

EAST LYME BOARD OF SELECTMEN

MEETING OF OCTOBER 7, 2015

MINUTES

FILED IN EAST LYME  
CONNECTICUT  
OCT 8 2015 AT 1:05 AM PM  
Kathryn Salvo  
EAST LYME TOWN CLERK

PRESENT: Mark Nickerson, Kevin Seery, Marc Salerno, Rose Ann Hardy, Holly Cheeseman, Rob Wilson.

1a. Mr. Nickerson called the meeting to order at 7:30 a.m. and led the Pledge.

1b. Additional Agenda and Consent Calendar Items

There were none

1c. Delegations

Gary Lakowsky of 12 Methodist Street and speaking as the Chair of the Smith Harris Commission noted that a map had been drawn up in the past illustrating boundaries of the Smith Harris property however, no one had ever approved the map. He offered a map (Attachment A) to the Board and requested that it be reviewed and a future discussion be held at a future meeting. He added that the House will be open all day on 10/12/15, a program of spirit voices will be held on 10/24/15 and on 10/28/15 they will host Trick or Trunk. He said that the Friends of Smith Harris received a \$300 grant to be utilized for a past perfect computer program.

Ed Riozzi of 22 North Pine Street said that he had been informed that we had received a permit from DEEP for the floating dingy dock on Grand Street, but that no funding had been set aside to build the dock. He said that all of our surrounding towns have town docks, yet we do not. He urged the Board to find money to build this over the winter. He cautioned the Town about the canopy of foliage on Oswegatchie Hills Road noting that it is so dense it makes it difficult for some large trucks to traverse. He complained about the state of the roads in Saunders Point and noted that the potential for future sewers is what has held up any paving in this area. He said he did not believe that sewers would be installed for several years and urged the Town to pave the area.

Joe Mingo of 397 Boston Post Road said he had been called several times today with complaints about a wetlands violation on Upper Pattagansett Road and the filling in of a Grassy Hill Road pond which was killing salamanders. He added that the metal ties that connect the masonry to the steel walls at Lillie B. Haynes are in very bad shape and that the National Guard should be called to demolish the building. He said that no one has come to the Water and Sewer Commission about the sewerage of Cini Park and they are the ones who decide where the sewers go not the Public Works Department. He added that there will be a big problem with the seniors in this town if the Board of Education pushes this school project forward. He noted he was putting the Town on notice that there were several dead sugar maple trees on Bridebrook Road and a dangerous limb overhanging the Town Hall which must be taken down. He added that the Water and Sewer Commission had requested that the Fire Departments come to them to discuss water conditions of Cardinal Road however, they have not come.

David Godbout of 15 Cardinal Road stressed that the NADA Guide is not an appropriate tool for assessing the value of vehicles and inquired if they will be changing guides. He said the CT DMV creates grand lists for motor vehicles and by doing this; they have gone outside the scope of their authority. He urged the Board to write a letter to the DMV stating this and offered Attachment B.) He said that he had requested a police report and the Resident Trooper informed him that he would have to go up to Middletown where the records were stored and offered a page of the Trooper's contract (Attachment B). He stressed that these are town records and must be kept in the town and offered the Board a copy of a complaint to the FOIA Commission and their response (Attachment C). He added that the Police Department members need assistance in understanding the FOIA act and suggested the Town contact them and set up a free seminar.

Bill Henderson of 49 Laurel Hill Drive said that he had attended the 20/20 meeting a few nights ago where there was a very worthwhile discussion about town facilities. He suggested that the cart was being put before the horse on the request for an allocation to review the best uses of Lillie B. Haynes School adding that we have to wait for the school's program and see how that develops. He added that the Zoning Commission had no negative comments raised at their meeting about the increased request for an additional 120 3 bedroom apartments. He added that this project has taken a lot of twists and turns over the years and it looks nothing like the original plan. He said with the 400 units, he is very concerned about the traffic, utilizing financing for a reason for changing the plan and the fact that concerned that the Planning Commission just found this addition is not consistent with the POCD.

1d. Approval of Minutes, Meeting of September 16, 2015

MOTION (1)

Mr. Seery moved to approve the Minutes of the meeting of September 16, 2015 as submitted.

Seconded by Mr. Salerno. Motion passed 6-0.

1e. Consent Calendar

MOTION (2)

Mr. Seery moved to approve the Consent Calendar in the amount of \$ 3913.94 for the meeting of October 7, 2015.

Seconded by Mr. Salerno. Motion passed 6-0.

Presentation: - Street Light Replacement Program – LED Lights

Public Works Director Joe Bragaw noted that this was a CCM program and reviewed it with the Board (Attachment D). He said that presently, Eversource owns the street lights and we pay for rental and energy usage. This program would enable the Town to purchase the lights which would realize a 92% savings on the rentals and a 75% savings in energy. He is suggesting purchasing the lights from Eversource and switch the lights over to LED fixtures at a great cost savings. He noted that this was not in the Capital Improvement Program, but that every month we wait, the costs rise.

Ms. Cheeseman inquired what the life expectancy is for the lights.

Mr. Bragaw responded 20 years.

Finance Director Anna Johnson noted that the appropriation process will be necessary like the vehicle acquisition program that we have and the interest rate quoted is very competitive.

**2a. Authorization to Execute Side Letter Agreement exlQC Program**

The SECCOG recently joined the CRCOG (Capital Region Council of Governments), which allows its members to join it. If we were to join the CRCOG on our own, the annual dues are \$1,500. By joining through our COG, the annual dues are \$500. The CRCOG has a purchasing council that does several "requests for proposals" such as diesel and unleaded gasoline. In addition they offer the ezlQC Program. Through a competitive bid process a job order contract construction task catalog is developed. It facilitates accomplishing various individual projects with a single competitively bid contract. On-call contractors are ready to perform a series of ongoing projects at different locations for competitively bid prices. The construction task catalog is set up with non-prevailing and prevailing wages. Payment and performance bonds are available for each project. Our Public Works and Finance Directors recently attended a work-session on this program and believe this will be a worthwhile program for the Town to participate in. Since the CRCOG is the entity that conducted the RFP process and entered into the contract with The Gordian Group, a side letter with the Town of East Lyme is necessary for us to participate.

**MOTION (3)**

Mr. Seery moved to authorize the First Selectman to execute the Side Letter Agreement ezlQC Program with the Capital Region Council of Governments to allow The Town of East Lyme to participate in the program as it is in the best interest of the Town.

Seconded by Mr. Salerno. Motion passed 6-0.

**2b. Contingency Transfer \$2,142 to IT for Maintenance of Office Equipment**

Mr. Nickerson noted that in May of this year, we experienced a server crash here at town hall. We are in the process of upgrading our servers at this time. In the Tax Department due to improper back-ups we are still in data recovery mode. Portions of the disaster recovery were included as part of the annual maintenance with the software vendor R Walsh Associates. However, there have been and continue to be billable hours. For hours billed through 6/30/15 we were able to handle within budget. However, fiscal year to date we have \$1,547 in billable hours to date. Due to being early in the fiscal year, since this is a non-planned expense request, we are requesting a transfer from contingency. We would like to cover current outstanding invoices with some additional funding for future billings. The hourly rate is \$119.

