

# TOWN OF EAST WINDSOR BOARD OF SELECTMEN

## REGULAR MEETING

Thursday, March 15, 2018

7:00 p.m.

Town Hall Meeting Room  
11 Rye Street, Broad Brook, CT. 06016

### Meeting Minutes

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

#### Board of Selectmen:

Robert Maynard, First Selectman  
Steve Dearborn., Deputy First Selectman  
Jason Bowsza, Selectman  
Andy Hoffman, Selectman  
Charles J. Szymanski, Selectman

**ATTENDANCE:** Board of Selectmen: Robert Maynard, First Selectman; Steve Dearborn, Deputy First Selectman; Selectmen: Jason Bowsza; Andy Hoffman; Charles J. Szymanski.

**GUESTS:** Town Staff: **Recreation and Community Services:** Melissa Maltese, Director; **Department of Public Works:** Len Norton, Director/Town Engineer; **Registrars of Voters:** Angelo Sevarino, Democratic Registrar; Linda Sinisgallo, Republican Registrars

;

Members of Boards, Committees, Commissions, or Town Entities:  
**250<sup>th</sup> Anniversary Committee:** Rebecca Talamini, Chairman; **Charter Revision Study Committee:** John Matthews, Co-Chairman; Keith `Yagaloff, Co-Chairman; John Mazza, Bill Loos; **Ethics Commission:** Tom Burnham, Chairman; Michael Scalzo; **Board of Finance:** Kathy Pippin, Sarah Muska, Bill Syme; **Police Commission:** Ed Filipone, Vice Chairman; .

Public: Paul Anderson; Marie DeSousa; Tom Talamini..

**Press:** No one from the Press was preent..

**TIME AND PLACE OF REGULAR MEETING:**

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First Selectman Maynard called the Meeting to Order at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

**PLEDGE OF ALLEGIANCE:**

Everyone present stood to recite the Pledge of Allegiance.

**AGENDA APPROVAL:**

**MOTION:** To APPROVE the Agenda amended to include the addition under **NEW BUSINESS** of Item 10F – Finalization of Park and Recreation Budget.

**Bowsza moved/Dearborn seconded/DISCUSSION:** None

**VOTE:** In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)

**ATTENDANCE:** See page 1.

**PUBLIC PARTICIPATION:**

**Paul Anderson, 89 Main Street:** Mr. Anderson reported he hoped to see everyone at the 35<sup>th</sup> Annual Farmer's Breakfast on Sunday, March 16<sup>th</sup> at the High School. The event is sponsored by the Lion's Club and runs from 8:00 to 11:30.

**Marie DeSousa, 10 Rice Road:** Mrs. DeSousa reported she had an opportunity to attend a public hearing at the Legislative Office Building regarding Bill 5305 which promotes a casino in Bridgeport. Mrs. DeSousa wanted to publicly thank (Representative) Chris Davis and (Senator) Tim Larson for their support for East Windsor. Also, Senator Kevin Ryan, Cathy Olsen, and others. They did an excellent job of going through the history of the reasons East Windsor was chosen, and why the money would stay in Connecticut. Mrs. DeSousa suggested it got a bit contentious with the people supporting Bridgeport; The Attorney General put through an opinion that regardless of what happens the revenue from slot machines to the State must be paid by the Tribes. Mrs. DeSousa suggested that MGM did a great job of bringing in people from Bridgeport; many of those people had no idea that part of the bill was the repeal of the bill passed last year allowing the East Windsor casino; they just thought that Bridgeport was going to get a fourth casino. Mrs. DeSousa suggested it will be a battle for us in town; First Selectman Maynard was out there by himself with representative of the Tribes. As a Town we need to put in more effort.

**Ed Filipone, 22 Scantic Road:** Speaking as a taxpayer and a resident he is opposed to the decision for the reduction of the Police Department Budget, and as a member of the Police Commission he invited the Selectmen to attend Police Commission Meetings, or write to the Deputy Chief or Chief to ask what they do and why they do it; they've been in the policing business for 25 plus years and have more degrees than we can imagine. Mr. Filipone felt it

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would be best for the Town for the Selectmen to become familiar with what they do and why they do it.

**APPROVAL OF MEETING MINUTES/February 17, 2018 Special Budget Revised Meeting Minutes:**

**MOTION:** To APPROVE the Minutes of the Board of Selectmen Special Budget Revised Meeting dated February 17, 2018 as presented.

Maynard moved/Szymanski seconded/**DISCUSSION:** None.

**VOTE:** In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)

**APPROVAL OF MEETING MINUTES/February 28, 2018 Special Budget Meeting Minutes:**

**MOTION:** To APPROVE the Minutes of the Board of Selectmen Special Budget Meeting dated February 28, 2018 as presented.

Maynard moved/Hoffman seconded/**DISCUSSION:** None.

**VOTE:** In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)

**APPROVAL OF MEETING MINUTES/March 1, 2018 Amended Regular Meeting Minutes:**

**MOTION:** To APPROVE the Minutes of the Board of Selectmen Amended Regular Meeting dated March 1, 2018 as presented.

Maynard moved/Hoffman seconded/**DISCUSSION:** None.

**VOTE:** In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)

**APPROVAL OF MEETING MINUTES/March 5, 2018 Special Meeting Minutes:**

**MOTION:** To APPROVE the Minutes of the Board of Selectmen Special Meeting dated March 5, 2018 as presented.

Maynard moved/Dearborn seconded/**DISCUSSION:** None.

**VOTE:** In Favor: Unanimous (Maynard/Dearborn/Hoffman/Szymanski)  
Opposed: No one  
Abstained: Bowsza

**APPROVAL OF MEETING MINUTES/March 8, 2018 Special Meeting Minutes:**

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Approval postponed to the next meeting; Minutes require amending.

