocated to a particular category.

EMPG Subgrant Budget (Fill In Green Cells Only)	
PER CAPITA AWARD	
Total:	\$22,840.65
Federal Per Capita Share:	\$11,420.33
Match:	\$11,420.33
SUBGRANT ALLOCATION	
Total:	\$22,840.65
Federal Per Capita Share:	\$11,420.33
Match (Includes In-Kind):	\$12,920.33
Personnel:	\$16,840.67
Allocate (Enter) the total estimated cost for salaries or stipends for full or part-time EMD's, Deputy EMD's and support staff. If claiming fringe, please provide a fringe benefits letter from the Municipal Finance Director.	
Organization:	\$500.00
Allocate (Enter) the total estimated cost for your phone bills, fax, internet bills, cable TV, WIFI etc. Please note that all services must be concluded and paid before seeking reimbursement.	
Equipment:	\$2,412.34
Allocate (Enter) the total estimated cost for your anticipated equipment needs including printers, computers, radios, phone systems, EOC furniture etc.	
In-Kind - Requires Double Match:	\$1,500.00
Allocate (Enter) the total estimated cost for any in-kind costs including Volunteer EMDs, Deputy EMDs or Support Staff time and any donated new equipment. Note: In-Kind Allocations require 2X the match. For a volunteer time form please visit the DEMHS website at http://www.ct.gov/demhs/cwp/view.asp?a=1910&q=411692	
Personal Protection Equipment:	\$1,087.64
Allocate (Enter) the total amount of PPE shown for your town here. PPE funding may be used for face masks, sanitizer, gloves, no touch devices, shields etc. No match is required for PPE.	
All Other Costs	\$500.00
Allocate (Enter) the total amount of all other costs (Travel, Training, Mileage, Meetings, EOC Activations, Emergency Responses etc..	
Unallocated:	\$0.00
Certification: I hereby certify that the information contained herein is based	

Section E. EMPG Master Staffing Pattern and Training History

The purpose of this form is to collect information regarding employees who will be funded under the Emergency Management Performance Grant (EMPG). Shown on the form are the current training records (completed courses are marked with their dates of completion) by your EMPG funded staff according to our records. These courses are required for all staff funded partially or fully under the EMPG.

Instructions: If you have completed additional courses please fill in the dates of completion for any courses. Please provide a copy of the course certificate(s). The deadline for new staff to complete all of the required courses is September 30, 2024.

[illegible]

If an employee funded by EMPG has yet to complete the Required FEMA IS courses at <https://training.fema.gov/is/searchis.aspx?search=PDS> (Professional Development Series) please complete the missing courses and submit your training certificate to your Division of Emergency Management and Homeland Security (DEMHS) Regional Office. If you need to request training certificates from FEMA, please request your transcript using the Transcript Request Form – EMI. You can find this form on our website at <https://training.fema.gov/emiweb/downloads/tranrqst1.pdf>

SECTION F. NEMA QUESTIONNAIRE

Each year the Division of Emergency Management and Homeland Security (DEMHS) fills out a survey from the National Emergency Management Association (NEMA). The purpose of the survey is to justify the funding we receive under the Emergency Management Performance Grant (EMPG).

To help us in filling out the survey for FY 2023, DEMHS is asking our EMPG participating towns to answer a few brief questions. Your answers will assist NEMA in justifying continued funding of the EMPG program to Congress.

1. What is your total emergency management budget: \$41,908.00
Please provide your total budget even if these costs exceed your EMPG allocation.

2. Is your Emergency Management Director?:
 (Check One)
 - ☐ Full-Time
 - ☒ Part-Time
 - ☐ Volunteer

3. Which official (if any) has the authority to issue a mandatory evacuation order?:
 (Check One)
 - ☐ Mayor
 - ☒ First Selectman
 - ☐ Town Manager
 - ☐ Other

SECTION G. OPT OUT STATEMENT

If a municipality desires to opt out of receiving funding this year, please send an email from the municipal Finance Director to your DEMHS Regional Office containing the following language:

The municipality of _____ is electing to opt-out of the Emergency Management Performance Grant for FY 2023. We understand that our municipality is forgoing matching funding for emergency management activities for the period from 10/1/23 to 9/30/24.

Sincerely,

Finance Director

Note: If the municipality reconsiders their decision at a later date, the municipality can still apply for FY 2023 EMPG funding up until the final deadline of March 30, 2024.