**MOTION (4)**

Mr. Seery moved to approve a transfer in the amount of \$2,142 from account 01-01-120-200-500 (Contingency) to account 01-01-109-200-215 (Maintenance of Office Equipment – IT) for Tax Department data recovery and forward to the Board of Finance for approval.

Seconded by Mr. Salerno. Motion passed 6-0.

2c. Authorization to Allocate Funds for a Study to Determine Best Uses /Costs – Old Lille B Haynes School if given back.

Mr. Nickerson noted that It is our understanding that in its current school proposal, the Board of Education is proposing to knock down and build a new Flanders School, add an addition on and completely renovate Niantic Center School and lastly to give the existing Lillie B Haynes School to the Town for its own uses. The existing Lillie B Haynes School is approximately 100,000 square feet. For an order of magnitude, the existing Town Hall and Police Stations are approximately 21,000 and 8,000 square feet respectively so the 100,000 square feet is much larger than we presently need. As the BOE moves forward toward their referendum, it would behoove the Town to explore the possible uses of the Lillie B Haynes School and to also get some kind of estimated costs of what any proposals for that school would involve. Therefore, we have obtained a proposal from the architect that is working on the school project, Jacunski and Humes, to study two options. The first option would be moving Town Hall to Lillie B and to move the Police Department to the existing Town Hall. The second option would be to leave Town Hall where it is now and move the Police Department into a completely renovated space on the Lillie B grounds. With either option, we would like the architect to also look at how Parks and Recreation and other departments could occupy some of Lillie B's massive area. This study is needed as soon as possible so that we would have answers for the public and the Boards on this portion of the larger project. We were hoping to fund this study using LoCIP funds, but once we investigated this deeper we were told by the State that the study would not be eligible for LoCIP funding because it is not a definite project. Therefore we are looking to pay for the \$9,000 study from the \$50,000 undesignated CIP fund that is already part of the FY 15-16 Town budget.

Mr. Nickerson noted that the school plan must be approved by the Board of Education and then they will bring it to the Selectmen and Board of Finance for approval. If it passes these boards, it will likely go to referendum for the townspeople to vote. He said for proper planning and management, we need to know the potential uses of this property.

Mr. Seery agreed noting that we would want input from all departments.

Ms. Cheeseman said that we do not even know if this project will pass. She noted that Haynes was supposed to house students while they were building other schools and suggested waiting to spend any money. She said the eventual use of Lillie B. Haynes is a minimal part of what we will do with our school children.

Mr. Seery said that people will want to know what can be done with this building and we need those answers.

Ms. Hardy said that we have the Town Building Committee and many competent residents who could weigh in on this. She said that she does not believe that the residents want a police department in the middle of a school district. She stressed that this action was premature.

Mr. Wilson said it was not a bad deal for \$9000 and then we would know what we had.

Mr. Bragaw also noted that this review included whether the police department could fit into the present Town Hall building.

Mr. Salerno noted that there is a review of this building for educational use and now we need to know what else the building could be used for and at what cost.

Mr. Nickerson asked whether we even want to accept the building back or let the Board of Education take care of demolishing.

#### MOTION (5)

Mr. Seery moved to authorize the First Selectman to enter into a contract with Jacunski Humes Architects LLC for a Police Department / Town Hall Relocation Study and to approve a transfer in the amount of \$9,000 from CNRE Fund 32 account 32-70-300-500-999 (Town-wide Projects) to an account to be established titled, "LBH Best Use Study" to pay for a study to determine the best uses and estimated costs for the existing Lillie B Haynes School should the BoE give the Town this building as part of the proposed new school project and forward to the Board of Finance for their approval.

Seconded by Mr. Salerno.

Aye: Mr. Nickerson, Mr. Seery, Mr. Salerno, Mr. Wilson.

Nay: Ms. Cheeseman, Ms. Hardy. Motion passed 4-2.

Mr. Nickerson suggested moving Item 2f. forward in an attempt to allow staff to go home.

#### 2f. Budget Transfer \$1500 from Contingency to Transportation Allowance – Building Official

The building department has continued to experience very high permit and inspection activity. Due to unexpected break down of the building department vehicle, the inspectors have been required to use their own personal vehicles for several weeks this summer. Increased inspection activity has also lead to the Chief Building Official be required to use his personal vehicle to perform inspections, while the other inspectors are also on the road. He added that the current budget amount of \$500.00, has been depleted and Mr. Smith is requesting an increase in line #246 in the amount of \$1,500.00.

#### MOTION (6)

Mr. Seery moved to approve a transfer in the amount of \$1,500 from account 01-01-120-200-500 (Contingency) to account 01-01-104-100-246 (Transportation Allowance) for Building

Officials use of personal vehicles for inspections and forward to the Board of Finance for approval.

Seconded by Mr. Salerno. Motion passed 6-0.

#### 2d. Discussion – Blight Ordinance

Mr. Nickerson noted that this idea has come up numerous times in the past but there was never any action taken. He added that presently, there are approximately 8 properties in town that are derelict in nature and present safety and health issues. He noted that he charged Mr. Salerno to review this matter and report back to the Board.

Mr. Salerno noted that he had met with Zoning Official Bill Mulholland. He added that Zoning is the avenue pursued for broken down vehicles, but this is timely and expensive since they have to go through the court system. He added that most towns have some sort of blight ordinance in an attempt to preserve property values and promote public safety. He said he plans to review different ordinances and tailor one for our town. He stressed that the intent of this ordinance is not to harass residents and will come into play only on extremely derelict properties and there will be due process.

Zoning Official Bill Mulholland stated that he would be working with Mr. Salerno to draft a document for the Board to review.

Ms. Cheeseman inquired why we didn't already have one.

Mr. Mulholland noted that it had come up several times in the past however; the decision was always to work through zoning.

#### 2e. Appointment of Health and Safety Committee Members

##### MOTION (7)

Mr. Seery moved to appoint the following to the Health and Safety Committee:  
Karen Galbo, Victor Benni, Anna Hartung, Julie Wilson, Ed Ball, Joe Bragaw, Chris Taylor, Mike McDowell, Ron Bence and Jeffrey Rouisse to serve through September 15, 2016.

Seconded by Mr. Wilson.

Ms. Hardy inquired if all these people lived in East Lyme noting that only residents can be appointed to a committee.

Mr. Seery withdrew his motion and Mr. Wilson withdrew his second.

The consensus of the Board was to table this matter until the next meeting.

#### 5a. Ex-Officio Reports

Mr. Wilson had no report.

Ms. Cheeseman had no report.

Mr. Seery noted that there was no Parks and Recreation meeting however, they have a drug and alcohol

survey and if adults take the survey, we could be eligible for a grant. He noted that Joe Perkins has been chosen to serve as one of the Grand Marshals for the State Veterans Parade. He added that he will not be here for the next meeting since he will be in Oklahoma attending his son's graduation ceremony from basic training.

Ms. Hardy attended the Planning Commission meeting where they reviewed the request of Gateway for additional apartments and unanimously found that this was not consistent with the POCD. She was disappointed that the Zoning Commission did not review Planning's concerns. She added that Planning Commission member Frank Balantic resigned and he will be missed.

Mr. Salerno had no report.

#### 5b. First Selectman's Report

Mr. Nickerson noted that the Town had received a \$500,000 STEAP Grant to include bathrooms at Cini Park and added that this was discussed with the Water and Sewer Commission several years ago when they were preparing the first grant request.