**COMMUNICATIONS:**

Nothing presented this evening.

**BOARDS AND COMMISSIONS RESIGNATIONS AND APPOINTMENTS/A.**

**Resignations:** Jack Mannette, Charter Revision Study Committee:

**MOTION:** To ACCEPT, with regret, the resignation of Jack Mannette from the Charter Revision Study Committee.

Maynard moved/Hoffman seconded/**DISCUSSION:** None.

**VOTE:** In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)

**BOARDS AND COMMISSIONS RESIGNATIONS AND APPOINTMENTS/B**

**Reappointments:** .None.

**BOARDS AND COMMISSIONS RESIGNATIONS AND APPOINTMENTS/C. New**

**Appointments:** None.

**UNFINISHED BUSINESS/A. East Windsor's 250<sup>th</sup> Anniversary Committee Report:**

Rebecca Talamini, Chairman of the 250<sup>th</sup> Anniversary Committee, joined the Board with the following update:

- March 21, Wednesday, Victorian Lady Tea at the Senior Center from 12:30 to 2:30, tea tasting and photo booth.
- April – for the entire month – collection of new or used shoes for Soles4Souls, an Nashville based charitable organization that dispenses these shoes both locally and around the world. Collection boxes will be available at various locations, including the Town Hall.
- Home Show was held this past weekend. Volunteers were available to market Anniversary merchandise.

**UNFINISHED BUSINESS/B/ Casino:**

Members of the Board and the audience spoke again of the recent public hearing at the Capitol regarding the new bill to create a process to enable private developers to submit proposals for gaming establishments in Connecticut; the bill would negate the approval last year of the casino proposed by MMCT in East Windsor. First Selectman Maynard reviewed the various speakers who commented at the Capitol. Selectman Bowsza provided a summary of the process going forward. Discussion continued reiterating Mrs. DeSousa's comments and observations.

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First Selectman Maynard noted the time, and made the following motion to recess the Board of Selectmen's Meeting and open the Town Meeting..

**MOTION: To RECESS this Meeting at 7:30 p.m.**

**Maynard moved/Bowsza seconded/DISCUSSION: None**

**VOTE: In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)**

First Selectman Maynard RECONVENED the March 15<sup>th</sup> Regular Meeting of the Board of Selectmen at 7:40 p.m.

**MOTION: To MOVE Item 10F – Finalization of Parks and Recreation Department Budget under NEW BUSINESS up in the Agenda order.**

**Bowsza moved/Hoffman seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)**

**NEW BUSINESS/F. Finalization of Parks and Recreation Department Budget (710200):**

The total amended Budget request for the Parks and Recreation Department for FY 2018 – 2019 was \$278,140, which results in a 19.58 % increase as reflected in the FY 18 – 19 budget document provided to the Board 3/14/2018. First Selectman Maynard noted the Board had previously reduced Supplies and Equipment by \$3,000, and removed the request for the storage container under Capital Purchases.

Melissa Maltese, Director of Recreation and Community Services, joined the Board.

Selectman Bowsza opened discussion by asking how many acres were included in Parks and Recreation? Mrs. Maltese reported the department maintains 7 parks and playgrounds, which is inclusive of 120 acres. Selectman Bowsza noted the cost of fertilizer came up, other than the 120 acres, what else do you do? Mrs. Maltese reported they do grub control on the irrigated fields, and do pelletized lime on Abbe Road. Selectman Bowsza questioned that when Mrs. Maltese prices out the fertilizer cost do you call someone, or is there an estimate on a professional standard? Mrs. Maltese reported they look at who can price the one "step" program used for the parks; they do call for pricing. First Selectman Maynard questioned if the maintainer works for Public Works would it be wise for the Public Works Department to purchase the materials rather than Park and Recreation? Mrs. Maltese suggested that when the Parks and Recreation Maintainer was reassigned to the Public Works Department she was told to keep the materials in her budget. Selectman Szymanski returned to discussion of pricing, he recalled the Mrs. Maltese had said she purchased fertilizer from Agway in Ellington. Mrs. Maltese suggested she had miscommunicated; she has worked with Crop Production. Selectman Szymanski reported he spoke with Bill Syme of Crop Production; he was told it's been a lot of years since someone in Town has purchased materials from Crop Production; Mr. Syme had said

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he could give a break to the Town. Mrs. Maltese suggested she'll get a better handle on the process in the future. Selectman Bowsza noted the line item for Supplies and Equipment had been reduced; did Mrs. Maltese feel she had enough funding to adequately maintain the grounds? Mrs. Maltese felt she would be ok, and could reallocate other funds if necessary. Selectman Bowsza then turned discussion to pest management; Mrs. Maltese explained the process, noting the application is weather dependent.

Selectman Hoffman noted that within the over 100 acres of Park land Mr. Norton of the Public Works Department had researched for him that approximately 50 acres of land are maintained; Mr. Norton, speaking from the audience didn't recall the conversation but felt that if you take out the treed area probably 50 acres was maintained. Selectman Bowsza questioned if that included "the Res"? Mr. Norton replied affirmatively. Selectman Bowsza turned discussion to treatment of algae at the waterfront, the effect of algae on water quality, and the resulting closure of the park until the chemicals take effect.