Attachment C

9B

Broad Brook Library Association

78 Main Street PO Box 94

Broad Brook CT 06016

860-627-0493

Since 1919



28 December 2023

East Windsor Board of Selectmen,

Folks,

The Broad Brook Library Association is requesting a waiver of the audit requirement as outlined in EW Ordinance 81-2 and Section 8-9B Annual Audit.

The Broad Brook Library Association has been receiving \$25,000 annually in recent years.

The cost of a certified audit as outlined will cost about 40 to 60 % of the funds being provided. We believe that this would be a poor use of taxpayer dollars and would provide little value.

Please note that there are no CPA's in East Windsor at this time. All that appear to be listed in searches are no longer in business here. We pride ourselves in trying to keep our uses of services in East Windsor.

Thank you for your consideration.

Paul Anderson

President

Broad Brook Library Association Inc



FREEDOM OF INFORMATION

Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov



Attachment F

Lynn Stanley

Complainant

against

Town of East Windsor; First Selectman,
Office of First Selectman, Town of East Windsor;
and Office of First Selectman, Town of
East Windsor,

Notice of Meeting

Docket #FIC 2023-0020

Respondents

December 28, 2023

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

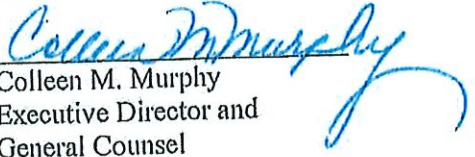
This will notify you that the Commission will consider this matter for disposition at its meeting which will be held **in person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **2:00 p.m. on Wednesday, January 10, 2024.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission ***ON OR BEFORE January 8, 2024.*** Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed ***ON OR BEFORE January 8, 2024.*** PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed ***ON OR BEFORE January 8, 2024*** and that notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.

By Order of the Freedom of
Information Commission


Colleen M. Murphy
Executive Director and
General Counsel

Notice to: Attorney Keith Yagaloff
Attorney Joshua A. Hawks-Ladds

FIC# 2023-0020/CMM/2023-12-28

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Lynn Stanley,

Complainant

against

Docket # FIC 2022-0020

First Selectman, Office of the First
Selectman, Town of East Windsor; Office of
the First Selectman, Town of East Windsor;
and Town of East Windsor,

Respondents

December 28, 2023

The above-captioned matter was heard as a contested case on May 4, 2023, June 15, 2023, and September 27, 2023, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. By order of the hearing officer, the hearing was reopened for purposes of taking additional evidence regarding the applicability of claimed exemptions. The reopened hearing was held on December 11, 2023, at which time the complainant and the respondents appeared, presented testimony and argument on the complaint.¹

On October 11, 2023, pursuant to an order of the hearing officer, the respondents submitted one after-filed exhibit, which has been marked as Respondents' Exhibit 2: Affidavit of Attorney Joshua A. Hawks-Ladds.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by email dated November 14, 2022, the complainant requested that the respondents provide her with copies of:

[a] [A]ll documents, requests for proposals, estimates, invoices,
bids or legal opinions related to and/or concerning the Town of

¹ The caption has been amended to change "Town of East Windsor; First Selectman, Office of the First Selectman, Town of East Windsor; and Office of the First Selectman, Town of East Windsor" to "First Selectman, Office of the First Selectman, Town of East Windsor; Office of the First Selectman, Town of East Windsor; and Town of East Windsor."

East Windsor proposed Community Center referenced in the November 8, 2022, Referendum Question #2.

[b] [A]ll correspondence, communications, including emails, mailings, newspaper articles, social media posts, robo calls, and other electronic communication and documents related and/or concerning the proposed Community Center referenced in the November 8, 2022, Referendum Question #2.

The complainant requested that the respondents include the following:

the amount of time and money employees spent working on this project such as employee meetings, town meetings, date and time of meetings and discussions, meetings and discussions with the Scout Hall board of directors or members, all presentations and discussions (such as senior center events), telephone calls, robo calls, video preparation and presentations, door to door campaigning, and compensatory time provided to employees for the Town of East Windsor proposed Community Center referenced in the November 8, 2022, Referendum Question #2. ("November 14th request").