He noted that the Saunders Point sewers scope of work study was approved and agreed that the roads were in poor shape.

He discussed the flag pole on the Town Green noting that it was put up in 1941 and the brackets holding the metal pole at the top had corroded necessitating bringing the aluminum pole down. He added that Mr. Morris was also instrumental in removing the abandoned boat on Crescent Beach noting that there would be a lien placed on the gentleman's property.

#### 6. Public Discussion

Gary Lakowsky said he was happy that the Town was thinking about putting in LED lights and added that Ron Bence is doing an excellent job replacing bulbs in town with LED bulbs.

Ed Riozzi of 22 North Pine Street inquired if the Town would just be replacing bulbs or will they replace the entire fixture. He suggested looking at other companies and see if we can find LED bulbs to retrofit our existing fixtures. He also suggested only replacing 25% of the bulbs at a time so in 20 years they will not all be needed again.

#### 7. Selectmen's Response

Mr. Nickerson noted that when Gateway was approved originally, the application did not state condos or rentals, it merely stated multifamily, so it is not that they have changed their project. He noted that Mr. Lakowsky is doing a great job at the Smith Harris House and noted he knew nothing about the dinghy dock but would review whatever was available on this topic.

Ms. Cheeseman said that the Town would be a perfect place for a dinghy dock since it would enable more people visiting by boat to access downtown.

Mr. Nickerson noted that he and Mr. Bragaw will review the trees on Oswegatchie Hills Road. He said that the State Trooper's Office, Town Attorney's, Police Department and the FOI Commission are all discussing Mr. Godbout's claims.

Mr. Nickerson added that the paper's headline the other day was that Gateway got 400 units, when what should have been written was that they were granted the ability to build an additional 120 more. He added that the Zoning Commission held a public hearing on this item a few nights ago because Gateway had come back with new plans. He added that the Planning Commission had voted several times on whether the Gateway development was consistent with the POCD and found that it was. He noted the conservation easement received today from Gateway adding that normally, the Town does not receive this until the finish of the development. He noted that this was done since there were so many questions of whether it would ever be done or not.

Mr. Salerno noted that there was a great demand for rental properties in town.

Ms. Hardy said she believed that the town was of a different opinion and they did not want large, looming buildings.

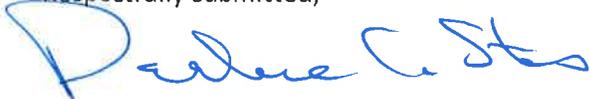
Mr. Nickerson said that there are many young couples who cannot stay in town because they cannot afford to buy a home here. He added that they want to stay in town and are invested in our town. He stressed that we should be more inclusive noting that East Lyme will always be a bedroom community however; there is room for the rental communities.

MOTION ( 8)

Ms. Hardy moved to adjourn the October 7, 2015 meeting of the East Lyme Board of Selectmen at 9:37 p.m.

Seconded by Mr. Seery. Motion passed 6-0.

Respectfully submitted,



Darlene C. Stevens, Recording Secretary



Attachment B

Freedom of Information Commission  
18-20 Trinity Street  
Hartford, CT 06106

7 OCT 15

ref: Denial access to records  
Department of Motor Vehicles  
REQUEST FOR EXPEDITED/PRIORITY ASSIGNMENT INCLUDED

**COMPLAINT**

(see further section below for request for expedited/priority hearing)

**RELEVANT LAW**

CGS Chapter 14 , FOIA Act  
CGS Sec. 14-163  
CGS Sec. 14-10  
17 USC 2721, Drivers Privacy Protection Act (DPPA)

**FOIA REQUEST FOR RECORDS AND RESPONSE**

On 29 SEP 15 I filed a for records from the Connecticut Department of Motor Vehicles (DMV) located at 60 State Street Wethersfield, CT 06161.

I requested access to and copies of the unredacted motor vehicle grand lists that the agency creates and used by local towns in the taxation of motor vehicles in this state including the October 2014 grand lists. The 2014 grand lists are known to be in existence.

DMV counsel Anne Howroyd and I had have many contacts, mostly telephonic, regarding the request and anticipated response. Anne Howroyd detailed that an electronic list could be made available for the cost of about \$82 and that the list would contain information noted in CGS Sec. 14-163 as well as motor vehicle assessments being included in the data contained in the record for each vehicle; however, the list would contain significant redactions, mainly names and addresses of the property owners.

Initially the agency, through Anne Howroyd, claimed that the record was not a grand list and, as such, that the agency could redact information. I discussed this with the agency and the agency agreed that they actual do create grand lists for the town. The agency then cited the federal DPPA law that they claimed allow the agency to redact the record; upon further discussion I provided the agency reasons why DPPA's exceptions would make redactions unavailable and that providing an unredacted list would not violate that federal

law. Upon this I received an email from Susan Geanuracos stating that an unredacted list would not be made available due to DPPA and CGS Sec. 14-10. I communicate dback that I would assume that this was the agency's final word on the matter and I did not receive any response from the agency so apparently it was the final word: the agency has denied me access to the public records I requested.

So I have received a denial to access to the records requested and the denial, received yesterday creates a cause of action as I am aggrieved by the agency decision and the filing of this complaint is ripe and timely; the FOI Commission clearly has jurisdiction to hear this case.

### RECORDS REQUESTED ARE GRAND LISTS

Prior to filing the record request, I met with the Commissioner of DMV, met with various assessors, and examined an assessor under oath in a judicial proceeding, and have spoken to members of the Office of Policy and Management and other public officials regarding the grand list created by the DMV.

The Commissioner of DMV admitted that the agency creates grand lists for towns.

Various assessors have stated that they do nothing other than copy-paste procedures in respect to what they obtain from DMV in the town's process of property taxation processes regarding motor vehicle taxation.

The records requested are properly termed as "grand lists".

### DMV ILLEGAL ACTIONS IN CREATING GRAND LISTS-CGS Sec. 14-163 - RECORDS CREATED ARE NOT MOTOR VEHICLE RECORDS

The state legislature never authorized DMV to investigate, provide, or otherwise engage itself in motor vehicle assessments (ie values of vehicles). CGS Sec. 14-163 does not authorize DMV to provide property assessment values to anyone and nowhere does the legislature authorize the DMV to be involved in property taxation processes in such a manner.

The records of the grand lists that DMV created and still creates is done illegally. And the motor vehicle values on the grand lists produced are determined via a computer program that is not owned or leased by the agency; the agency allows a non-governmental company to insert a computer program into the publicly owned computer system without authorization from the state legislature. Indeed, it appears as the legislature expressly did note in CGS Sec. 14-163 that the DMV could not provide towns motor vehicle values through its exclusion of allowing the DMV to provide such information; and nowhere else does the legislature grant the authority of DMV to produce grand lists.

The grand lists produced do not pertain to the legitimate legal business activities of the DMV and, as such, the DMV creates non-motor vehicle records. The grand list is not a motor vehicle record at all.

Simply because a record contains information contained in motor vehicle records does not automatically make such a record a motor vehicle record.

And it must be pointed out that the taxes that people pay in this state is pretty much automatic, its based on a simple mathematical formula involving vehicle assessments, numerical coefficients, and mil rates. The only subjective factor in this tax calculation is the motor vehicle assessment and it is in this that the DMV has gotten involved with without statutory authorization.