Selectman Szymanski questioned if he was wrong in presuming that most of the cost of part-time employees were Summer employees? Mrs. Maltese noted she's had a vacancy for a part-time employee but most of the part-time salary is Summer help. Mrs. Maltese reported the part-time salary line includes the bump for the people from 15 to 19 hours. Selectman Szymanski recalled that Mrs. Maltese said there would be a reduction of a person in the snack bar. Mrs. Maltese indicated she didn't say she wouldn't be bumping people to 19 hours; that was negotiated. First Selectman Maynard suggested that when Mrs. Maltese was reassigned between the three departments they felt they could increase the part-time people from 15 to 19 hours. Selectman Szymanski indicated he was going on what was said to the Board, that there would be no increase as Mrs. Maltese had said she could do it. Selectman Bowsza suggested that in the reorganization there would be a net savings of \$30,000. Selectman Hoffman cited that at the time it was presented it was to be a savings of \$35,000, now it's \$30,000. First Selectman Maynard indicated the Town is saving on pension and benefits; he felt Mrs. Maltese was doing well with the reorganization. Selectman Szymanski indicated he didn't question that but he was told there would be no increase in staff to do this and they would be taking one person from the snack bar to save money. First Selectman Maynard noted that after changing that line the total budget for Park and Recreation for FY 2018 – 2019 is \$278,140.

**MOTION: MOVE to APPROVE the total department budget for the Parks and Recreation Department as amended in the amount of \$278,140.**

**Maynard moved/Bowsza seconded/DISCUSSION:** First Selectman Maynard indicated he understands Selectman Szymanski feels the part-time salary line should be reduced. Selectman Hoffman suggested he heard the discussion the same way as Selectman Szymanski; it was his understanding that Mrs. Maltese could operate with no increase in staff and he interpreted that to be no increase in hours. Selectman Hoffman didn't feel there should be an increase in the part-time salary line either. Deputy First Selectman Dearborn understood it to be that we would be saving a few bucks. Selectmen Szymanski and Hoffman agreed that savings were being realized but they had not understood there to be an increase in salaries.

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**VOTE:           In Favor:     Bowsza/Dearborn  
                  Opposed:     Hoffman/Szymanski**

**First Selectman Maynard voted in favor of the motion to break the tie; the motion passed.**

**NEW BUSINESS/A. Charter Revision Study Committee Monthly Report:**

John Matthews, Co-Chairman of the Charter Revision Study Committee joined the Board. Co-Chairman Keith Yagaloff was available in the audience.

Mr. Matthews reported he's present to give a status report of the work the Charter Revision Study Committee has done so far. He noted the Study Committee was formed in December; the Charter Revision Committee, which will present the actual changes, will follow the Study Committee. Mr. Matthews discussed the 18 month timeframe for the revision process, noting the intent is to put proposed changes out to vote in November of 2019; to accomplish this they Charter Revision Committee would have to begin work in May, 2018. Mr. Matthews noted the State allows review of a Town's Charter every 5 years. He cited there was a Charter Revision Commission which did a lot of work in 2014 but their proposals were never brought to the voters.

Mr. Matthews reviewed the status of the Study Committee, the findings made during the meetings held to date, and presented topics being discussed. Mr. Matthews gave a video presentation while discussing the Committee's progress; *see attachment A* for copies of his slides. Please note the Commission referred to in the handout is actually a *Committee*, as noted by Paul Anderson during the presentation.

Co-Chairman Yagaloff joined Mr. Matthews. Mr. Yagaloff cited the recent Journal Inquirer article regarding the work of the Study Committee; he noted they continue to narrow their review list, *see attachment B*.

Mr. Yagaloff reported the Committee has discussed adding a Chief Financial Officer (CFO) in place of the Treasurer; they see the CFO as a position with more of a leadership role to interface with Town officials to plan for the future and manage for growth. The Committee didn't like the Town Manager as that position conflicts with the First Selectman's role as the Chief Executive Officer. They have discussed a position for a Town Administrator who would assist the First Selectman in his role managing the Town.

Mr. Yagaloff reported the Study Committee has talked about the Police Commission. He noted a structural problem with the Charter, as it calls for Police Commissioners but no Police Commission. The Police Commission was created by Ordinance and conflicts with the Charter. Mr. Yagaloff also noted the Charter says the Board of Selectmen will decide policy and procedures for all employees. Mr. Yagaloff reported the Study Committee also talked about a cost sharing commission for procurement procedures.

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Mr. Yagaloff reported the intent is to strengthen the Charter in its representation of the Town meeting form of government as the legislative body for the Town.

Mr. Yagaloff reported there is a lot of diverse opinions on the Committee; people are speaking up; it's not one type of opinion. He suggested the intent is to make the Charter as strong as possible and to remove ambiguities.

The Board thanked Mr. Matthews and Mr. Yagaloff for their presentation. They anticipate returning in April with an updated report.

First Selectman Maynard noted the Board had intended discussing in Executive Session a pending legal matter, however the meeting is running late. He queried the Board for their preference regarding that portion of the Executive Session. The majority of the Selectmen preferred postponing that portion of discussion to another time.

**MOTION: To MOVE the discussion of Attorney Watts to another night.**

**Szymanski moved/Hoffman seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)**

**NEW BUSINESS/B. Code of Ethics Ordinance Amendments:**

Tom Burnham, Chairman of the Ethics Commission, and Michael Scalzo, member, joined the Board.

Mr. Burnham, Chairman of the Ethics Commission, reported that the Commission began this project a year ago. Instead of scrapping the Code they preferred to amend the document; they have utilized a State model to augment this Code document. Mr. Scalzo reported they have made the Ordinance more user friendly; he noted the red text amendments came from the State model code.