3. It is found that by email sent on November 18, 2022, the respondents acknowledged the November 14th request.

4. It is found that the Executive Assistant to the respondent First Selectman, who is responsible for coordinating responses to records requests received by the respondents, followed her "usual procedure" and, after discussing the request with the First Selectman, forwarded the November 14th request to other town departments that they believed may also have responsive records, and requested that such departments conduct a search for such records.

5. It is found that on December 2, 2022, the complainant followed-up with the respondents regarding the status of the November 14th request.

6. It is found that on December 5, 2022, the respondents informed the complainant that they were processing the November 14th request.

7. It is found that on January 16, 2023, the complainant again followed-up with the respondents regarding the status of the November 14th request.

8. By letter of complaint received on January 23, 2023,² the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the November 14th request described in paragraph 2, above.

² Although the complaint was stamped by the Commission as received and filed on January 24, 2023, the complaint was emailed to the Commission by the end of business day on January 23, 2023.

9. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

10. Section 1-210(a), G.S., provides, in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours ... or (3) receive a copy of such records in accordance with the provisions of section 1-212.

11. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

12. It is concluded that the requested records, to the extent such records exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

13. It is found that by email sent on January 30, 2023, the respondents informed the complainant that they were in the process of compiling records responsive to the November 14th request. It is found that by email dated that same day, the complainant thanked the respondents for the update.

14. It is found that on March 21, 2023 the respondents wrote to the complainant describing her request as “vexatious” and stating that such “vexatious requests are exceedingly onerous for Town staff having to cull through and compile responsive information within the constraints of regular Town business hours.” It is found that the respondents also informed the complainant that they had compiled approximately 1400 pages of records responsive to the November 14th request and requested a prepayment of \$700 for copies of such records. It is found that the respondents also informed the complainant that, if she chose to review the records in person, the charge would be \$20 per visit.

15. It is found that on or about March 30, 2023, the complainant reviewed the records, described in paragraph 14, above, at the East Windsor Town Hall. It is found that the complainant requested copies of certain records (consisting of 66 pages).

16. At the hearings in this matter and in her post-hearing briefs, the complainant maintained that the respondents violated the FOI Act by failing to provide her with all responsive records.

Respondents' Jurisdictional Claims

17. The respondents first claim that the Commission lacks subject matter jurisdiction because the complainant did not file her complaint with the Commission within 30 days of when the November 14th request was deemed to be constructively denied pursuant to §1-206(a), G.S.

18. Section 1-206, G.S., provides in relevant part:

(a) Any denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request.... Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial.

(b)(1) Any person denied the right to inspect or copy records under section 1-210 ... or denied any other right conferred by the [FOI] Act may appeal therefrom to the [FOI] Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial....

19. In *City of Bridgeport v. FOI Commission*, 222 Conn. App. 17, 41-42 (2023), the Court concluded that "a denial of a request, either in fact or pursuant to [§1-206(a), G.S.,] is an essential fact that goes to the merits of a complaint before the [C]ommission," and "does not implicate the [C]ommission's jurisdiction" Thus, whether the complainant's request was deemed to be denied under §1-206(a), G.S., at the time the complaint was filed does not go to the Commission's jurisdiction, but to the merits of whether the respondents violated the FOI Act.

20. Moreover, as found in paragraph 7, above, on January 16, 2023, the complainant contacted the respondents to check on the status of her request. It is found that, in response, the respondents neither provided the requested records nor denied the request within four business days of receiving such request. It is therefore found, pursuant to §1-206(a), G.S., that the respondents constructively denied the complainant's request on January 20, 2023.

21. It is further found that the complainant filed her complaint with the Commission three days later on January 23, 2023. It is therefore found that the notice of appeal in this matter was filed within 30 days after the denial of the records request.

22. The respondents next claim that the Commission's jurisdiction over the complaint in this matter is limited to whether the respondents "failed to respond" to the November 14th request, and that any claims regarding the "completeness" and "responsiveness" of their response are not properly before the Commission.

23. Pursuant to §1-210(a), G.S., the complainant had the right to promptly obtain a complete copy of all public records she requested. Necessarily implicit in that right, is the right to challenge limitations placed on such right, including, the withholding of responsive records.

24. It is found that as of January 23, 2023, the date of the filing of the complaint in this matter, the respondents had not yet provided the complainant with any responsive records, nor informed her that they would be withholding any records.

25. It is found that the respondents first informed the complainant and the Commission that they had withheld records which were publicly available and records which they claimed were exempt from disclosure at the hearings in this matter.