#### CGS SEC. 14-10 & DPPA

CGS Sec. 14-10 an the federal DPPA law pertain to motor vehicle records. As noted above, the grand lists cannot properly called motor vehicle records and in this, the state and federal law have no value as a reason for redacting the records sought.

Alternately, if one wishes to consider the records requested as actual motor vehicle records (which they are not) then CGS Sec. 14-10 and DPPA laws are certainly available to be examined for the appropriateness of any redactions.

But in examining the laws, the redactions are found to be inappropriate as both laws have an exemption for such records, to be used in judicial or quasi-judicial proceedings etc., to be outside the scope of the two laws.

DPPA notes this exception:

*For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.*

And CGS Sec. 14-10 also notes a similar exception.

And I would certainly use the grand lists in current active litigation and anticipated future litigation in judicial and quasi-judicial proceedings.

### GRAND LISTS ARE AVAILABLE WITHOUT REDACTION

Grand lists are used in judicial and quasi-judicial proceedings in this state and other states in the United States.

They are public records that have not been available for redaction; such redactions require the agency to prove that they can redact the grand list records; I do not have to prove that redactions are not appropriate but the agency bears this burden.

### WHERE EVER A PUBLIC RECORD IS - IT CAN BE OBTAINED THERE

No agency in the state can force a requester to go to another agency for a record that the first agency has in its possession. Neither an agency, quasi-judicial body, or judicial body can say "get these public records here as opposed to there".

For example, if an assessor send its grand list to the governor, then would that grand list be appropriately requested from the governor and would the governor be required to make the record available to a requester? Certainly.

And if an assessor sent over a grand list to DMV, would these records be available for access to a requester from the DMV. Again, yes.

It does not matter who has the public records; if multiple agencies have a public record of interest then its the requester's choice as to who he approaches for the records. The Act does not allow one agency to refuse to provide a public record simply because another agency also has the record. The game of "musical chairs" is not in accordance with the FOIA Act. In FIC Case 2014-163, David Collins and New London Day v. Office of Governor et al, the commission noted that one agency cannot be obligated to forward a request to another agency. And a policy or rule that diminishes the rights for access to records is strictly forbidden under the FOI Act

And under CGS Sec. 1-210, the DMV records must be made available at the DMV and sending a person elsewhere, even if elsewhere are copies or originals of the record being requested, is inappropriate under the FOI Act.

In this case there is no argument that DMV has the records sought, that the records are grand lists and that grand lists must be available unredacted.

### FINAL THOUGHTS FOR COMPLAINT

I would seek an order from the commission for the agency to produce the requested records free of charge.

I would not seek civil penalties at this time although I believe that they may be appropriate because I also believe that the criminal provisions of CGS Sec. 1-240

wherein the commission has ordered the agency previously to comply with the open records provisions of the Act in the past is clearly available as another relief that is outside the scope of the FOI Commission.

At this time I am hopeful that the agency will reverse its decision in respect to the subject matter of this complaint and I will copy the agency with this complaint to effect this reversal w/o the need for the FOI Commission's ombudsman program (that seemingly does not wish to resolve complaints as I have recently contacted an ombudsman w/o even receiving a response to my very generous olive branch and settlement overtures in another FOI Commission case of mine) or need for a civil or criminal proceeding.

### **REQUEST FOR PRIORITY HEARING ASSIGNMENT**

I currently have an active motor vehicle assessment appeal case that is active and the information contained in the grand lists requested would be of value in my investigation into my 2014 motor vehicle assessment appeal case(s). While the records requested would still be of value even if produced after these vehicle assessment appeals would still have value, the value of the records in pending litigation is also of great importance. The agency was aware that I had pending litigation but still refused to provide the records requested; the Act should not be used as a delaying mechanism for potential evidence to be used in an investigation and as admissible evidence in an active case. As such, I would request the commission to proceed with this case on a priority basis as it is more likely than not that if the commission does not proceed in such a manner then the records would be obtained at a time wherein the reviewing court and/or me would not have the opportunity to review the records requested and such a result is counter to the fairness and due process rights of the requester and litigant.

Additionally, the complainant would likely request such grand lists of October 2015, either already created or anticipated in being created soon and these records would be useful in anticipated assessment appeals in September 2016; while it seems that a normal process would suffice, it would likely take a considerable amount of time to obtain and review the grand list records from DMV in my investigation of anticipated litigation regarding my motor vehicles' 2015 assessment. So a hearing regarding 2014 grand lists would, if favorable to the complainant, likely result in the DMV not further claiming any exemption or exception to providing unredacted records upon my anticipated request for the 2015 motor vehicle grand lists that they DMV creates.

So the commission proceeding in a normal fashion would likely result in the non-acquiring of records that may be evidence in several judicial and quasi-judicial cases. As such, a priority assignment is most appropriate.

Submitted by:

A handwritten signature in black ink, appearing to read 'David Godbout', with a long horizontal flourish extending to the right.

David Godbout  
15 Cardinal Rd.  
East Lyme, CT 06333  
860-691-8053

cc Anne Howroyd  
Susan Geanuracos  
Commissioner DMV

### Freedom of Information Commission

#### Final Decision FIC2014-408

In the Matter of a Complaint by

FINAL DECISION

Ethan Fry and The Valley Independent Sentinel,  
Complainants

against

Docket #FIC 2014-408

Mayor, Town of Ansonia; and  
Town of Ansonia,  
Respondents

April 8, 2015

*Para 15*  
*Contracts*  
*v.*  
*OPEN RECORDS*

The above-captioned matter was heard as a contested case on January 20, 2015, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint.

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 June 20, 2014, the complainants requested that the respondents provide them with copies of: (a) the personnel file of James Tanner, a former zoning enforcement official in the town; and (b) "the settlement agreement between the city and Tanner to resolve the complaint he filed against the city [sic] March 27, 2014 with the state of Connecticut's Board of Labor Relations."

3. It is found that the respondents provided the personnel file of Mr. Tanner to the complainants, except for the settlement agreement described at paragraph (2b), above.

4. By email dated and filed on June 27, 2014, the complainants appealed to this Commission, alleging that the respondents failed to disclose the settlement agreement and thereby violated of the Freedom of Information Act ("FOIA").

5. 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 section 1-212.

6. Section 1-212(a)(1), G.S., provides in relevant part that:

Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record. The type of copy provided shall be within the discretion of the public agency, except (1) the agency shall provide a certified copy

whenever requested, and (2) if the applicant does not have access to a computer or facsimile machine, the public agency shall not send the applicant an electronic or facsimile copy.

7. It is found that the settlement agreement is a public record within the meaning of §§1-210(a) and 1-212(a), G.S.

8. At the hearing, the respondents stated that the settlement agreement contained a provision wherein the parties agreed not to disclose the terms of the agreement, unless ordered to do so by an "appropriate legal authority." Moreover, because the settlement agreement was exclusively maintained in Mr. Tanner's personnel file, and the respondents stated that they believed that disclosure of the settlement agreement would constitute an invasion of Mr. Tanner's privacy, the respondents provided Mr. Tanner's attorney an opportunity to object to disclosure of the settlement agreement and also provided notice of this Commission's hearing. Finally, the respondents stated that, because Mr. Tanner was not a member of a collective bargaining unit, notice was not provided to any collective bargaining representative.