Mr. Burnham and Mr. Scalzo reviewed the document for the Board; a short summary follows:

1. Section 3.1 Conflict of interest: expands the definition of "conflict of interest".
2. Section 3.3 Gifts and Favors: - increases the allowable value
3. Section 4.1 Establishment of Commission: – allows two alternate members; clarifies no member shall be a town employee, or be a candidate for any public office.
4. Section 4.3 Powers and Duties, (E)(3): – reduces the civil penalty
5. Section 4.3 Powers and Duties, (E)(5): - adds referral to law enforcement
6. Section 4.3 Powers and Duties, (E)(6): - adds grounds for removal or dismissal from an appointed position
7. Section 4.4 Procedures for Filing a Complaint, (1): - cites specifics for the process for filing a complaint



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8. Section 4.4 Procedures for Filing a Complaint, (3): - reduces the filing period from five to two years.
9. Section 4.4 Procedures for Filing a Complaint, (4): - specifies the procedure for notification to respondent
10. Section 4.4 Procedures for Filing a Complaint, (5): - includes notification to all interested parties
11. Section 4.4 Procedures for Filing a Complaint, (5)(C): adds language regarding privacy of complainant.
12. Section 4.4 Procedures for Filing a Complaint, (9)(C): reduces civil penalty
13. Section 4.4 Procedures for Filing a Complaint, (9)(E): referral to law enforcement
14. Section 4.4 Procedure for Filing a Complaint, (9)(F): removal from appointed position.
15. Section 4.4 Procedure for Filing a Complaint, (10): adds severability clause

**(See Attachment C** for complete Ordinance amendment).

Discussion followed. Mr. Burnham explained the meeting process, which ensures confidentiality for the complainant and the respondent. Discussion continued regarding adding more teeth to the Ordinance. Selectman Szymanski cited consideration of forfeiting an employee's pension; Selectman Bowsza suggested the Commission can only levy recommendations to the Board of Selectmen. Selectman Szymanski felt a one page notification of the filing process should be posted in an easily visible location, and posted online as well.

The Board considered the need to refer the Ordinance amendment to the Town Attorney for legal review; Mr. Burnham and Mr. Scalzo noted the original document has been amended with language from the State model. Selectman Bowsza cited the document is eventually sent to Town Meeting for the vote of the public.

**MOTION: To ACCEPT the document entitled “Ordinance to AMEND the Town of East Windsor Code of Ethics” provided by the Ethics Commission and to forward to the Town Attorney to review the corrected version containing the red line amendments, but not rewrite the document, and to send to Town Meeting.**

**Szymanski moved/Hoffman seconded/DISCUSSION:** Selectman Bowsza suggested referring the document containing the corrections mentioned during discussion to the Town Attorney.

**VOTE: In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)**

The Board thanked Mr. Burnham and Mr. Scalzo for their work.

**NEW BUSINESS/C. RFP regarding Town Counsel:**

First Selectman Maynard opened discussion regarding investigating for legal services. Selectman Bowsza cited the Town's complex issues; he questioned if the intent was to hire an attorney or a firm? He felt a “single shingle” guy would outsource much of the work. Selectman Hoffman felt the Board should be considering a firm which could handle multiple

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issues. Selectman Szymanski cited the need for prior experience handling municipal representation.

**Paul Anderson, 89 Main Street**, speaking as Chairman of the Water Pollution Control Authority (WPCA), noted they hire a law firm on retainer; they also go to other attorneys for labor issues. He noted the WPCA has an attorney at nearly every meeting as they are dealing with legal issues. Mr. Anderson felt the expertise lies with the firm; the firm makes the decision on who will handle the issue which is being dealt with.

Selectman Szymanski felt that the \$1 million Errors and Omission coverage should be increased to \$5 million based on today's climate.

Document to be finalized at next meeting.

**NEW BUSINESS/D. Approval of Illicit Discharge and Connection Stormwater Ordinance and forward to Town Meeting**

Town Engineer Norton joined the Board.

Town Engineer Norton reported this plan, and the accompanying Ordinance, is another unfunded State mandate. DEEP mandates that the Town have a new Stormwater Management Plan, and an Ordinance to enforce prevention of illicit discharge. Town Engineer Norton reported the document before the Board is a template for the Ordinance. It deals with illicit connections to the Town stormwater drainage systems.

Selectman Hoffman questioned if utilization of the document exercises any authority to deal with the illicit discharge? Town Engineer Norton replied the enforcement body is the Wetlands Commission. He cited the need for inspections of potential areas to look for contaminants. Selectman Hoffman questioned if this would be a large expense to the Town? Town Engineer Norton replied affirmatively; he expected the Town would have to hire staff to do the inspections and hire someone to do the testing. Selectman Szymanski recalled the Sherman's report on the American Heritage River testing; he questioned if they would be involved? Town Engineer Norton indicated they would be part of the plan.

**MOTION: MOVE to ADOPT the ordinance entitled "Illicit Discharge and Connection Stormwater Ordinance" and send to Town Meeting.**

**Szymanski moved/Bowsza seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)**

**(See Attachment D for "Illicit Discharge and Connection Stormwater Ordinance).**

**NEW BUSINESS/E Approval of Tax Refunds**

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**MOTION: To APPROVE Tax Refunds in the amount of \$391.68 as identified under Tax Refund Report dated March 14, 2018.**

**Szymanski moved/Hoffman seconded/DISCUSSION: None**

**VOTE: In Favor: Unanimous (Maynard/Dearborn/Bowsza/Hoffman/Szymanski)**

**SELECTMEN COMMENTS AND REPORTS/A. Andy Hoffman:**

Selectman Hoffman reported he will be sitting in on an Economic Development Commission Meeting next Monday.

**SELECTMEN COMMENTS AND REPORTS/B. Jason E. Bowsza:**

Selectman Bowsza reported on the following:

- Attended the East Windsor Girls' s Basketball Team; they lost in the second round of the State Tournament. We got our invitation to the Blue and Gold Banquet.
- The Lion's Club breakfast is this Sunday.