26. It is found that the complainant could not have alleged in her complaint, which was filed on January 23, 2023, that the respondents' production was incomplete or nonresponsive since the respondents provided the complainant with records only after the complaint was filed.

27. It is found that the scope of the complaint was not limited to whether the respondents had failed to respond to the request. Consequently, it is found that the Commission has jurisdiction to address the issues concerning the respondents' withholding of responsive records, including their claims of exemptions.³

Whether the Respondents Violated the Act

28. The respondents claim that they provided the complainant with all responsive

³ See *City of Bridgeport v. FOI Commission*, 222 Conn. App. 17, 42 (2023), where the Appellate Court held that the complainant "had no obligation to amend his complaint to allege that the plaintiffs violated the act by redacting portions of the responsive records, as such a claim is encompassed within the allegation that the plaintiffs failed to comply with his request for *all* responsive records. Furthermore, because the plaintiffs bore the burden of proof as to any claimed exemption, they were not prejudiced by the commission's consideration of those exemptions as part of its consideration of Daley's complaint. This is particularly true in the present case, in which the hearing officer continued the hearing to another date to give the plaintiffs an opportunity to present evidence in support of their claimed exemptions." *Bridgeport v. FOIC*, at 29.

records that they maintain and keep on file, except for records that are publicly available and records that they claim are exempt from disclosure. They also claim that they promptly provided to the complainant copies of the responsive records.

29. With respect to the respondents' claim that records were publicly available and therefore not provided, it is found that the complainant requested *copies* of all responsive records.

30. It is found that, at the time of the November 14th request, certain responsive records were publicly available on the official website for the Town of East Windsor and on the official Facebook page for the respondent First Selectman, including agendas, minutes, financial information, articles and social media postings made by the respondent First Selectman in his official capacity as the First Selectman. It is unclear from the administrative record what other responsive records were publicly available at that time and not provided to the complainant.

31. It is found that the respondents did not inform the complainant that responsive records were publicly available, nor direct the complainant at any time to the official town website and official Facebook page for the First Selectman.

32. It is found that the respondents failed to provide, or make available to the complainant, responsive records that were publicly available at the time of the November 14th request.⁴

33. It is therefore concluded that the respondents violated §§1-210(a) and 1-212, G.S., with respect to those responsive records that were publicly available at the time of the November 14th request, and not provided or made available to the complainant.

34. With respect to the respondents' claim that certain responsive records were exempt from disclosure, on October 27, 2023, pursuant to an order of the hearing officer, the respondents submitted unredacted copies of such records for in camera inspection, along with an in camera index. Such records were marked as IC-2023-0020-Record 1 (pages 1-10) through IC-2023-0020-Record 30 (pages 163-166).⁵ On the in camera index, the respondents claimed that such records are exempt pursuant to §§1-210(b)(1), 1-210(b)(5) and/or 1-210(b)(10), G.S.

35. It is found that the following in camera records did not exist at the time of the

⁴ See Dorman v. Chairman, Board of Education, Glastonbury Public Schools, et. al.; Docket #FIC 2017-0219 (July 26, 2017), where the Commission found that the respondents did not violate the FOI Act when they directed the requestor to the website, informed her that all the requested information was posted on the website, and offered to send her the records if she could not find them on the website as directed.

⁵ At the December 11, 2023 reopened hearing, the respondents testified that they were no longer claiming an exemption from disclosure for certain records and were prepared to provide unredacted copies of such records to the complainant. The complainant, however, continued to challenge the respondents' claims that such records were exempt from disclosure at the time of her November 14th request.

November 14th request and therefore are not responsive and will not be further addressed herein: Record 5 (pages 23-24), Record 11 (pages 37-38), Record 14 (pages 42-52), Record 17 (pages 73-88) and Record 29 (page 162).

36. The respondents claim that IC-2023-0020-Record 1 (pages 1-10), IC-2023-0020-Record 2 (pages 11-17), IC-2023-0020-Record 4 (pages 19-22)⁶ and IC-2023-0020-Record 7 (page 26) are exempt from disclosure pursuant to §1-210(b)(10), G.S., which permits a public agency to withhold from disclosure records of "communications privileged by the attorney-client relationship."