9. It is found that, by email dated January 8, 2015, Mr. Tanner's attorney, Frank Burke, did object on behalf of his client to disclosure of the settlement agreement, stating to the respondents that the "agreement specifies it will not be released unless ordered by legal authority." However, neither attorney Burke nor Mr. Tanner appeared at this Commission's hearing.

10. Following the close of the hearing in this matter, the respondents submitted the settlement agreement to the Commission for an in camera inspection. The settlement agreement is two pages, hereby designated: IC 2014-408-1 and 2.

11. In Perkins v. Freedom of Information Commission, 228 Conn. 158, 175 (1993), the Supreme Court set forth the test for an invasion of personal privacy, necessary to establish the exemption at §1-210(b)(2), G.S. The claimant must first establish that the records in question are personnel, medical or similar files. Second, the claimant must show that disclosure of the records would constitute an invasion of personal privacy. In determining whether disclosure would constitute an invasion of personal privacy, the claimant must establish both of two elements: first, that the information sought does not pertain to legitimate matters of public concern, and second, that such information is highly offensive to a reasonable person.

12. It is found that IC-2014-408-1 and IC-2014-408-2 are "personnel files" or "similar files" within the meaning of §1-210(b)(2), G.S. Connecticut Alcohol and Drug Abuse Commission v. FOIC, 233 Conn. 28 (1995).

13. Based on the in camera inspection, it is found that IC-2014-408-1 and IC-2014-408-2 do pertain to legitimate matters of public concern and that disclosure of these records would not be highly offensive to a reasonable person.

14. Based upon the findings at paragraphs 13, it is concluded that the disclosure of IC-2014-408-1 and IC-2014-408-2 would not invade the privacy of Mr. Tanner, and that such records are not exempt from mandatory disclosure pursuant to §1-210(b)(2), G.S.

15. This Commission has on numerous previous occasions ruled, when addressing the issue of the disclosure of settlement agreements entered into by public agencies, that such agencies may not contract away the public's right to know under the FOIA by including a provision prohibiting any party to the agreement from disclosing its terms. Docket #FIC 2006-687, Michel Mennesson v. Managing Attorney, State of Connecticut, Office of Protection and Advocacy for Persons with Disabilities; Docket #FIC 2006-299, Ted Mann and the New London Day v. Director of Law, City of New London; Docket #FIC 2001-530, David Critchell and Waterbury Republican-American v. Corporation Counsel, City of Torrington, and Docket #FIC 94-063, Carol L. Panke v. Bloomfield Town Manager.

16. Moreover, in this case, as in Docket #FIC 2006-299, cited immediately above, the confidentiality clause contained in the settlement agreement specifically recognizes that the parties may be required to disclose such agreement if ordered by an appropriate legal authority.

17. It is therefore concluded that the confidentiality agreement does not supersede the FOIA and that the failure of the respondents to promptly disclose the settlement agreement constituted a violation of §§1-210(a) and 1-212(a), G.S.

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

1. The respondents shall provide a copy of the settlement agreement to the complainants forthwith, with no copying charge.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 8, 2015.

---

Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Ethan Fry and The Valley Independent Sentinel  
158 Main Street, Suite 305  
Ansonia, CT 06401

Mayor, Town of Ansonia; and Town of Ansonia  
c/o Christopher J. Sugar, Esq.  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, CT 06460

---

Cynthia A. Cannata  
Acting Clerk of the Commission

FIC/2014-408/FD/cac/4/8/2015



**Sec. 1-210. (Formerly Sec. 1-19). Access to public records.**

**Exempt records.** (a) 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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located or of the Secretary of the State, as the case may be. Any certified record hereunder attested as a true copy by the clerk, chief or deputy of such agency or by such other person designated or empowered by law to so act, shall be competent evidence in any court of this state of the facts contained therein.

**Section 1-206. (Formerly Sec. 1-21i) - Denial of access to public records or meetings. Appeals. Notice. Orders. Civil penalty. Service of process upon commission. Frivolous**

**appeals.** (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, except when the request is determined to be subject to subsections (b) and (c) of section 1-214, in which case such denial shall be made, in writing, within ten 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.

this policy on a case-by-case basis. A serious or complex investigation may be assigned to a town police officer or constable by the State Police after taking into consideration the nature of the case, requirements of the investigation, the shift resources, response time, and the experience and training of the Town police officer or constable.

- 2. Every effort will be made by the State Police to allow a Town police officer or constable to remain involved in self-initiated, serious criminal investigations to the extent consistent with sound law enforcement investigative principles and practices.



**D. Reports and Records**

All Town police investigative records shall be maintained by the Department of Emergency Services and Public Protection. All investigative reports shall be prepared, formatted and submitted in the manner approved by State Police. The Town shall be responsible for providing network access to the State Police records management system in accordance with the requirements of the State Police.

**E. Chain of Command**

Resident State Police Supervisors or Troopers, where applicable, shall directly supervise the law enforcement operations of all Town police officers or constables. The Town CEO of a resident trooper town shall have reasonable, direct access to the area State Police Troop Commander, the Resident Trooper Supervisor and Resident State Police Troopers for regular and on-going communications regarding law enforcement problems in the Town.

- 1. In the absence of the assigned Resident State Police Supervisor or Trooper, where applicable, the chain of command for Town police officers or constables shall progress to the area State Police Troop Commander, or his duly assigned on-duty shift supervisor, and to the State Police District Commander.
- 2. The intent of this contract is to provide positive direction for the working relationship between town police officers/constables and State Police personnel. All significant conflicts between Town police officers/constables and State Police personnel shall be referred to the next senior officer in the State Police chain of command.

**F. Telecommunications**

The Town shall follow all State Police procedures regarding use, access and maintenance of State Police supplied telecommunications equipment and technology. If the Town operates its own radio system and dispatch function,

\* Does not say exclusively or solely

# Town of East Lyme

*Attached D*

P.O. DRAWER 519

NIANTIC, CONNECTICUT 06357



DIRECTOR OF PUBLIC WORKS  
Joseph J. Bragaw, P.E.

860-691-4102  
FAX 860-739-6930  
jbragaw@eltownhall.com

## INTEROFFICE MEMORANDUM

**TO:** Board of Selectman c/o Mark Nickerson – First Selectman  
**FROM:** Joe Bragaw – Director of Public Works *JB*  
**CC:** Anna Johnson – Director of Finance  
**DATE:** October 1, 2015  
**RE:** PROPOSAL FOR THE TOWN TO PURCHASE THE STREETLIGHTS

Over the last few years, the quality of LED technology has gone up while the cost of these lights has gone down. In the past few years, LED lights are beginning to be offered for streetlights. The Town pays approximately \$192,000 per year for the use of our 1,400 plus streetlights. Streetlights are billed in two parts; the first of which is a monthly rental fee to Eversource and the other part is the supply of the power which we pay to TransCanada. Presently there are two streetlight rates in the State of Connecticut; Rate 116 if the utility owns the lights and Rate 117 if the municipality owns the lights. Right now the Town pays Rate 116 except for the LED decorative lights on Main Street and in the bottom portion of Pennsylvania Avenue which the Town own and we pay Rate 117.

One method to possibly save a lot of money in the long run is for the Town to purchase our streetlights from Eversource and then switch the lights over to LED fixtures. Right now New London is moving forward with retrofitting their streetlights to LED's and Berlin, Rocky Hill and Vernon are all proceeding forward with not only buying the streetlights from Eversource but also retrofitting the lights to LED's. I have investigated the costs of buying our lights and retrofitting them to LED's and I have determined that we could save a considerable amount per year if we move forward with this project.