**SELECTMEN COMMENTS AND REPORTS/C. Charlie Szymanski:**

Selectman Szymanski reported:

- That Barbara Smiegel, who gave the presentation on the Melrose Historic District, hasn't received the letter of support she requested yet. First Selectman Maynard reported he needs to contact her before writing the letter.
- During discussions of hiring an Economic Development Director, and options to fill the position, he discussed including incentives/bonuses in the compensation and Selectman Bowsza said the State doesn't do that – Selectman Szymanski presented Selectman Bowsza with a newspaper article regarding bonuses paid to UCONN, they are State employees. Discussion followed regarding pros and cons of paying bonuses, effective time period, and municipal vs. corporate examples.

**SELECTMEN COMMENTS AND REPORTS/D. Steve Dearborn:**

Selectman Dearborn had nothing to report this week.

**SELECTMEN COMMENTS AND REPORTS/E. Robert Maynard:**

First Selectman Maynard reported the following:

- MMCT held a demolition ceremony at the cinema location.
- First Selectman Maynard attended a legislative session with Melissa Maltese and talked to the Education Committee regarding a Youth Services Bureau in East Windsor. The project would be funded under a grant for which the Town would provide matching funds.

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**SIGNATURES FOR APPROVAL OF CHECK REGISTERS:**

The Selectmen reviewed the registers presented and took appropriate action.

**EXECUTIVE SESSION/Pursuant to C.G.S. Sec. 1-210 (b-1) (b-4) Litigation & Negotiations:**

First Selectman Maynard declared the Board take a five minute break at 9:50 p.m. and to GO INTO EXECUTIVE SESSION Pursuant to C.G.S. Sec. 1-210 (b-1) (b-4) Litigation & Negotiations immediately following the break. Attending the Executive Session were First Selectman Maynard, Deputy First Selectman Dearborn, Selectman Bowsza, Selectman Hoffman, and Selectman Szymanski.

LET THE RECORD SHOW the recording secretary and members of the audience left the meeting at 9:50 p.m.

The Board came out of Executive Session at 10:09 p.m.

**MOTION TO AUTHORIZE** the First Selectman to engage the firm of Murtha Culina to represent the interests of the Town of East Windsor in negotiating successor collective bargaining agreements to the current agreements between the Town of East Windsor and the following four unions:

- East Windsor Municipal Union, UPSEU Local 424 – Unit 91
- East Windsor Police Union, ASFCME, AFL-CIO Local 3583 of Council 4
- East Windsor Dispatchers Union, AFSCME, AFL-CIO Local 1303-460
- East Windsor Supervisors Union AFSCME, AFL-CIO Local 818 of Council 4.

Szymanski moved/Hoffman seconded/

**VOTE:**      **In Favor:**      Dearborn/Maynard/Szymanski/Hoffman  
                 **Opposed:**      Bowsza  
                 **Abstained:** No one

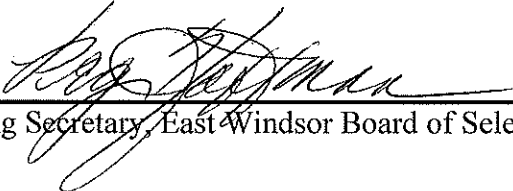
**ADJOURNMENT:**

**MOTION:**    To ADJOURN this Meeting at 10:11 p.m.

Dearborn moved/Hoffman/

**VOTE:**      **In Favor:**      Unanimous

Respectfully submitted

  
Peg Hoffman, Recording Secretary, East Windsor Board of Selectmen

East Windsor Ct Charter Revision Study  
Commission (CRSC)

First Status Report

March 15, 2018

Requested by Board of Selectman

EW Ct CRSC

**Why?** – Meet State mandate of 5 year review.

Our last Revision was approved by voters November 2009

**What?** – Review for potential improvements to government structure, operation efficiency, voter participation, voter rights.

**When?** – Study Commission NOW.

Followed by Revision Commission to start in May 2018.

Commission to Send questions to voters November 2019

**Who?** – Resident volunteers appointed by BOS.

**Where?** – Scout Hall on 2<sup>nd</sup> and 4<sup>th</sup> Monday at 7:00pm.

East Windsor Ct Charter Revision Study Commission

January 2018 Thru June 2018

Commissioners

Co-Chairman – John Matthews, Keith Yagaloff

Don Arcari	Cher Balch	Betsy Burns
Bill Loos	Jack Mannette	John Mazza
	Charlie Szymanski	

Alternates:

Rachel Safford      Bonnie Yosky

EW Ct CRSC

Activity

1<sup>st</sup> Meeting

- Brainstorm for Current Shortcomings, Problems, Opportunities for Improvement.
  - 25 Ideas Identified.
- Reading Assignments
  - EW Charter
  - Connecticut Council of Municipalities (CCM) Document;  
“ Connecticut’s Local Forms of Government.”



## EW Ct CRSC

### 2<sup>nd</sup> Meeting

- Review & Discuss CCM Document ; ‘Connecticut’s Local Forms of Government’ .
  - Commissioners Unanimously prefer Selectman / Town Meeting form of Government.
    - **Town Meeting is Legislative Body of Town.**
- Discuss, Consolidate / Prioritize Brainstorm Ideas.
- Reading Assignment: Review Predecessor (2015) Charter Commission work.