37. The applicability of the exemption contained in §1-210(b)(10), G.S., is governed by established Connecticut law defining the privilege. That law is set forth in Maxwell v. FOI Commission, 260 Conn. 143 (2002). In that case, the Supreme Court stated that §52-146r, G.S., which established a statutory privilege for communications between public agencies and their attorneys, merely codifies "the common-law attorney-client privilege as this court previously had defined it." Id. at 149.

38. Section 52-146r(2), G.S., defines "confidential communications" as:

all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice. . . .

39. The Supreme Court has also stated that "both the common-law and statutory privileges protect those communications between a public official or employee and an attorney that are confidential, made in the course of the professional relationship that exists between the attorney and his or her public agency client, and relate to legal advice sought by the agency from the attorney." Maxwell, *supra*, at 149.

40. Based upon careful in camera inspection and testimony in the record, it is found that IC-2023-0020-Record 1 (pages 1-10), IC-2023-0020-Record 2 (pages 11-17), IC-2023-0020-Record 4 (pages 19-22) and IC-2023-0020-Record 7 (page 26) consist of written communications transmitted in confidence between counsel for the respondents and public officials. It is also found that such records relate to legal advice sought by the respondents or in furtherance of the rendition of such legal advice, within the meaning of §§1-210(b)(10) and 52-

⁶ On the in camera index, the respondents claimed that IC-2023-0020-Record 4 (pages 19-22) is exempt from disclosure pursuant to §1-210(b)(1), G.S., only. However, at the reopened hearing in this matter, they claimed that such record was also exempt from disclosure pursuant to §1-210(b)(10), G.S.

146r(2), G.S. It is further found that the respondents did not waive their claim of privilege with respect to such records.

41. It is therefore concluded that the in camera records, described in paragraph 36, above, are exempt from disclosure pursuant to §1-210(b)(10), G.S. It is further concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding such records from the complainant.⁷

42. The respondents claim that the following in camera records are exempt from disclosure pursuant to §1-210(b)(1), G.S.: IC-2023-0020-Record 3 (page 18), IC-2023-0020-Record 6 (page 25), IC-2023-0020-Record 8 (pages 27-31), IC-2023-0020-Record 9 (pages 32-34), IC-2023-0020-Record 10 (pages 35-36), IC-2023-0020-Record 12 (page 39), IC-2023-0020-Record 13 (pages 40-41), IC-2023-0020-Record 15 (pages 53-57), IC-2023-0020-Record 16 (pages 58-72), IC-2023-0020-Record 18 (pages 89-91), IC-2023-0020-Record 19 (pages 92-98), IC-2023-0020-Record 20 (pages 99-126), IC-2023-0020-Record 21 (pages 127-129), IC-2023-0020-Record 22 (pages 130-132), IC-2023-0020-Record 23 (pages 133-136), IC-2023-0020-Record 24 (pages 137-139), IC-2023-0020-Record 25 (pages 140-141), IC-2023-0020-Record 26 (pages 142-150), IC-2023-0020-Record 27 (pages 151-154), IC-2023-0020-Record 28 (pages 155-161), and IC-2023-0020-Record 30 (pages 163-166).⁸

43. Section 1-210(b)(1), G.S., provides that disclosure is not required of "preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure."

44. The Connecticut Supreme Court ruled in Wilson v. Freedom of Information Commission, 181 Conn. 324, 332 (1980) ("Wilson"), that:

[w]e do not think the concept of preliminary, as opposed to final, should depend upon who generates the notes or drafts, or upon whether the actual documents are subject to further alteration....

Instead the term 'preliminary drafts or notes' relates to advisory opinions, recommendations, and deliberations comprising part of the process by which government decisions and policies are formulated....

⁷ The respondents also claim that IC-2023-0020-Record 1 (pages 1-10), IC-2023-0020-Record 2 (pages 11-17), IC-2023-0020-Record 4 (pages 19-22) and IC-2023-0020-Record 7 (page 26) are exempt from disclosure pursuant to §1-210(b)(1), G.S. However, in light of the conclusion in paragraph 41, above, no further claims of exemption with respect to such records will be addressed herein.

⁸ The respondents also claim that IC-2023-0020-Record 3 (page 18) and IC-2023-0020-Record 12 (page 39) are exempt from disclosure pursuant to §1-210(b)(5), G.S. However, in light of the conclusion in paragraph 56, below, no further claims of exemption with respect to such records will be addressed herein.