I am attaching some information that details the existing Eversource rates along with the costs associated with buying the streetlights in East Lyme. At the October Board of Selectman and Board of Finance meetings, we would like to introduce this concept and get feedback from the Boards. If the Boards are interested with proceeding forward with this proposal, staff could then put this together for a resolution in the November meetings.

Thank you in advance for your consideration on this matter.

**POTENTIAL FOR THE  
TOWN OF EAST LYME  
PURCHASING OUR  
STREETLIGHTS FROM  
EVERSOURCE AND  
INSTALL LED LIGHTS**

THE CONNECTICUT LIGHT AND POWER COMPANY

STREET AND SECURITY LIGHTING

RATE 116  
Page 1 of 8

AVAILABLE for street, highway, off-street and security lighting for "dusk to dawn" or "midnight" lighting services as provided below. Excludes service off the public highway except where the fixture is mounted on a Company owned distribution pole.

MONTHLY DISTRIBUTION RATE:

Overhead Service:

Includes street lights, flood lights, and spot lights served overhead and mounted on an existing distribution supply pole with existing secondary distribution.

Underground Service:

Includes street lights, flood lights, and spot lights served underground and mounted 15 feet or higher on a direct buried, center-bored wood or fiberglass pole. If mounted on an anchor base metal or fiberglass pole installed after May 1, 1980, add \$10.03 to the monthly rate below.

	Nominal Ratings in Lumens	Lamp and Ballast Wattage	Monthly Charge Components				Overhead Monthly Charge	Underground Monthly Charge
			Customer	Demand	O&M	Equipment		
<u>Incandescent*</u>	600	59	0.33	0.48	1.51	4.78	\$7.10	\$13.35
	1,000	104	0.33	0.85	1.51	4.78	\$7.47	\$13.72
	2,500	203	0.33	1.65	1.51	4.78	\$8.28	\$14.53
	4,000	328	0.33	2.67	1.51	4.78	\$9.30	\$15.55
	6,000	449	0.33	3.66	1.51	4.78	\$10.28	\$16.53
	10,000	691	0.33	5.63	1.51	4.78	\$12.26	\$18.51
<u>Mercury Vapor*</u>	4,000	118	0.33	0.96	1.51	4.97	\$7.78	\$14.03
	8,000	206	0.33	1.68	1.51	4.97	\$8.49	\$14.74
	12,500	287	0.33	2.34	1.51	5.27	\$9.45	\$15.70
	22,500	455	0.33	3.71	1.51	5.58	\$11.13	\$17.38
	60,000	1,103	0.33	8.99	1.51	9.90	\$20.73	\$26.98
<u>High Pressure Sodium</u>	4,000	59	0.33	0.48	1.51	4.78	\$7.10	\$13.35
	6,300	84	0.33	0.68	1.51	4.78	\$7.31	\$13.56
	9,500	116	0.33	0.96	1.51	4.79	\$7.59	\$13.84
	13,000	190	0.33	1.55	1.51	4.97	\$8.36	\$14.61
	16,000	172	0.33	1.40	1.51	4.97	\$8.22	\$14.47
	27,500	311	0.33	2.54	1.51	5.21	\$9.59	\$15.84
	50,000	472	0.33	3.85	1.51	5.92	\$11.61	\$17.86
	140,000	1,103	0.33	8.99	1.51	9.68	\$20.51	\$26.76

Supersedes Rate 116  
Effective January 1, 2015  
by Decision dated December 17, 2014  
Docket No. 14-05-06  
by Letter Ruling dated December 22, 2014  
Docket No. 15-01-01  
Rate 116.07-01-15.doc

Effective July 1, 2015  
by Letter Ruling dated June 25, 2015  
Docket No. 15-01-01

THE CONNECTICUT LIGHT AND POWER COMPANY

STREET AND SECURITY LIGHTING

RATE 116  
Page 2 of 8

	Nominal Ratings in Lumens	Lamp and Ballast Wattage	Monthly Charge Components				Overhead Monthly Charge	Underground Monthly Charge
			Customer	Demand	O&M	Equipment		
<u>Metal Halide</u>	3,450	72	0.33	0.59	1.51	5.18	\$7.61	\$13.86
	5,200	89	0.33	0.73	1.51	5.18	\$7.75	\$14.00
	8,500	119	0.33	0.97	1.51	5.19	\$8.00	\$14.25
	12,900	188	0.33	1.53	1.51	5.40	\$8.77	\$15.02
	14,400	207	0.33	1.69	1.51	4.98	\$8.51	\$14.76
	22,000	289	0.33	2.36	1.51	4.94	\$9.14	\$15.39
	36,000	451	0.33	3.68	1.51	6.13	\$11.65	\$17.90
	110,000	1,080	0.33	8.80	1.51	9.64	\$20.29	\$26.54
<u>Light-Emitting Diode (LED)</u>	2,500	28	0.33	0.23	1.51	5.96	\$8.03	\$14.28
	4,100	44	0.33	0.36	1.51	5.96	\$8.16	\$14.41
	4,800	54	0.33	0.44	1.51	5.96	\$8.25	\$14.50
	8,500	102	0.33	0.83	1.51	6.38	\$9.05	\$15.30
	13,300	169	0.33	1.38	1.51	7.22	\$10.44	\$16.69
	24,500	275	0.33	2.24	1.51	9.77	\$13.85	\$20.10

\*No additional luminaires or poles of these sizes or types will be installed. For replacement of an existing mercury vapor luminaire, municipalities may request in writing that a similar luminaire be installed where ambiance and atmosphere must be maintained and where safety and security will not be jeopardized.

Flood lights are available only in 14,400; 22,000; 27,500; 36,000; 50,000; 110,000; and 140,000 lumen sizes. Spot lights are available in 36,000; 50,000; 110,000; and 140,000 lumen sizes.

The Company may install LED street lighting comparable to the options listed above, but that have different wattage ratings. The Distribution wattage charge for such installations shall be based on the approved demand charge per connected watt. All other charges, including the Distribution customer, O&M and equipment charges, apply as stated in this schedule.

Spot Light Glare Shield: \$2.94 per month

Vandal Shield for Cutoff Fixtures: \$4.20 per month

Overhead Twin Lamps: Two times the above wattage and rate.

As an option to the above monthly charges for underground lighting, the customer may make a one-time payment, plus any applicable compensation for tax liability, and pay the rate for Overhead Service.

Supersedes Rate 116  
Effective January 1, 2015  
by Decision dated December 17, 2014  
Docket No. 14-05-06  
by Letter Ruling dated December 22, 2014  
Docket No. 15-01-01  
Rate 116.07-01-15.doc

Effective July 1, 2015  
by Letter Ruling dated June 25, 2015  
Docket No. 15-01-01

THE CONNECTICUT LIGHT AND POWER COMPANY

PARTIAL STREET LIGHTING SERVICE

RATE 117  
Page 3 of 5

	Nominal Ratings in Lumens	Lamp and Ballast Wattage	Monthly Charge Components		Monthly Charge
			Customer	Demand	
<u>Light-Emitting Diode</u>	2,500	28	0.33	0.23	\$0.56
<u>(LED)</u>	4,100	44	0.33	0.36	\$0.69
	4,800	54	0.33	0.44	\$0.77
	8,500	102	0.33	0.83	\$1.16
	13,300	169	0.33	1.38	\$1.71
	24,500	275	0.33	2.24	\$2.57

Twin Lamps: Two times the above wattage and rate  
Other Wattage: \$0.33 per fixture plus \$0.00815 per connected watt

MIDNIGHT SERVICE OPTION:

The lights for customers selecting this option will turn off at midnight, and the kWh-based charges for street lighting service will be reduced accordingly. Customers will be responsible for purchasing, installing and maintaining control equipment that meets Company standards in order to receive service under this option.