## EW Ct CRSC

### 3rd Meeting

- Review Previous Charter Commission (2015) proposed Charter changes. (Not Sent to Voters)
  - Poll commissioners for Agree/Disagree with the 2015 proposals

### 4<sup>th</sup> Meeting

- Review Ellington Charter (2008) for similarities, differences & ideas to incorporate into EW Charter.
- Consolidate/ prioritize Brainstorm List of Jan 16<sup>th</sup>

EW Ct CRSC

5<sup>th</sup> Meeting

- Review of Suffield Town Charter.
- Identify items from Brainstorm List to recommend to Follow-on Commission.

Future Meetings, April and May

- Continue to review other Town Charters.
- **Refine list of Revision Subjects to advance to;**
- Follow-on Commission.**

*BOA 3/15/2018 Attachment B*

- A. Reduce number of failed budget referendums to two from current three.
- B. Define how to allocate default budget money.
- C. After the last budget vote, what is the default percentage.
- D. Address ambiguities in the Charter
  - a. Put Charter into Municode to improve searches.
  - b. Identify state statutes where applicable
  - c. Specify state statutes for establishment of boards and commissions.
- E. Define requirements for departments and boards to provide narratives for budget requests.
- F. Consider Charter provision for CFO position.
- G. Consider Charter provision for Town Administrator position.
- H. Clarify role of Police Commission.
- I. Define/clarify Town Attorney selection process/term
- J. Consider cost sharing Commission in Charter.
- K. Reduce number of petitioners to force referendum
- L. Charter to require Procurement/purchasing procedures

Town of East Windsor

The following ordinance was adopted at a Special Town Meeting duly warned and held on April 27, 2006.

"ORDINANCE TO ADOPT A NEW **AMEND THE TOWN OF EAST WINDSOR CODE OF ETHICS**"

**SECTION 1 PURPOSE**

The purpose of these standards is to guide Town officials, elected and appointed, and Town employees by establishing standards of conduct for persons in the decision making process. It is intended to strengthen the tradition of good government in East Windsor by helping to ensure that government decisions and policies be made free from undue influence and in the proper channels of government structure, that public office not be used for unauthorized personal gain; and that the public have confidence in the integrity of its government. ***ADD; "and a simplified procedure to bring alleged infractions of this code to an impartial committee for investigation and appropriate remedy, if required, without fear of reprisal."***

**SECTION 2 DEFINITIONS**

In this Ordinance, the following terms are defined as follows:

- 2.1 Official shall mean all elected and appointed individuals in the executive or Legislative branches of the Town, including the Board of Education to the extent That the provisions of this ordinance may lawfully apply to the school district, and members and alternates of all Town agencies.
- 2.2 Employee shall include all individuals who receive income, weekly or otherwise, from the Town, or who are responsible for taking or recommending official action of the Town of a non-ministerial nature.
- 2.3 Agency shall mean all departments, boards, commissions, authorities, and committees, Including advisory working groups, of the executive or legislative branches of the Town, including the Board of Education to the extent that the provisions of this ordinance may lawfully apply to the school district.

2.4 Ministerial action shall mean an action that a person performs in a given state of facts in

In a prescribed manner in obedience to the mandate of legal authority, without regard to, or he exercise of, the person's own judgment upon the propriety of the action being taken.

### SECTION 3 STANDARDS OF OFFICIAL CONDUCT

#### 3.1 Conflicts of Interest

a. Any elected or appointed official or employee of the Town or of a commission, department, or agency of the Town who knowingly has a conflict or potential conflict of interest between him or her and his or her position with and responsibilities to the Town, commission, department, or agency, (1) shall submit to the First Selectman in writing, a statement concerning the existence and the nature of such conflict, and (2) where the conflict or potential concerns a financial interest, the statement shall include a description of the financial interest that constitutes the conflict or potential conflict. Such official shall recuse themselves from the decision making process.

(b) "Conflict of interest" shall mean an interest, direct or indirect, personal or financial, that is incompatible with the proper discharge of the official's or employees responsibilities to the Town, commission, department or agency, or that would tend to impair his or her independent judgment or action in the performance of his or her official responsibilities, ***as prescribed by the laws of this state. Additionally any official action which benefits the individual, his or her immediate family, or business is expressly prohibited and is a serious conflict of interest.***

#### 3.2 Disclosure of Confidential Information

No official or employee shall disclose or use any confidential information obtained in an official capacity except in the discharge of his or her public duties. The term confidential shall not be used to restrict the release of any information that is properly available to the

public.

### 3.3 Gifts and Favors

No official or employee or member of his or her immediate family shall solicit or accept any gift or favor in excess of ~~\$10.00~~ **\$50.00** in value in any calendar year, whether in the form of service, income, a loan, a gift or other thing of value, a promise, or in any other form from any person or entity who to his or her knowledge is interested directly or indirectly in any manner whatsoever with respect to personal or business dealings with the Town.

### 3.4 Use of Town Assets

No official or employee shall use or permit the use of Town funds, services, property and equipment, owned or leased vehicles, or materials for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established Town policies.

### 3.5 Representation of Private Interests

No official or employee shall appear on behalf of private interests before any agency of the Town, nor shall he or she represent any private interest in any action or proceeding against the Town in any litigation or other proceeding when such appearance or representation would be in conflict with or would impair his or her independence of judgment and action in the performance of his or her official duties as such official or employee.

### 3.6 Use of Influence

No official or employee shall solicit any business, gift or favor directly or indirectly, from another official or employee over whom he or she as any tenure, compensation, duties, or from any vendor or third party doing business with the Town.