...[p]reliminary drafts or notes reflect that aspect of an agency's function that precedes formal and informal decision making. We believe that the legislature sought to protect the free and candid exchange of ideas, the uninhibited proposition and criticism of options that often precedes, and usually improves the quality of, governmental decisions. It is records of this preliminary, deliberative and predecisional process the exemption was meant to encompass.

45. The year following Wilson, the Connecticut General Assembly passed Public Act 81-431, which added to the FOI Act the language now codified in §1-210(e)(1), G.S. That provision, which narrowed the exemption for preliminary drafts or notes, provides in relevant part:

[n]otwithstanding [§1-210(b)(1)], disclosure shall be required of:

[i]nteragency or intra-agency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated, except disclosure shall not be required of a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency.... (emphasis added).

46. In Van Norstrand v. Freedom of Information Commission, 211 Conn. 339, 343 (1989) ("Van Norstrand"), the Supreme Court provided further guidance regarding "preliminary drafts." Citing the dictionary definition, the court stated that the term "preliminary" means "something that precedes or is introductory or preparatory," and "something that is preceding the main discourse or business." Id. According to the Court, "[b]y using the nearly synonymous words 'preliminary' and 'draft', the legislation makes it very evident that preparatory materials are not required to be disclosed." Id.

47. Accordingly, §§1-210(b)(1) and 1-210(e)(1), G.S., together, permit nondisclosure of records of an agency's preliminary, predecisional, deliberative process, provided that the agency has determined that the public interest in withholding the records clearly outweighs the public interest in disclosing them and provided further that such records are not interagency or intra-agency memoranda or letters, advisory opinions, recommendations or reports comprising part of the process by which governmental decisions and policies are formulated. See Shew v. Freedom of Information Commission, 245 Conn. 149, 164-166 (1998) ("Shew").

48. With regard to the "balancing test" required by §1-210(b)(1), G.S., it is well established that the responsibility for making the determination as to what is in the public interest is on the agency that maintains the records. See Van Norstrand at 345. The agency must indicate

the reasons for its determination to withhold disclosure, which reasons may not be frivolous or patently unfounded. *Id.*, citing *Wilson* at 339. See also *People for Ethical Treatment of Animals, Inc. v. Freedom of Information Commission*, 321 Conn. 805, 816-817 (2016). Thus, the only determination for the Commission to make is whether the reasons for nondisclosure given by the agency are frivolous or patently unfounded. See *Lewin v. Freedom of Information Commission*, 91 Conn. App. 521, 522-523 (2005); *Coalition to Save Horsebarn Hill v. Freedom of Information Commission*, 73 Conn. App. 89, 99 (2002).

49. Based upon careful in camera inspection and testimony in the record⁹, it is found that the following in camera records consist of email cover pages: IC-2023-0020-Record 8 (page 27), IC-2023-0020-Record 9 (page 32), IC-2023-0020-Record 13 (page 40), IC-2023-0020-Record 15 (page 53), IC-2023-0020-Record 16 (page 58), IC-2023-0020-Record 18 (page 89), IC-2023-0020-Record 19 (page 92), IC-2023-0020-Record 25 (page 140), and IC-2023-0020-Record 28 (page 155).

50. It is found that the in camera records described in paragraph 49, above, do not constitute "preliminary drafts or notes", within the meaning of §1-210(b)(1), G.S. Accordingly, it is found that such records are not exempt from disclosure, and that the respondents violated §§1-210(a) and 1-212(a), G.S., by withholding such records from the complainant.

51. Based upon careful in camera inspection and testimony in the record, it is found that the following in camera records consist of draft budget documents, a draft executive summary, a draft lease, a draft powerpoint, draft design plans and prints, a draft electrical design plan, draft mechanical and plumbing design plans, draft architectural plans, or substantive emails:

IC-2023-0020-Record 3 (page 18), IC-2023-0020-Record 6 (page 25), IC-2023-0020-Record 8 (pages 28-31), IC-2023-0020-Record 9 (pages 33-34), IC-2023-0020-Record 10 (pages 35-36), IC-2023-0020-Record 12 (page 39), IC-2023-0020-Record 13 (page 41), IC-2023-0020-Record 15 (pages 54-57), IC-2023-0020-Record 16 (pages 59-72), IC-2023-0020-Record 18 (pages 90-91), IC-2023-0020-Record 19 (pages 93-98), IC-2023-0020-Record 20 (pages 99-126), IC-2023-0020-Record 21 (pages 127-129), IC-2023-0020-Record 22 (pages 130-132), IC-2023-0020-Record 23 (pages 133-136), IC-2023-0020-Record 24 (pages 137-139), IC-2023-0020-Record 25 (page 141), IC-2023-0020-Record 26 (pages 142-150), IC-2023-0020-Record 27 (pages 151-154), IC-2023-0020-Record 28 (pages 156-161), and IC-2023-0020-Record 30 (pages 163-166).

52. At the reopened hearing, the town attorney testified that the in camera records described in paragraph 51, above, relate to a highly contested and controversial project in the Town of East Windsor that would be going out to bid, if approved. The town attorney also testified that the disclosure of such records, which were incomplete and subject to change, would have negatively impacted bidding, and harmed the progress and scope of the project.

53. It is found that the records described in paragraph 51, above, are "preliminary drafts or notes," as such records are preparatory or predecisional.

⁹ At the reopened hearing, the respondents described the in camera records referenced in paragraph 49, above, as nonsubstantive email transmittals.

54. It is found that the respondents conducted the required balancing test and determined that the public interest in withholding the records clearly outweighed the public interest in disclosure. It is also found that the balancing test was undertaken in good faith, and that the reasons for nondisclosure are not frivolous or patently unfounded.

55. It is also found that the records, described in paragraph 51, above, are not "[i]nteragency or intra-agency memoranda or letters, advisory opinions, recommendations or any report" that are required to be disclosed pursuant to §1-210(e), G.S.

56. Based upon the foregoing, it is concluded that the in camera records described in paragraph 51, above, are exempt from disclosure pursuant to §1-210(b)(1), G.S., and that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding such records from the complainant.

57. It is found that the respondents provided the complainant with all responsive records that they maintained or kept on file, except for those records that were publicly available as described in paragraph 30, above, and those records that they claimed were exempt from disclosure as described in paragraph 34, above.

58. It is also found that, while the respondents reached out to other town departments, as described in paragraph 4, above, and thereafter facilitated the provision of those agencies' responsive records to the complainant, they did not have a duty to maintain or make available the records of another public agency. See Lash v. Freedom of Info. Comm'n, 116 Conn. App. 171, 187 (2009) ("[the first selectman] has no duty to maintain or make available the records of the law department, just as the law department has no duty to maintain or disclose the records of the first selectman"), affirmed in part and reversed in part, 300 Conn. 511 (2011) (Appellate Court's order remanding the case to the Commission for further evidence was reversed).

59. Finally, with respect to the complainant's claim that the respondents failed to comply with her request promptly, the Commission has defined the word "promptly," as used in §§1-210(a) and 1-212(a), G.S., to mean "quickly and without undue delay, taking into account all of the factors presented by a particular request [including]: the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requestor needs the information contained in the records; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request." FOI Commission Advisory Opinion #51, *In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk* (Jan. 11, 1982).

60. The respondents testified, and it is found, that they immediately began processing the November 14th request, and that such process took a considerable amount of time. The respondents testified, and as already found in paragraphs 4 and 58, above, that the process involved searching for and compiling records maintained and kept by the respondent First Selectman, and reaching out to and facilitating the provision of responsive records maintained and kept by other town departments.

61. The respondents testified, and it is found, that the November 14th request was filed during the holiday season, and at a time when staff responsible for processing records requests had scheduled days off. It is found that, in addition to their daily duties, the respondents were very busy with time-sensitive projects such as working on the annual Town budget and annual audit of Town finances.

62. The respondents also testified, and it is found, that although some records responsive to the November 14th request were compiled and available as early as December 2022, they waited to produce the records to the complainant until all records were compiled and reviewed by the Town attorney, rather than on a rolling basis. The respondents testified that due to the complainant's "litigious" approach, they wanted to ensure that the production of responsive records was "complete" and "comprehensive", and to avoid allegations that their response was "inconclusive" and that they were withholding records.

63. It is found that the complainant did not inform the respondents of the particular importance of the records, nor a specific timeframe by when she needed the records.

64. Based on the foregoing, and under the facts and circumstances of this case, it is found that the respondents acted quickly and without undue delay in responding to the complainant's November 14th request, except with respect to those responsive records that were publicly available at the time of the request. It is therefore concluded that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S., but only with respect to those publicly available records.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within 45 days of the Notice of Final Decision in this matter, the respondents shall provide the complainant with unredacted copies of the records identified in paragraphs 30 and 49, above, free of charge.