DETERMINATION OF MONTHLY KWH:

The determination of monthly lighting kilowatt-hours for purposes of determining monthly sales and computing the fuel adjustment is as follows:

Wattage divided by 1,000 times the monthly burning hours below:

Standard Dusk to Dawn Service:

January	433	July	269
February	365 (leap year - 377)	August	301
March	364	September	334
April	310	October	388
May	280	November	413
June	251	December	442

Optional Midnight Service:

January	224	July	144
February	185 (leap year - 192)	August	161
March	187	September	181
April	164	October	213
May	153	November	225
June	137	December	236

Supersedes Rate 117  
Effective January 1, 2015  
by Decision dated December 17, 2014  
Docket No. 14-05-06  
by Letter Ruling dated December 22, 2014  
Docket No. 15-01-01

Effective July 1, 2015  
by Letter Ruling dated June 25, 2015  
Docket No. 15-01-01

# Itemized Savings

Item #	Existing Fixture	New Fixture	New Wattage		Quantity	Annual kWh			Annual Energy Costs & Savings		
			Existing	New		Existing Usage	New Usage	Savings	Existing Costs	New Costs	Savings
1	CH-HPS-OH-50W-120V	GE-GE-ENL-T8D	59	19	9	2,177	701	1,476	\$989	\$124	\$865
2	CH-HPS-OH-70W-120V	GE-GE-ENL-T8D	84	25	1,192	410,525	122,180	288,345	\$146,436	\$20,097	\$126,339
3	CH-HPS-OH-100W-120V	GE-ENL-O-87-81-40-A-GRAY	118	39	99	47,896	15,830	32,066	\$13,902	\$2,364	\$11,538
4	CH-HPS-OH-150W-120V	GE-ENL-O-03-81-40-A-GRAY	172	70	13	9,168	3,731	5,437	\$2,217	\$521	\$1,696
5	CH-HPS-OH-250W-120V	GE-ENL-O-03-K1-40-A-GRAY	311	91	69	87,982	25,744	62,238	\$16,915	\$3,513	\$13,401
6	CH-HPS-OH-400W-240V	GE-ENL-O-L2-C1-S-40-A-GRAY	472	184	3	5,806	2,263	3,542	\$1,010	\$297	\$713
7											
8	CH-MV-OH-100W-120V	GE-ENL-O-87-81-40-A-GRAY	118	39	1	484	160	324	\$143	\$24	\$119
9											
10	CH-HPS-UG-70W-120V	GE-GE-ENL-T8D	84	25	24	8,266	2,460	5,806	\$4,748	\$405	\$4,344
11	CH-HPS-UG-100W-120V	GE-ENL-O-87-81-40-A-GRAY	118	39	22	10,644	3,518	7,126	\$4,759	\$530	\$4,220
12											
13	CH-MV-UG-100W-120V	GE-ENL-O-87-81-40-A-GRAY	118	39	2	968	320	648	\$435	\$48	\$387
Total:						583,914	176,907	407,007	\$191,635	\$27,943	\$163,692

**Conneticut Light & Power**  
**Sale of Streetlighting Equipment**  
**Town of East Lyme**  
**Net Book Value of Streetlighting Equipment as of 12/31/2014**  
**(Revised 3/3/15)**

Lights

Original Cost	\$ 332,741.39
Accumulated Depreciation	\$ (63,488.73)
Net Book Value of Streetlight Fixtures	\$ 269,252.66

Poles

Original Cost	\$ 119,299.98
Accumulated Depreciation	\$ (23,846.32)
Net Book Value of Streetlight Poles	\$ 95,453.66

Total Net Book Value of Lights and Poles Purchased

\$ 364,706.32

NEED NEW EVALUATION FROM ENGINEER

1740 10000

STREET LIGHTING

MANAGEMENT

SERVICE

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000

10000 10000



Tanko Lighting

## Tanko Lighting - GE Option

Assumptions	
Quantity of Fixtures	1,434
Current Annual kWh cost	\$191,535
Acquisition Cost	\$384,312
Rebate \$/kWh Saved	\$0.30
Estimated Annual Energy Savings (kWh)	407,007
Estimated Annual Energy Savings (\$)	\$163,592
Estimated Rebate Amount	\$122,102
Key Values	
Cost of Acquisition (included in loan amount)	\$384,312
Audit Cost (included in loan amount)	\$21,510
Installation Cost (included in loan amount)	\$126,670
LED Fixture Purchase (included in loan amount)	\$266,394
<b>Total Project Cost / Loan Amount</b>	<b>\$798,886</b>
Year 1 Maintenance Cost*	-\$6,453
Total Per Fixture Turn-Key Project Cost	\$289
Total Project Cost (less Acquisition Cost)	\$414,574
Simple Payback (Years)	4.14

### Assumptions

- Based on inventory from streetlight bill - [1,434 fixtures]
- \$268 / fixture "buyout" (acquisition) cost from Eversource [1,434 fixtures / \$385,000]
- \$0.30 / kWh saved rebate from Eversource
- Estimated police costs included for "construction escort"
- GE ERL fixture (can quote other manufacturer's)

# Town of East Lyme Street Lighting Conversion

## Project Summary Sheet

Sunday, September 20, 2015

	Existing	Annual Costs + Savings		Final Project Costs	
		New	Savings	Total Retrofit Cost	Net Project Cost
Annual kWh	583,914	176,907	407,007	\$798,886	
Annual Energy	\$191,535	\$27,943	\$163,592	Total Rebate Incentive	\$122,102
Annual Maintenance	\$0	\$6,453	-\$6,453	Net Project Cost	\$676,784
Annual CO2 Emissions (lbs)	305,971	92,699	213,272		
	Existing	20-Year Costs + Savings		Simple Payback (Years)	
		New	Savings	Total Project Cost	Net Project Cost
20-Year Energy	\$4,217,412	\$615,277	\$3,602,135	4.88	4.14
20-Year Maintenance	\$0	\$272,687	-\$272,687	Energy Savings Only	
20-Year Energy + Maintenance	\$4,217,412	\$887,964	\$3,329,448		
Loan Payments	\$0	\$0	\$0		
Rebate Incentive	\$0	-\$122,102	\$122,102		
<b>Grand Total</b>	<b>\$4,217,412</b>	<b>\$765,862</b>	<b>\$3,451,550</b>		

## Tanko Lighting - GE Option w/Loan

Assumptions	
Quantity of Fixtures	1,434
Current Annual kWh cost	\$191,535
Acquisition Cost	\$384,312
Rebate \$/kWh Saved	\$0.30
Estimated Annual Energy Savings (kWh)	407,007
Estimated Annual Energy Savings (\$)	\$163,592
Estimated Rebate Amount	\$122,102
Key Values	
Cost of Acquisition (included in loan amount)	\$384,312
Audit Cost (included in loan amount)	\$21,510
Installation Cost (included in loan amount)	\$126,670
LED Fixture Purchase (included in loan amount)	\$266,394
<b>Total Project Cost / Loan Amount</b>	<b>\$798,886</b>
Year 1 Maintenance Cost*	-\$6,453
Total Per Fixture Turn-Key Project Cost	\$289
Total Project Cost (less Acquisition Cost)	\$414,574
Simple Payback (Years)	4.14

### Assumptions

Loan financing of 2.45% for 6 year term.