### 3.7 Incompatible Employment

No official or employee shall grant or withhold any consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

## SECTION 4 ETHICS COMMISSION

### 4.1 Establishment

An Ethics Commission as provided in the Town Charter shall consist of five members **and two alternates**, who shall be electors of the Town, no more than the bare majority of whom shall be of the same political party. Each member shall serve for a four (4) year term following the initial term established by the Board of Selectmen on January 24, 1991. No official or employee of the Town shall be eligible to serve on the Commission. Vacancies shall be filled according to the Town Charter. **No member shall be a town employee. No member of said board shall hold or campaign for any public office.**

### 4.2 Organization and Procedures

The Ethics Commission shall elect from amongst its members a Chairman and a Secretary, and shall establish its own rules and procedures, which shall be made public. The need to maintain confidentiality shall be considered pursuant to State 1-82a when establishing the rules and procedures, and official opinions of the Commission shall require a minimum of four (4) affirmative votes for adoption.

### 4.3 Power and Duties

(A) Advisory Opinions. Upon written request or on its own initiative, the Commission may render advisory opinions with respect to the requirements of this Code of Ethics. Any request or opinion, the disclosure of which invades the personal privacy of any individual (as that term is used in the Connecticut General Statutes Section 1-19) shall be kept confidential in a personnel or similar file and shall not be subject to public inspection or disclosure. The Commission may make available to the public such advisory opinions as do not invade an individual's privacy, and may take other appropriate steps in an effort to increase public awareness of this Code of Ethics.

(B) Complaints. The Commission shall establish a procedure by which the public may initiate complaints alleging violations of this Code, provided however, that no such complaint shall be received for a violation alleged to have occurred more than five (5) years prior to the date of such receipt. On its own initiative or upon receipt of a written complaint alleging, under oath or affirmation, violation of these standards official conduct, the Commission shall determine by a minimum of four (4) affirmative votes whether or not sufficient cause exists to warrant an inquiry. Unless the Commission makes such a finding, a complaint alleging a violation shall be dismissed and kept



*3/15/2018 Attachment C*

confidential, except upon receipt of a request to the contrary by the respondent.

(C) Hearing procedure. Following its inquiry, in the event that the Commission, by a minimum of four (4) affirmative votes, determines that probable cause exists to believe that a violation of this Code has occurred, it shall conduct a public hearing thereon, which hearing shall be held no later than sixty (60) days thereafter. The Commission shall give public notice of the date fixed for said hearing at least fourteen (14) days prior thereto.

The Commission shall have the power to administer oaths and compel the attendance of witnesses by subpoena. All parties shall be entitled to counsel, to present evidence, and to examine and cross-examine witnesses. The public hearings of the Commission shall be recorded at public expense.

(D) Decision by Commission. The Commission shall, within thirty (30) days after conclusion of the public hearing, file a memorandum of decision. If the Commission determines by the minimum of four (4) affirmative votes that the respondent has in fact violated a provision of this Code, its Memorandum shall include a recommendation for appropriate action, taking into account the respondent's intent and willfulness in respect to said violation. Said Memorandum shall be presented to the Board of Selectmen, except with respect to individuals under the jurisdiction of the Board of Education, in which case the Memorandum of Decision shall be filed with the Board of Education with simultaneous copy to the Board of Selectmen. No such recommendation shall limit the authority of the Board of Selectmen under the Charter of the Town of East Windsor.

(E) Penalties for Violation. The penalties for violation of this Code shall include:

(1) Public censure or reprimand;

(2) Suspension for up to ninety (90) days or dismissal of a public employee;

(3) \$1,000.00 **\$100.00** civil penalty; and/or

(4) Restitution of any pecuniary benefit received.

**(5) referral to law enforcement; and/or**

**(6) Violation of any provision of this code may constitute grounds for removal or dismissal from an appointed position**

**Upon request of any aggrieved party, the board shall delay the effect of any decision rendered by the board for a period not to exceed more than seven day following the rendering of such decision.**

#### 4.4 Procedures for Filing a Complaint

(1) All complaints must be filed directly with the Ethics Commission, **via the Town Clerk's office**, hand delivered or mailed to the Town Hall, **in a sealed envelope and in compliance with all the terms and conditions stated on the official complaint form. The Town Clerk's office shall immediately inform the Chairman of the Ethics Commission of the receipt of any complaint. All costs associated with a received complaint for investigation and/or hearing and any other matter that may develop as a result of the filing shall be borne by the Town of East Windsor.**

(2) Complaint must be signed under penalty of false statement

(3) The complaint must be filed within five (5) **two (2)** years of the alleged violation.

(4) The respondent is to be notified ~~via certified mail within ten (10) business days of~~

~~the Commission's receipt of the complaint.~~ **as follows: The Commission shall provide notice of such receipt or issuance and a copy of the complaint by registered or certified mail to any respondent against whom such complaint is filed and shall provide notice of receipt of such complaint to the complainant."**

(5) The Commission shall review the complaint and determine whether the allegations

constitute a violation of the ethics code, **and notify all interested parties by** taking action as follows:

A) If not, it shall dismiss the complaint and notify the parties

B) If so – it shall fix a date for a hearing that shall commence within 60 days of the filing of the complaint.

***C) No person shall take or threaten to take official action against an individual for such individual's disclosure of information to the Ethics Commission. After receipt of information from an individual under the provisions of this part, the Ethics Commission shall not disclose the identity of such individual without such individual's consent unless the Commission determines that such disclosure is unavoidable during the course of an investigation. No person, including Ethics Commissioners, shall be subject to civil liability for (a) any good faith disclosure that such person makes or (b) for any decisions ultimately rendered by the Commission.***

(6) Legal representation at Hearings

A) All parties may be represented by legal counsel

B) All parties may cross-examine witnesses

(7) Confidentiality

A) Complaint is confidential unless the respondent requests otherwise

B) Commission can conduct a preliminary investigation and no information may be publicized by anyone involved.