2. Henceforth, the respondents shall strictly comply with the disclosure and promptness requirements of §§1-210(a) and 1-212(a), G.S.

/s/ Paula S. Pearlman

Paula S. Pearlman
as Hearing Officer

Attachment G

9D

Process Refund Record (s) : TOWN OF EAST WINDSOR Int Date: 01/02/2024 Date: 01/02/2024 Page: 1

Bill Dist/Susp/Bank	Name Address	Prop Loc/Vehicle Info. UniqueID/Reason	Paid Date	Tax	Int	L/F	Total Adjusted	Overpaid Tax
2022-02-0040263	CUMBERLAND FARMS LLC #4776 + J FISHER	11 SOUTH MAIN ST						
1	P O BOX 4900	2021025	11/2/2023	8,315.01	0.00	0.00	8,315.01	-8,315.01
2022-03-0052664	SCOTTSDALE AZ 85261-4900	Sec. 12-129 Refund of Excess Payments.						
N	DAIMLER TRUST	2021/AZ93210/4JGFF5KE5MA320473		590.61	0.00	0.00	590.61	
M026	14372 HERITAGE PARKWAY	52664	7/13/2023	1,773.61	0.00	0.00	1,773.61	-1,183.00
2022-03-00533255	FORT WORTH TX 76177	2013/661YFR/1HGCR3F88DA045044		0.00	0.00	0.00	0.00	
	DZIKIEWICZ THOMAS E	53255	7/31/2023	288.24	0.00	0.00	288.24	-288.24
2022-03-0055014	17 HARRINGTON RD	Sec. 12-129 Refund of Excess Payments.						
	BROAD BROOK CT 06016	2015/AN47302/STDKRHF2FS194892		358.10	0.00	0.00	358.10	
	HUSSEIN YASER M	55014	7/6/2023	536.89	0.00	0.00	536.89	-178.79
2022-03-0055373	3 BROADVIEW LN	Sec. 12-129 Refund of Excess Payments.						
	EAST WINDSOR CT 06088-9533	2018/AN27817/UN3KEBCMAJ0331514		421.92	0.00	0.00	421.92	
	JONES LELAND M	55373	7/11/2023	562.53	0.00	0.00	562.53	-140.61
2022-03-0057833	38 HIGHLAND AVE	Sec. 12-129 Refund of Excess Payments.						
	BROAD BROOK CT 06016-9540	2020/AX37697/KMMAT2MVL2P517703		284.84	0.00	0.00	284.84	
M009	P O BOX 254648	57833	7/25/2023	569.67	0.00	0.00	569.67	-284.83
2022-03-0058974	SACRAMENTO CA 95865	Sec. 12-129 Refund of Excess Payments.						
	QUEEN JENNIFER L	2020/BF08647/2HKR2H56LH630002		0.00	0.00	0.00	0.00	
	119 WELLS RD	58974	8/1/2023	723.86	0.00	0.00	723.86	-723.86
2022-03-0058975	ERST WINDSOR CT 06088-9715	Sec. 12-129 Refund of Excess Payments.						
	QUEEN JOSHUA J	2007/AL49179/1HGCM55137A050462		0.00	0.00	0.00	0.00	
	119 WELLS RD	58975	7/3/2023	137.63	0.00	0.00	137.63	-137.63
2022-03-0061163	ERST WINDSOR CT 06088-9715	2020/9AVRR1/JTMNIRFV5LD054871		673.64	0.00	0.00	673.64	
M012	TOYOTA LEASE TRUST	61163	7/18/2023	898.17	0.00	0.00	898.17	-224.53
2022-03-0061195	20 COMMERCE WAY SUITE 900	Sec. 12-129 Refund of Excess Payments.						
	WOBURN MA 01801-1037	2020/AY88959/4T3EHRFV6J0008437		694.58	0.00	0.00	694.58	
M012	TOYOTA LEASE TRUST	61195	7/18/2023	926.08	0.00	0.00	926.08	-231.50
	20 COMMERCE WAY							
	WOBURN MA 01801-1057							
TOTAL				3,023.69	0.00	0.00	3,023.69	
				14,731.69	0.00	0.00	14,731.69	-11,708.00

Patricia Kunkel
Tax CollectorTotal Refund
\$11,708.00