- Based on inventory from streetlight bill - [1,434 fixtures]
- \$268 / fixture "buyout" (acquisition) cost from Eversource [1,434 fixtures / \$385,000]
- \$0.30 / kWh saved rebate from Eversource
- Estimated police costs included for "construction escort"
- GE ERL fixture (can quote other manufacturer's)

# Town of East Lyme Street Lighting Conversion

## Project Summary Sheet

Sunday, September 20, 2015

	Existing	Annual Costs + Savings		Final Project Costs
		New	Savings	
Annual kWh	583,914	176,907	407,007	Total Retrofit Cost \$798,886
Annual Energy	\$191,535	\$27,943	\$163,592	Total Rebate Incentive \$122,102
Annual Maintenance	\$0	\$6,453	-\$6,453	Net Project Cost \$676,784
Annual CO2 Emissions (lbs)	305,971	92,699	213,272	

	Existing	20-Year Costs + Savings		Simple Payback (Years)
		New	Savings	
20-Year Energy	\$4,217,412	\$615,277	\$3,602,135	Total Project Cost 4.88
20-Year Maintenance	\$0	\$272,687	-\$272,687	Net Project Cost 4.14

20-Year Energy + Maintenance	\$4,217,412	\$887,964	\$3,329,448	
Loan Payments	\$0	\$859,856	-\$859,856	
Rebate Incentive	\$122,102	-\$122,102	\$244,204	
<b>Grand Total</b>	<b>\$4,217,412</b>	<b>\$1,625,718</b>	<b>\$2,713,796</b>	



September 21, 2015

City of East Lyme  
108 Pennsylvania Ave  
East Lyme CT 06357

**Re: Municipal Lease/Purchase Financing**

Dear Sir or Madam:

TCF Equipment Finance, a division of TCF National Bank ("TCF") is pleased to propose to the City of East Lyme the following tax-exempt lease/purchase transaction as outlined below. Under this transaction, the City of East Lyme would enter into a municipal lease/purchase agreement with TCF for the purpose of acquiring a new High Efficiency Street Lighting from Tanko Lighting. This transaction is subject to formal review and approval by both the Lessor and Lessee.

**LESSEE:** City of East Lyme, Connecticut

**LESSOR:** TCF Equipment Finance, its affiliates or assignees

**EQUIPMENT:** High Efficiency Street Lighting

**PROJECT COST:** \$798,886.00

**TERM:** 6 Years

**INTEREST RATE:** 2.45%

**CLOSING FEES:** None charged by Lessor

**SEMI-ANNUAL PAYMENTS:** \$71,995.00 payable in arrears

**PRICING:** The Rate and Payments outlined above are locked for 30 days, provided this transaction is closed/funded prior to that time. After 30 days, the final Rate and Payments shall be adjusted commensurately to the market in effect at the time of funding and shall be fixed for the entire lease term. This proposal shall expire if it is not accepted by the Lessee within 15 days of the proposal date.

**ESCROW FUNDING:** Upon closing of this transaction and at the direction of the Lessee, TCF shall fund the amount financed into an Escrow Account which shall be used to disperse milestone payments during the installation period. All interest earnings shall be for the account of the Lessee. Any fees charged by the Escrow Agent shall be paid by lessee or capitalized.

**DOCUMENTATION:** Lessor shall provide all of the documentation necessary to close this transaction. This documentation shall be governed by the laws of the State of Connecticut.

**TITLE / INSURANCE:** Lessee shall retain title to the equipment during the lease term. Lessor shall be granted a perfected security interest in the equipment and the Lessee shall keep the equipment free from any/all liens or encumbrances during the term. Lessee shall provide adequate loss and liability insurance coverage, naming Lessor as additional insured and loss-payee. Lessee may self-insure for these coverages.

We appreciate this opportunity to offer a TCF Financing Solution. Please do not hesitate to contact me if you have any questions at **(706) 705-1392**. Upon acceptance of this proposal, please scan and e-mail to my attention at [grogero@tcfef.com](mailto:grogero@tcfef.com). Thank you again.

Sincerely,



Gene Rogero  
Vice President

#### ACCEPTANCE

As a duly authorized agent of the **City of East Lyme**, I hereby accept the terms of this proposal as outlined above and intend to close this financing with TCF, subject to final City Council approval.

ACCEPTED: \_\_\_\_\_ DATE: \_\_\_\_\_

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

PHONE: \_\_\_\_\_

*TCF (NYSE: "TCB") is a Minnesota-based national bank holding company with over \$20 billion in total assets. TCF Bank has 382 branches in Minnesota, Illinois, Michigan, Colorado, Wisconsin, Indiana, Arizona, Wyoming and South Dakota, providing retail and commercial banking services. TCF, through its subsidiaries, also conducts commercial leasing, equipment finance, and auto finance business in all 50 states and commercial inventory finance business in the U.S. and Canada.*

WE ARE PROVIDING THE INFORMATION CONTAINED HEREIN FOR INFORMATIONAL PURPOSES ONLY IN CONNECTION WITH POTENTIAL ARMS-LENGTH COMMERCIAL BANKING TRANSACTIONS. IN PROVIDING THIS INFORMATION, WE ARE ACTING FOR OUR OWN INTEREST AND HAVE FINANCIAL AND OTHER INTERESTS THAT DIFFER FROM YOURS. WE ARE NOT ACTING AS A MUNICIPAL ADVISOR OR FINANCIAL ADVISOR TO YOU, AND HAVE NO FIDUCIARY DUTY TO YOUR OR ANY OTHER PERSON PURSUANT TO SECTION 15B OF THE SECURITIES EXCHANGE ACT OF 1934. THE INFORMATION CONTAINED IN THIS DOCUMENT IS NOT INTENDED TO BE AND SHOULD NOT BE CONSTRUED AS "ADVICE" WITHIN THE MEANING OF SECTION 15B OF THE SECURITIES EXCHANGE ACT OF 1934 AND THE MUNICIPAL ADVISOR RULES OF THE SEC. WE ARE NOT RECOMMENDING THAT YOU TAKE AN ACTION WITH RESPECT TO THE INFORMATION CONTAINED HEREIN. BEFORE ACTING ON THIS INFORMATION, YOU SHOULD DISCUSS IT WITH YOUR OWN FINANCIAL AND/OR MUNICIPAL, LEGAL, ACCOUNTING, TAX AND OTHER ADVISORS AS YOU DEEM APPROPRIATE. IF YOU WOULD LIKE A MUNICIPAL ADVISOR THAT HAS LEGAL FIDUCIARY DUTIES TO YOU, THEN YOU ARE FREE TO ENGAGE A MUNICIPAL ADVISOR TO SERVE IN THAT CAPACITY.