C) A determination of no violation shall be kept confidential except upon the request of the respondent.

D) Notification of termination of the investigation or hearing shall be sent to the parties within 3 business days via certified mail.

(8) Finding a violation

A) Finding made public within 5 business days of the termination or hearing

*045 3/15/2018 Attachment C*

- B) Entire record of the investigation becomes public
- C) Provide parties with summary of its findings within 3 business days of termination or hearing.
- (D) Respondent may appeal the decision to the Superior Court within 30 days

(9) Penalties for Violation

- A) Public censure or reprimand;
- B) Suspension for up to ninety (90) days or dismissal of a public employee;
- C) ~~\$1,000.00~~ **\$100.00** Civil penalty
- D) Restitution of any pecuniary benefit received
- E) Referral to law enforcement, and or***
- F) Violation of any provision of this code may constitute grounds for removal or dismissal from an appointed position***

***(10) Severability Clause***

***In the event any provision or part of this Agreement is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire agreement, will be inoperative.***

**SECTION 5 COPIES OF CODE OF ETHICS**

A copy of the Ethics Code shall be given to all public officials and public employees and a signed receipt should be obtained therefore and maintained by the Town Clerk.

*Ord 3/15/2018 Attachment C*

Said ordinance shall become effective fifteen (15) days from publication thereof.

Ord. 06-01

Attest: \_\_\_\_\_

Karen W. Gaudreau CMC, CCTC

DRAFT

*SDS 3/16/2018 Attachment C*

East Windsor Code of Ethics Complaint Form

(Please print neatly)

Complaint Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

Town, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

I hereby certify, under penalty of False Statement, the following statement describing a possible violation of East Windsor's Code of Ethics, contains only factual information.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Note: This Complaint will not be considered without the name, address, and original signature of the complainant. Complaint must be notarized. Complaint must be hand-delivered to the Town Clerk's Office, in an envelope marked:

TOWN OF EAST WINDSOR – ETHICS COMMISSION

Confidential

Date Delivered: \_\_\_\_\_

Name of the Accused: \_\_\_\_\_

Title of Position with the Town: \_\_\_\_\_

Section of Town Code allegedly violated: \_\_\_\_\_

Specifically describe how code was violated. Dates, times and location are helpful. Attach additional pages if necessary. Please only one accused per complaint form.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Illicit Discharge and Connection Stormwater Ordinance

ORDINANCE NO. [REDACTED]

## SECTION 1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of East Windsor, Connecticut through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To prohibit and eliminate illicit connections and discharges to the municipal separate storm sewer system
- (2) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

## SECTION 2. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs): schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state consistent with state, federal or other equivalent and technically supported guidance. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Any activity associated with construction at a site including, but not limited to, clearing and grubbing, grading, excavation, and dewatering.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater. Waters consisting of rainfall runoff, including snow or ice melt, during a rain event.

Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 3. APPLICABILITY.**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.**

The Town of East Windsor Public Works/Engineering Department shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

### **SECTION 5. SEVERABILITY.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

### **SECTION 6. ULTIMATE RESPONSIBILITY.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **SECTION 7. DISCHARGE PROHIBITIONS.**

#### Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(a) The following discharges are exempt from discharge prohibitions established by this ordinance:



uncontaminated ground water discharges including, but not limited to, pumped ground water, foundation drains, water from crawl space pumps and footing drains; irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street wash water associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), springs, diverted stream flows and flows from riparian habitats and wetlands.

(b) Any non-stormwater discharge to the MS4 authorized by a permit issued pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes is also authorized under this ordinance.

Prohibition of Illicit Connections.

(a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

**SECTION 8. SUSPENSION OF MS4 ACCESS.**

Suspension due to Illicit Discharges in Emergency Situations

The Town of East Windsor Public Works/Engineering Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

**SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of East Windsor Public Works/Engineering Department prior to the allowing of discharges to the MS4.

**SECTION 10. MONITORING OF DISCHARGES.**

A. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities.

(a) The Town of East Windsor Public Works/Engineering Department shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(b) Facility operators shall allow the Town of East Windsor Public Works/Engineering Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(c) The Town of East Windsor Public Works/Engineering Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(d) The Town of East Windsor Public Works/Engineering Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town of East Windsor Public Works/Engineering Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(f) Unreasonable delays in allowing the Town of East Windsor Public Works/Engineering Department access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(g) If the Town of East Windsor Public Works/Engineering Department has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

**SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The Town of East Windsor Public Works/Engineering Department will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES

permit.

**SECTION 12. WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**SECTION 13. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of East Windsor Public Works/Engineering Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**SECTION 14. ENFORCEMENT.**

**A. Notice of Violation.**

Whenever the Town of East Windsor Public Works/Engineering Department finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine or penalty to recoup costs incurred by the Town of East Windsor Public Works/Engineering Department;
- (f) Suspension of any discharge to the MS4 system consistent with Section 8 of this ordinance; and
- (g) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Where elimination is not possible within 60 days of source confirmation, a schedule for its elimination will be set for no more than 180 days. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**SECTION 15. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 15 days from the date of the Notice of Violation. Hearing on the appeal before the Inland Wetlands and Watercourses Agency or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

**SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 15 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**SECTION 17. COST OF ABATEMENT OF THE VIOLATION.**

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Town by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 18 percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

**SECTION 18. INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**SECTION 19. COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**SECTION 20. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**SECTION 21. REMEDIES NOT EXCLUSIVE.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**SECTION 22. ADOPTION OF ORDINANCE.**

This ordinance shall be in full force and effect 15 days after publication in a newspaper having a circulation in the Town of East Windsor. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this [ ] day of [ ], 20[ ], by the following vote: