



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

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## SIMSBURY BOARD OF SELECTMEN

Main Meeting Room – Simsbury Town Hall – 933 Hopmeadow Street, Simsbury  
Regular Meeting – July 9, 2018 – 6:00 p.m.

### PLEDGE OF ALLEGIANCE

### PUBLIC AUDIENCE

### FIRST SELECTMAN'S REPORT

### TOWN MANAGER'S REPORT

### SELECTMEN ACTION

- a) Proposed Approval of Change in Scope for Generator Infrastructure Project
- b) Proposed Revisions to Carry In Carry Out Policy
- c) Tax Refund Requests
- d) Proposed Tax Sale Policy and Appointment of Special Legal Counsel
- e) Proposed Appointment of Interim Planning and Community Development Director
- f) Proposed Economic Development Commission Ordinance

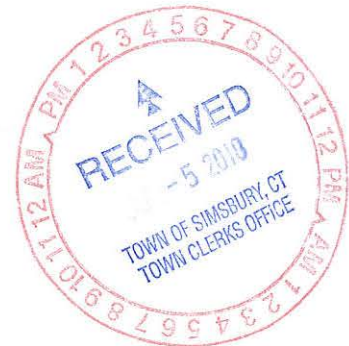
### APPOINTMENTS AND RESIGNATIONS

### REVIEW OF MINUTES

- a) Regular Meeting of June 25, 2018

### SELECTMEN LIAISON AND SUB-COMMITTEE REPORTS

- a) Personnel
- b) Finance
- c) Welfare
- d) Public Safety
- e) Board of Education



## COMMUNICATIONS

- a) Microchip Clinic & Dog Licensing Event on June 23, 2018
- b) Memo from E. Butler re: Increases in Town Clerk Fees, dated July 2, 2018
- c) Letter from M. Capriola re: Board of Selectmen Decision on C-Tec Tax Abatement Request, dated June 27, 2018
- d) Memo from M. Capriola re: Water Shortage Ordinance Letters and Referrals, dated July 2, 2018
- e) Memo from M. Glidden and R. Newton re: Short Term Residential Rentals, dated July 2, 2018
- f) State of Connecticut Consumer Counsel News Release: Seeking to Promote Broadband Access for All, Initiates Lawsuit Against PURA Decision, dated June 20, 2018 and CCM Bulletin: Use of the Municipal Gain Under Attack, dated December 14, 2017
- g) CCM Bulletin: *Janus v AFSMCE* U.S. Supreme Court Declares Agency Fees Unconstitutional, dated June 29, 2018

## ADJOURN TO EXECUTIVE SESSION

- a) Pursuant to CGS §1-200(6)(B) concerning Pending Claims and Litigation – Deepwater Wind Appeal, Petition 1313

## ADJOURN FROM EXECUTIVE SESSION

Possible action

## ADJOURN

***Following adjournment, per §CGS 1-200(2) the Board of Selectmen and staff will meet to discuss strategy and negotiations with respect to collective bargaining for the unit represented by IBPO.***





# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Title of Submission:** Proposed Approval of Change in Scope for Generator Infrastructure Project
2. **Date of Board Meeting:** July 9, 2018
3. **Individual or Entity Making the Submission:**  
Maria E. Capriola, Town Manager; Thomas J. Roy, Director of Public Works  
*Maria E. Capriola*
4. **Action Requested of the Board of Selectmen:**

If the Board of Selectmen supports the amended scope of work to allow for the installation of permanent generators, the following resolution is in order:

### **RESOLVED,**

*It is hereby determined that the scope of the project to provide generator infrastructure at Eno Memorial Hall, Simsbury Public Library and Town Hall approved by the Town of Simsbury as part of the 2015/2016 and 2016/2017 Capital Improvement Plans be modified to include the purchase and installation of permanent generators at both Eno Memorial Hall and the Simsbury Public Library and other expenses related to the project as modified.*

### 5. **Summary of Submission:**

In our continuing efforts to harden our infrastructure and be better prepared for natural disasters, the Town approved a capital project that would allow for the purchase of a large portable generator to support the Town's Emergency Operations Center (located at Town Hall) and to supply temporary power to the Library and Eno Memorial Hall. This project was broken into two separate capital budget appropriations in FY 15/16 and FY 16/17.

The initial project was developed to include the purchase of a trailer mounted portable standby generator to provide a means of standby power for all town buildings and for use by the Water Pollution Control Authority. The project also includes funding for electrical work to complete the retrofitting of the electrical systems at Eno Memorial Hall, Simsbury Public Library and the Town Hall to accommodate connections to the portable generator.

As Town staff began to evaluate costs for installation of the electrical infrastructure at the Library and Eno, it became apparent that we have the ability to install permanent generators at these facilities within the allocated project budget. Permanent generators will allow for both facilities to potentially serve as day shelters during periods of prolonged power outages, a service we are currently unable to provide unless a full scale shelter is open.

As both capital appropriations were funded with bond monies, bond counsel has advised that the Board of Selectmen and the Board of Finance need to amend the scope of work for this project (from portable to permanent generators). Bond counsel prepared the presented resolution.

**6. Financial Impact:**

This project was funded in FY15/16 and FY 16/17 with a total value of \$255,000 (\$80,000 in FY15/16 and \$175,000 in FY16/17). Currently the project has \$186,205 remaining for the installation at the Library and Eno Memorial Hall. This project will be completed using the available funds allocated in FY 15/16 and FY 16/17.

**7. Description of Documents Included with Submission:**

- a) Memo from T. Roy, re: Generator Infrastructure Project – Library and Eno Memorial Hall, dated July 3, 2018





# Town of Simsbury

66 TOWN FOREST ROAD, SIMSBURY, CONNECTICUT 06070

~ Department of Public Works ~

## **Memorandum: Generator Infrastructure Project – Library and Eno Memorial Hall**

**To:** Maria Capriola, Town Manager  
**CC:** Amy Meriwether, Jeff Shea, Lisa Karim, Kristen Formanek  
**From:** Thomas J. Roy, PE - Director of Public Works  
**Date:** July 3, 2018

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In our continuing efforts to harden our infrastructure and to be better prepared for natural disasters the Town put forward a capital project that would allow for the purchase of a large portable generator to support the Town Hall's Emergency Operations Center and to supply temporary power to the Library and Eno Memorial Hall. This project was broken into two separate appropriations; one for FY 2016 and a second for FY 2017.

In FY 2016 a project for the acquisition of a large portable generator was approved. The cost for the portable generator was budgeted at \$160,000 and was split evenly between the WPCA and the Town. The Town's \$80,000 CIP project was approved fund 510. We received favorable pricing on the portable generator using U.S. General Services Administration (GSA) contracts thereby providing a surplus in fund 510 of \$31,682.

Following the acquisition of the portable generator, in FY 2017 a \$175,000 project was approved as fund 533 for the installation of the necessary electrical infrastructure at the Town Hall, Library and Eno to allow for proper connections with the portable generator. At the time the primary goal for the connection of the Library and Eno was to prevent pipes from freezing during a prolonged winter power outage. There was also recognition of possibly of using these two facilities for a day shelter (place to keep warm, charge electronics, etc.) during prolonged power outages.

After completing the electrical connection work at Town Hall, fund 533 has a balance of \$154,523. As Town staff began to look at the costs for installation of the electrical infrastructure at the Library and Eno, it became apparent that with a remaining budget of \$186,205 between these two funds we had the ability to install permanent generators at these facilities.

Having permanent generation at these facilities provides a significant enhancement to these facilities, for both routine short duration outages as well as reducing the burden of relocating a portable generator during a prolonged power outage. Both the Library and Eno have the ability to serve as day shelters during periods of prolonged power outages or even to support the use of these facilities as cooling centers.

As these are bonded capital projects, our Bond Council has recommended that the Board of Selectmen and the Board of Finance make a new appropriation for this project. We are requesting the Board of Selectmen and the Board of Finance amend the scope of work for the capital projects with the following language provided by bond counsel:

RESOLVED,

It is hereby determined that the scope of the project to provide generator infrastructure at Eno Memorial Hall, Simsbury Public Library and Town Hall approved by the Town of Simsbury as part of the 2015/2016 and 2016/2017 Capital Improvement Plans be modified to include the purchase and installation of permanent generators at both Eno Memorial Hall and the Simsbury Public Library and other expenses related to the project as modified.

If you should have any questions on this request, please let me know.



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Title of Submission:** Proposed Revisions to Carry In Carry Out Policy
2. **Date of Board Meeting:** July 9, 2018
3. **Individual or Entity Making the Submission:**  
Maria E. Capriola, Town Manager; Eric Wellman, First Selectman  
*Maria E. Capriola*
4. **Action Requested of the Board of Selectmen:**  
If the Board of Selectmen concurs with the recommendations of the Town Manager and First Selectman to revise the Carry In Carry Out Policy to allow for trash receptacles to be placed at Rotary Park, then the following motion is in order:

*Move, effective July 9, 2018 to revise the Carry In Carry Out Policy as presented.*

5. **Summary of Submission:**

At the May 8, 2017 Board of Selectmen meeting the Carry In Carry Out Policy was approved with an effective date of July 1, 2017. The Town of Simsbury has adopted a Carry In, Carry Out Policy in which users of town-owned parks, fields, open space, and other outdoor public-use facilities have the responsibility to remove any waste they bring in, or any waste they generate during their time in those spaces.

The policy was put in place to reduce the amount of illegal dumping in town-owned parks, fields, open space, and other outdoor public-use facilities. The policy was also adopted as part of Simsbury's commitment to conservation and sustainability. Lastly, implementation of the policy reduces staff time needed to remove rubbish and allows the Culture, Parks and Recreation staff to more effectively use 10-15 staff hours per week for parks and open space maintenance tasks.

At the March 26, 2018 Board of Selectmen meeting, the Board voted to refer the policy to the Culture, Parks and Recreation Commission to evaluate the effectiveness of the policy and to recommend any modifications if needed. At the May 14<sup>th</sup> Board of Selectmen meeting the Commission provided a response that the policy has been largely effective and should be maintained without modifications. Staff and the Commission noted that they would continue to monitor parks that had been problematic with litter, such as Rotary Park.

Litter continues to be an issue at Rotary Park. The attached policy recommends a revision that would allow for trash receptacles to be placed at Rotary Park. While the Carry In Carry Out Policy has achieved success in most town parks, it does not appear to have had the same level of success in Rotary Park.



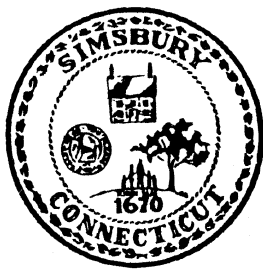
Additionally, at the time of adoption in 2017, the Carry In Carry Out Policy was not written in a policy document format. Staff has prepared the attached document to codify current practice and legislative intent (as stated in May 2017 when the policy was adopted).

**6. Financial Impact:**

If we contract with a local vendor for once per week pick up, the estimated cost is \$163.77 per month or \$1,965 per year.

**7. Description of Documents Included with Submission:**

a) Proposed Revised Carry In Carry Out Policy



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## TOWN OF SIMSBURY CARRY IN, CARRY OUT POLICY

*Adopted by the Simsbury Board of Selectmen on May 8, 2017*

*Effective Date: July 1, 2017*

*Revised Date: July 9, 2018*

### I. Purpose

The Town of Simsbury has adopted a Carry In, Carry Out Policy in which users of town-owned parks, fields, open space, and other outdoor public-use facilities have the responsibility to remove any waste they bring in, or any waste they generate during their time in those spaces.

The policy was put in place to reduce the amount of illegal dumping in town-owned parks, fields, open space, and other outdoor public-use facilities. The policy was also adopted as part of Simsbury's commitment to conservation and sustainability. Lastly, implementation of the policy reduces staff time needed to remove rubbish and allows the Culture, Parks and Recreation staff to more effectively use 10-15 staff hours per week for parks and open space maintenance tasks.

### II. Applicability

All users of town-owned parks, fields, open space, and other outdoor public-use facilities are subject to this policy.

### III. Effective Date

This policy shall remain in effect until revised or rescinded and replaces the original policy effective July 1, 2017. The Town reserves the right to amend this policy as necessary.

### IV. Exceptions

- A. Organizations and town recreational facilities operating concessions on town property are required to provide trash receptacles and will do so at the organizations' own expense.

- B. Recreational organizations may provide trash receptacles at recreational facilities with permission from Culture, Parks and Recreation. The Director of Culture, Parks and Recreation has the ability to approve or deny such requests. Recreational organizations authorized to provide trash receptacles at recreational facilities will do so at the organizations' own expense.
- C. Trash receptacles will be provided at Rotary Park located on Iron Horse Boulevard.





# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Title of Submission:** Tax Refund Requests
2. **Date of Board Meeting:** July 9, 2018
3. **Individual or Entity Making the Submission:**  
Maria E. Capriola, Town Manager; Colleen O'Connor, Tax Collector  
*Maria E. Capriola*
4. **Action Requested of the Board of Selectmen:**  
If the Board of Selectmen supports approving the tax refunds as presented, the following motion is in order:

*Move, effective July 9, 2018 to approve the presented tax refunds in the amount of \$313.36, and to authorize Town Manager, Maria E. Capriola, to execute the tax refunds.*

5. **Summary of Submission:**  
Tax refunds need to be issued from time to time for motor vehicles, real property, and personal property. Some of the most common reasons tax refunds need to be issued for motor vehicles include: sale of the vehicle; the vehicle is destroyed; the vehicle is donated; the owner has moved out of state; or, the owner has successfully appealed the taxes. Real estate refunds are typically due to the fact that during the sale or refinancing of a property, both a bank and an attorney's office have paid taxes owed, resulting in an overpayment to the Town. Overpayments of personal property taxes are rare; often overpayments of personal property are due to a person or entity forgetting that they paid in full in July, then also sending the January installment.

In a legal opinion from the Town Attorney dated May 22, 2001, he stated that CGS §12-129 "requires that all applications for tax refunds be referred to the Board (of Selectmen) for their consideration and action." Once approved by the Board of Selectmen, the Town Manager will sign off on tax refund applications.

As a reminder, the Tax Collector's Office is responsible for collecting revenue for the Fire District pursuant to Special Act #264 of the Legislature in 1945. However, tax refunds for the Fire District are not under the jurisdiction of nor approved by the Board of Selectmen and are therefore not included in the requested tax refunds presented.

6. **Financial Impact:**  
The aggregate amount of all tax refunds as presented is \$313.36. The attachment dated July 9, 2018 has a detailed listing of all requested tax refunds.
7. **Description of Documents Included with Submission:**
  - a) Requested Tax Refunds, dated July 9, 2018.

REQUESTED TAX REFUNDS  
JULY 9, 2018

	BILL NUMBER	TAX	INTEREST	TOTAL
<b>List 2016</b>				
VCFS Auto Leasing Co	2016-04-83476	\$83.51		\$83.51
Atty Kyle LaBuff (Ness, Jacob)	2017-01-3433	\$203.37		\$203.37
McQuilkin Robert	2017-03-62473	\$26.48		\$26.48
<b>Total 2016</b>		<b>\$313.36</b>	<b>\$0.00</b>	<b>\$313.36</b>



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Title of Submission:** Proposed Tax Sale Policy and Appointment of Special Legal Counsel
2. **Date of Board Meeting:** July 9, 2018
3. **Individual or Entity Making the Submission:**  
Maria E. Capriola, Town Manager; Colleen O'Connor, Tax Collector  
*Maria E. Capriola*
4. **Action Requested of the Board of Selectmen:**  
If the Board supports adoption of the Tax Sale Policy as presented, the following motion is in order:

*Move, effective July 9, 2018 to approve the Town of Simsbury Tax Sale Policy as presented.*

The Board has three options for action regarding the appointment of special legal counsel to assist with matters related to future tax sales:

- A. *Option A:* Appoint Attorney Adam Cohen with Pullman and Comley.
- B. *Option B:* Approve the use of the Town's general counsel, Updike, Kelly and Spellacy.
- C. *Option C:* Direct staff to issue a RFQ for special legal counsel to assist with tax sales.

If the Board supports Option A, the following motion is in order:

*Move, effective July 9, 2018 to appoint the firm of Pullman and Comley LLC as special legal counsel to conduct tax sales for the Town of Simsbury and to authorize Town Manager Maria E. Capriola to execute the engagement letter as presented.*

If the Board supports Option B, the following motion is in order:

*Move, effective July 9, 2018 to use Updike, Kelly and Spellacy, the Town's general counsel, to conduct tax sales for the Town of Simsbury.*

If the Board supports Option C, the following motion is in order:

*Move, effective July 9, 2018 to direct Town Manager Maria E. Capriola to issue a RFQ for special legal counsel to conduct tax sales for the Town of Simsbury.*

5. **Summary of Submission:**

The Revenue Collector has expressed a desire to engage in tax sales for properties seriously delinquent in their tax payments and/or sewer user fees. I am in concurrence with the Revenue Collector that proceeding with a tax sale is a more equitable means for dealing with properties significantly in arrears for their taxes and/or sewer fees than



selecting properties on a case-by-case basis for foreclosure proceedings. Foreclosure proceedings are also lengthy and resource consuming.

At the June 25<sup>th</sup> meeting, the Board expressed general support for exploring a process and policy for tax sales, and discussed possible criteria. In particular, there was interest in ensuring that the delinquency threshold is high enough to warrant a tax sale, particularly for sewer use fees. The Board also felt that it was premature to appoint special legal counsel prior to establishing a policy.

Staff has developed standards and procedures related to tax sales, which are presented in the proposed Tax Sale Policy. Under this policy, accounts would be considered seriously delinquent if:

1. A real estate delinquency on a single parcel is at least 3 Grand Lists late or \$25,000, whichever is first; or
2. A real estate delinquency on a single parcel which is abandoned or any vacant land and one year delinquent regardless of tax amount due; or
3. A sewer use fee or sewer assessment that is 5 years delinquent regardless of the amount due.

If a Tax Sale Policy were to be adopted with the criteria listed above, there are currently 26 properties that would be eligible for a tax sale. 10 of those properties are residential, 16 are parcels that are vacant land. If a policy is adopted in the near future, the tax sale would likely occur in late January 2019. Based on increasing the sewer fee threshold from three years to five years delinquent, there are currently no properties that would qualify for the tax sale due to delinquent sewer fees.

Based on discussion regarding legal representation for tax sales at the June 25<sup>th</sup> meeting, the Board could consider the following options for appointment of legal counsel to assist with these matters:

- A. *Option A:* Appoint Attorney Adam Cohen with Pullman and Comley.
- B. *Option B:* Approve the use of the Town's general counsel, Updike, Kelly and Spellacy.
- C. *Option C:* Direct staff to issue a RFQ for special legal counsel to assist with tax sales. It would be helpful to staff to have a member of the Board participate in the RFQ process.

#### **6. Financial Impact:**

There is currently \$786,446<sup>1</sup> in outstanding property tax collections for the properties that are eligible for tax sale under the proposed Tax Sale standards. Tax bills due July 1 are not included in the outstanding amount of taxes owed.

The proposed hourly rate for Attorney Cohen is \$400. The Attorney's fees are recouped through sale of the tax delinquent property(ies), as authorized by law. The proposed hourly rate from Updike, Kelly and Spellacy for this scope of work is forthcoming.

#### **7. Description of Documents Included with Submission:**

- a) Proposed Tax Sale Policy
- b) Proposed Engagement Letter
- c) Adam Cohen Bio

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<sup>1</sup> \$295,945 for residential. \$490,501 for vacant parcels (land/homes).

- d) Tax Sale Questions and Answers, Source: Adam Cohen
- e) Tax Sale Benchmarking Data, 4/16/18



# Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

## TOWN OF SIMSBURY TAX SALE POLICY

*Adopted by the Board of Selectmen on **INSERT DATE**, 2018*

### I. Purpose

The purpose of this policy is to establish parameters for conducting tax sales for properties seriously delinquent in their property tax payments, sewer use fees or sewer assessments.

### II. Background

Pursuant to CGS §12-155, the Collector of Revenue “may enforce by levy and sale any lien upon real estate for such taxes or he may levy upon and sell such interest of such person in any real estate as exists at the date of the levy,” the process for which is set forth in CGS §12-157, Method of selling real estate for taxes.

A tax sale is a public auction of property for which the owner has failed to pay property taxes, sewer use fees or sewer assessments owed to a municipality. The tax collector of the municipality arranges and conducts the tax sale personally or through an attorney.

### III. Policy

Tax sales will only be conducted on seriously delinquent accounts. Accounts will be considered seriously delinquent if:

1. A real estate delinquency on a single parcel is at least 3 Grand Lists late or \$25,000, whichever is first; or
2. A real estate delinquency on a single parcel which is abandoned or any vacant land and one year delinquent regardless of tax amount due; or
3. A sewer use fee or sewer assessment that is 5 years delinquent regardless of the amount due.

### IV. Process

In the ordinary course of business the Collector of Revenue will do, or cause to be done the following:

1. Mail property tax bills to all owners of record, as set out in the Grand List and the subsequent Rate Book/Bill, at their last known address;



2. Mail delinquent bills/reminders in August and February, and when partial payments are made;
3. Use due diligence to research new addresses and/or new owners;
4. Mail Demand Notices in October and Demand Notices again in April; and
5. Mail Intent to Lien Notices in April and file liens on the land records in May.

Each September and February, the Collector of Revenue will attend to seriously delinquent accounts, as defined in Section III of this policy, on a more intense basis. The Collector of Revenue will take the following steps to encourage payment on seriously delinquent accounts:

1. Construct reports listing the parcels/owners which meet the above criteria;
2. Research contact information and make contact with the owners either in writing or by phone.
3. Issue a demand specifying the tax sale as a consequence.

If the record owner does not satisfy the debt, the Collector of Revenue shall meet and confer with the Finance Director and Town Manager to review all seriously delinquent accounts and determine if enforced action is warranted. Should the Town Manager determine that enforced action is warranted, he or she will advance the recommended properties to the Board of Selectmen for consideration of a tax sale.



**Adam J. Cohen**  
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www.pullcom.com

March 6, 2018

Maria Capriola, Town Manager  
Town of Simsbury  
933 Hopmeadow Street  
Simsbury CT 06070

**Re: Town of Simsbury**

Dear Ms. Capriola:

You have asked my firm to represent the Town of Simsbury (“you”) in connection with revenue collections. This engagement commences when my firm receives your confirmation of this agreement’s terms.

*Client and Scope of Representation.* The Town is our client, and no other person or entity. You have asked us to provide you with advice and assistance relating to the collection of delinquent tax, utility, and similar accounts. These collection efforts are expected to primarily include demand letters and property auctions conducted under C.G.S. §§ 12-155 and 12-157, but may also include litigation, bank levies, bankruptcy claims, or other mechanisms as you deem appropriate in consultation with me. You will retain full discretion over which accounts you choose to refer to me for collection. For those accounts, you and the tax collector deputize and authorize us to prepare, sign, and serve demands, warrants, notices, bank account inquiries, and similar documents on the revenue collector’s behalf and to endorse and process the payments we receive for you. You agree to recall all warrants given to marshals, all accounts given to debt collection agencies, and otherwise ensure that no third party will be authorized by you to simultaneously attempt to collect the same delinquencies you refer to me.

*Additional Undertakings.* If you ask the firm to perform any additional work beyond this engagement, the firm will perform that work upon the same terms as stated in this agreement, unless we have obtained a new engagement agreement from you. Unless specified in this engagement, the firm is not agreeing to provide services for defending any lawsuit brought against you, arbitrations, appeals, bankruptcies, or post-judgment proceedings.

*Fees and Expenses.* Our fees will be based on the hourly billing rate for each attorney and legal assistant who may work on your matter, except that, in lieu of hourly rates and tracking, our fees related to the tax sale procedure for each property will be fixed by aspect of service according to the standard schedule attached to this letter. We may reduce those fixed fee amounts where we, in our sole discretion, deem it necessary in order to keep the fees reasonable

within applicable ethical rules, but we will not exceed those fee amounts without your advance written approval. Our hourly billing rates for attorneys currently range from \$210 per hour for associates to \$550 per hour for senior partners. My hourly rate currently is \$400. The hourly rate we charge for paralegal assistance currently ranges from \$125 to \$280 per hour. These hourly rates are subject to adjustment on an annual basis to reflect changes in the levels of experience of our attorneys and legal assistants and economic factors affecting the firm.

*Recovery of Attorney's Fees and Expenses.* By statute, reasonable attorney's fees and collection expenses are chargeable to the delinquent property and its owner. Thus, in most cases, the money recovered offsets these costs completely, so there is no need for us to bill you directly for our services related to municipal revenue collections. We therefore will not issue you bills for these collection services except in the following situations: (1) you ask my firm to represent you in litigation; (2) you decide to acquire delinquent property yourself as the purchaser or otherwise; (3) you decline to follow our advice or you provide us with inaccurate or incomplete information, which results in unrecoverable fees or expenses; or (4) you instruct us to continue pursuing an account after we advise you in writing that full recovery is unlikely. In those cases, and for legal services other than revenue collections, you will be responsible for the fees and costs as stated in the following paragraphs.

*Bankruptcy Proceedings.* If you ask my firm to represent you in bankruptcy proceedings for which no contested legal briefing or live court hearing is necessary, our legal fee will be 25% of all amounts actually collected through the bankruptcy plan, settlement, or otherwise, plus any out-of-pocket expenses, the remainder of which we will forward to you as the recovery upon the debt. In the event of dismissal of the bankruptcy case or default in the plan or settlement, our fees will revert from that point forward to an hourly calculation collectable from the debtor, fixed rate by tax sale, or as otherwise provided by state law and this engagement agreement. In the event of legal briefing, a live court hearing, or other contested bankruptcy litigation, our fees will revert to an hourly calculation payable by you under normal monthly invoicing. We cannot guarantee that the bankruptcy court will authorize the addition of our fees to the underlying delinquency for reimbursal.

*Client Responsibilities.* You agree to pay our invoices as provided below except as otherwise provided above. You must also cooperate with us and provide complete and detailed information when requested. You agree to keep us informed of any changes in your contact information. You agree that all necessary approvals for this engagement as may be required by any municipal charter, ordinance, or other regulation have been obtained, and that funding for our services has been allocated under the municipal budget.

We will include in our billings expenses we incur on your matter. Examples of expenses include photocopying, delivery service, computerized research, authorized travel, long distance phone calls, faxes, marshal fees, search and filing fees. Our representation of you may involve the assistance of outside consultants, experts or service providers such as court reporters. These type of expenses must be paid directly by you. If you are unwilling or unable to make

satisfactory arrangements to pay the additional costs of such services, we may not be able to retain such services, even if your matter would benefit therefrom.

*Billing.* Except as provided in the “*Recovery of Attorney’s Fees and Expenses*” paragraph above, the firm will send you monthly invoices for its services. The firm will charge interest at the rate of 1% per month (12% per annum) on any bills that remain unpaid for more than 60 days. After 60 days, we reserve the right to cease performing services for you, and to seek to withdraw our representation in any court proceeding, until satisfactory payment arrangements have been made.

*No Conditions Upon Firm’s Charges.* It is expressly understood that your obligations to pay the firm’s billings is not contingent upon: (a) the ultimate resolution of your matter; (b) the amount of money that is in dispute; or (c) the amount of any recovery you receive.

*Opinions and Beliefs.* By entering into this agreement, you acknowledge that the firm has made no promises or guarantees concerning the outcome of your matter. The outcome of any legal matter, especially negotiations or litigation, can be subject to numerous tangible and intangible factors, rendering predictions impossible. During the course of our representation, we may offer you advice and recommendations. Any statements we make, however, must be considered an expression of opinion only, based upon information available, and should not be construed as a promise or guarantee.

*Conflicts.* As you might expect, our firm represents clients throughout the State of Connecticut, including municipalities, boards of education, companies, individuals, financial institutions, governmental and quasi-governmental entities and associations that may have interactions with you in civil or criminal matters, not directly related to this representation. Our representation of other clients may include such things as representing a municipal government; representing the board of education; appearances before municipal boards and commissions, pursuing land use applications, and appeals from agency decisions; property valuation appeals; tax refund requests; representing purchasers of municipal obligations; foreclosures of mortgages and liens; and representation of parties in bankruptcy. You agree that we may represent other clients who may be adverse to you, including the debtor or creditor in the same or another bankruptcy or foreclosure matter or other parties in noncollection matters, provided such matters are not substantially related to the matter that we have been engaged to handle for you, and so long as we believe our responsibilities to you would not be materially limited due to such other representation.

*State of Connecticut.* From time to time, our firm represents the State of Connecticut or some of its agencies on totally unrelated matters. We have determined that any such unrelated matter would not in any way materially limit our representation of you in this matter. If you wish to discuss this further, please feel free to contact me.

*Municipal Funds.* If we come into possession of municipal funds that we hold for your benefit, you agree in accordance with C.G.S. § 7-402(b) that the firm may designate Bank of

America (where we maintain our Trustee Accounts) as the temporary deposit location for the public funds. You further agree that if the funds are to be held by the firm for less than ninety (90) days, they may be placed in an IOLTA Account, where any interest that accrues does so for the benefit of the indigent. As you know, proceeds from tax sales and other collection proceedings may be subject to certain statutory timelines requiring them to be held by our office for several months. You therefore authorize the Firm to hold all funds in trust, whether arising from debt recoveries, auction overbids, reimbursement of our fees and costs, or otherwise, for so long as may be appropriate to properly administer and complete the relevant transactions. Where a statute requires proceeds to be placed in an interest-bearing account, the Firm will follow that statutory requirement.

*Electronic Communications and Confidentiality.* We may communicate with you by letter, facsimile, mobile telephone, e-mail or text. If you object to our using any particular type of electronic communication, please let us know immediately and we will utilize our best efforts to honor your request.

By entering into this engagement, you recognize that the traditional rules of confidentiality of communications between a client and its lawyer may be impacted by the provisions of the Freedom of Information Act ("FOIA"). You may for example receive FOIA requests for such things as our communications with you or our billings. Accordingly, our billing time entries may be more circumspect than we might otherwise prepare for a non-governmental client to avoid the disclosure of confidential communications or advice in a billing entry. Further, we suggest you separate our privileged communications to you from records that are otherwise made available for public inspection. If you receive a FOIA request to view our communications, we would be happy to consult with you about the propriety of any disclosures of our communications, but depending upon the circumstances of our retention, the town/district attorney and/or its chief executive officer may have to be consulted as well.

*Records Retention.* We will retain our records for ten (10) years after the conclusion of this matter. We do not concede that our firm's records could be deemed "public records" under FOIA. If you desire a longer retention period, then please notify us in writing.

*Termination of Engagement.* Either you or the firm may terminate our representation of you at any time, by written notice, subject on our part to the Connecticut Rules of Professional Conduct. If you terminate our services, you agree to promptly pay all outstanding fees and expenses. You also agree to pay our fees until such time as any required Motion to Withdraw is granted. The firm reserves the right to terminate your engagement of us if you do not honor this engagement letter, including not paying your bills.

*Choice of Law, Venue and Fee Dispute Resolution.* The engagement of the firm for this or any subsequent matter shall be governed by the laws of Connecticut. Should there be any dispute about the firm's representation, the exclusive venue for the resolution of any such controversy shall be a court of competent jurisdiction within Connecticut. Notwithstanding the



foregoing, should any dispute arise over the firm's fees or expenses, or any guaranty thereof, then such dispute shall be resolved by binding arbitration in accordance with the Fee Dispute Resolution Program of the Connecticut Bar Association, found at [www.ctbar.org](http://www.ctbar.org). If this is a commercial matter, you and any guarantor acknowledge the firm shall be entitled to recover its reasonable attorneys' fees and expenses to collect its invoices, whether through court or arbitration proceedings.

This letter agreement contains the entire agreement between you and Pullman & Comley, LLC regarding the requested representation and the fees, charges and expenses to be paid. If you agree with the terms of this letter, then please return a signed copy of this letter by mail, or by e-mail with a PDF attachment to my attention at [ajc@pullcom.com](mailto:ajc@pullcom.com). If you have any questions or comments about anything described in this letter, please do not hesitate to call me. On behalf of Pullman & Comley, LLC, I look forward to assisting you.

Sincerely,



Adam J. Cohen

### **CONSENT TO REPRESENTATION ON STATED TERMS**

The undersigned hereby approves and consents to each of the terms and conditions stated above.

**The Town of Simsbury**

By: \_\_\_\_\_  
Its: Town Manager

Date \_\_\_\_\_

**FIXED ATTORNEY'S FEE SCHEDULE FOR REPRESENTATION  
IN PROPERTY AUCTION MATTERS, PER PROPERTY SLATED**

<b><u>Service Performed Per Property</u></b>	<b><u>Cumulative Fee for accounts under \$5,000</u></b>	<b><u>Cumulative Fee for accounts \$5,000-\$50,000</u></b>	<b><u>Cumulative Fee for accounts over \$50,000</u></b>
file open and/or demand letter, process full payoff	\$245.00	\$425.00	\$695.00
slate auction and draft first levy notices	\$695.00	\$895.00	\$1,095.00
analyze title report and issue first levy notices	\$900.00	\$1,550.00	\$1,750.00
issue second levy notices	\$1,050.00	\$1,750.00	\$2,050.00
issue third levy notices	\$1,250.00	\$2,050.00	\$2,450.00
prepare auction paperwork	\$1,500.00	\$2,500.00	\$3,000.00
travel to auction and on-site preparation	\$1,800.00	\$2,800.00	\$3,400.00
conduct auction and prepare post-sale notices, paperwork, and affidavit	\$2,950.00	\$3,950.00	\$4,850.00
process post-auction redemption or deposit court overbid and issue claim rights notice	\$3,450.00	\$4,450.00	\$5,450.00

(All above include routine auction-related communications with client, debtors, lienors, and the public. Each figure includes the fee for all services listed above it; they are not added together.)

process partial payments and administer payment plans	above plus normal hourly rates
postpone/reschedule auctions, process bidder reneges	above plus normal hourly rates
post on-site property auction sign	above plus \$200.00
bankruptcy, probate, or other court/administrative litigation (appearance requires client preapproval)	above plus normal hourly rates and/or bankruptcy contingency
all costs and expenses (postage, photocopies, newspaper advertising, skip trace, mileage, etc.)	above plus actual reimbursal (no markup)

# PULLMAN & COMLEY LLC ATTORNEYS

*Pulling Together. Succeeding Together.*



## Adam J. Cohen

Member

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P.O. Box 7006

Bridgeport, CT 06601-7006

p 203.330.2230

f 203.576.8888

[ajcohen@pullcom.com](mailto:ajcohen@pullcom.com)

### Practice Areas

Town Governments,  
Departments and Authorities

Condominiums, Residential  
Associations and Community  
Organizations

Municipal Law

Appellate

Litigation

Construction

Business Disputes

Real Estate Litigation

Adam J. Cohen practices in the area of complex commercial litigation including creditor's rights, defamation, business evictions, consumer credit, and lien foreclosures. He also has considerable experience representing municipal and private communities throughout Connecticut. Adam organizes neighborhood districts, drafts ordinances and bylaws, enforces assessments and modernizes organic documents for municipalities, condominiums and residential associations across the state. He serves as general counsel for the Connecticut Tax Collectors' Association and chairs the firm's Municipal Law and Community Associations section. Adam often lectures officers and managers of towns, tax districts and condominiums on revenue collection strategies and other issues of interest to these communities. Adam is also the legal editor of *Common Interest*, the official magazine of the Connecticut chapter of the Community Associations Institute.

## Bar and Court Admissions

Connecticut

U.S. Court of Appeals for the Second Circuit

U.S. District Court, District of Connecticut

## Education

Cornell Law School, J.D., *cum laude*, 1998

Vassar College, B.A., *cum laude*, 1995; Phi Beta Kappa

Adam's published works include "Condo Law Revolution," *Common Interest Magazine*; "How to Prepare a Powerful Memo," *(ABA) Student Lawyer Magazine*; "Tax (Not Just Another) Collection: Special Considerations for Recovering Unpaid Municipal Taxes," *Connecticut Lawyer*; "Do-It-Yourself Government: Creating and Understanding Special Taxing Districts," *Connecticut Lawyer* and *Common Interest Magazine*; "Keeping the Promise: Proposed Legislation to Establish Nontransferable Elections Systems in Jurisdictions Covered by Section Four of the Voting Rights Act," *St. Mary's Law Journal*; "Disregarding the Quarrel Heard," *Connecticut Lawyer*; "The Open Door: Will the Right to Die Survive *Washington v. Glucksberg* and *Vacco v. Quill*?" *In the Public Interest*; and numerous articles in bar journals, newsletters, and magazines.

He serves as co-chair of the firm's Recruiting Committee, director of its Summer Associate Program and coordinator of its pro bono outreach programs.

## News & Events

[EVENT: Condo & Home Owners Association Insurance & Legal Panel](#)

## Publications & Alerts

[The Basics of Condominium Borrowing](#)

## Representative Experience

- ▶ Drafts and revises charters, ordinances, rules, and policies for towns, tax districts, municipal boards and governmental authorities
- ▶ Prepares and updates declarations, bylaws, rules, and forms for condominiums, community organizations and residential associations
- ▶ Counsels municipal departments and officials on compliance with the Freedom of Information Act, taxation mechanisms and other statutory mandates
- ▶ Has collected millions of dollars in unpaid taxes and assessments for municipalities and community associations across Connecticut
- ▶ Assists contractors, building material suppliers and subcontractors with mechanic's lien foreclosures and other collections
- ▶ Defends businesses against consumers claims under the Truth in Lending, Fair Credit Billing, FACT, Fair Credit Reporting and Unfair Trade Practice Acts

## Professional Affiliations

American Bar Association - Litigation Section

Connecticut Bar Association - Litigation Section

Greater Bridgeport Bar Association

State of Connecticut Judicial Branch Law Library Advisory Committee

## Community Involvement

CBA Pro Bono Committee

Appointed by the mayor of Hamden to serve as a founding member of the Hamden Commission on Human Rights and Relations from 2001 to 2003, which monitors and reports on race, gender and similar issues

Graduate of Class 16 of the Bridgeport Regional Business Council's Leadership Greater Bridgeport program

## Honors & Awards

Rated AV Preeminent by Martindale-Hubbell

Connecticut Tax Collectors' Association President's Award, March 2013



Named to the *Super Lawyers* "Connecticut Rising Stars" list in the area of Government/Cities/Municipalities in 2010, 2011, 2012 and 2013

"40 Under 40" Business Leaders Award from the *Fairfield County Business Journal*, June 2009

New Leaders of the Law Award for Advocacy from the *Connecticut Law Tribune*, November 2003

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### **What happens at the auction?**

The auction usually takes place at the town hall, municipal office, or the property itself. The notices will specify the location. A sign is posted at the auction explaining the total delinquency, and rules are announced for how the auction will be conducted. The property is then auctioned to the highest bidder. Often, several delinquent properties are auctioned on the same day, one at a time. If the bids are too low, the municipality itself can bid on the property or reschedule the auction.

### **Who can participate in the auction?**

Registration takes place at the time and place of the auction, not before. Any member of the public (other than the owner and encumbrancers) may bid on the property so long as he or she has a nonrefundable deposit in a minimum amount announced by the municipality. The deposit must be in cash or certified funds; personal checks or home equity line checks are not acceptable. Bidders must also bring government-issued ID and be prepared to provide a social security number (if bidding in their own name) or federal tax identification number (if bidding for an entity). Any member of the public may attend and observe the auction, but only those who register can bid.

### **Can people inspect the property before bidding?**

People interested in bidding may research public records like assessment maps, field cards, land records, and similar documents, or look at the property from the road or sidewalk. They may also hire an appraisal service to conduct a curbside value estimate. No one, however, may trespass onto the property itself, or violate the privacy rights of any occupants. The municipality has no power to let interested bidders enter a property being auctioned at any time. (The only exception is that a municipality can authorize ground testing of a property with a known contamination history, with no guarantees as to the environmental condition or whether testing has been or should be done.)

### **How does the bidding work?**

The minimum bid will be an amount determined by the municipality; it is usually the total delinquency including principal, interest, and fees due plus the cost of the auction and any jeopardy acceleration of subsequent installments (see below). Bidding will increase in an orderly fashion and as appropriate to maximize the final price. When someone is declared the highest bidder, he or she submits the deposit and must pay the rest of the bid (also in cash or certified funds) by a fixed deadline. Otherwise, the deposit is forfeited, and the next-highest bid might be accepted instead depending on the rules announced at the auction. All unsuccessful bidders get their deposits back immediately. (Some bidders name themselves as alternative payees – such as, “John Smith OR Pullman & Comley, Trustee” – to simplify getting their money back from their bank.)

### **What is a “jeopardy acceleration”?**

Jeopardy is the acceleration of a tax or other debt owed to the municipality. Although taxes usually become due in separate installments at fixed dates throughout the year, a tax collector who believes that a future installment is unlikely to be paid on time can collect it early. This is often done when an owner has missed several payments in a row, so that future installments can be recovered at the same time as the delinquencies. If budgets or mill rates have not yet been fixed, an estimate is used for the jeopardy amount to be collected, and any balance can be reflected on the next bill.

**Where does the money go?**

Once paid, the winning bid is immediately used to pay the collection expenses and delinquencies owed in the order required by state law. Any money left over is put into a separate bank account and the municipality keeps the interest it earns. On the other hand, if the winning bid is less than the total delinquency, the owner continues to owe the difference, and the municipality might litigate to collect it, or pursue the person's other income or assets to the extent allowed by law.

**What guarantees are given to the auction's highest bidder?**

None, other than that the auction is conducted according to the proper legal procedures. The property itself is sold "as is" in every way. There is no guarantee that the property is buildable, up to code, useable for any purpose, or worth the money paid for it. The buyer has sole responsibility to figure out what he or she is getting and to seek out independent legal advice.

**What happens after the auction?**

After the auction, a notice identifying the highest bidder and price is sent to the owner and everyone else with a recorded interest in the property. This is also published in a local newspaper. The tax collector signs a deed transferring the property to the highest bidder, but holds it in the clerk's office for six months. Nothing else happens during this time. The taxpayer continues to own and use the property; the highest bidder still cannot enter, alter, or sell it. If the highest bidder wants to, he or she may buy insurance to protect the property from fire or loss. (The municipality can give no advice as to whether you should obtain insurance of any kind and cannot recommend any particular insurer.)

**When does the highest bidder get title?**

Six months after the auction, the deed which the tax collector signed is officially recorded in the land records. The highest bidder owns the property "free and clear" of other liens and encumbrances at that time, except certain kinds such as easements and other taxes. For example, the purchaser would not have to pay off the property's mortgages and judgment liens (unlike in some court foreclosures). The purchaser must pay any taxes and water/sewer charges owed to the municipality conducting the sale which occur after the first sale notice filed in the land records unless they were included in the purchase price. It is solely up to the purchaser to evict any "holdovers" – like the former owner – by legal methods. The purchaser can ask the tax collector to put an affidavit in the land records explaining the details of the tax sale, which may be needed to apply for title insurance.

**What about the property's other encumbrancers?**

When the highest bidder acquires the property six months after the auction, most other interests in the property are wiped out. This means that mortgages, liens, and other monetary encumbrances – even federal and state liens – the holders of which were notified or aware of the sale will become totally unenforceable against the property and its new owner, except as the notice might otherwise exempt them. The notices might identify additional liens which will survive the auction. If the municipality is holding extra money because the winning bid exceeds the total amount owed, the difference (less any other taxes or debts owed by the same owner) is sent to the local superior court. The former owner and any other person with a recorded interest in the property has 90 days to apply for a share of the money, and the court decides how to distribute it. (The purchaser cannot claim it.)

Tolland Windham County - TAX SALE SURVEY

<u>Town/City</u>	<u>Contact</u>	<u>TAX SALE Y/N</u>	<u>TOWN ATTORNEY OR OTHER</u>	<u>ATTORNEY USED</u>	<u>DATE OF LAST OR UPCOMING TAX SALE</u>	<u>COMMENTS ON FEES/COST OF SALE</u>	<u>CRITERIA FOR TAX SALE</u>	<u>WHERE IS CRITERIA POSTED</u>
Canterbury	Natalie Ellston	Y	Town Atty/Myself	Rich Cody	July-15	the highest cost is the time it takes	Three or more years of unpaid taxes	in my head
Chaplin	Gay St Louis	Y	OTHER	Adam Cohen	Postponed	No Cost to the Town	Payment history determines a lot, as well as the tupe of property etc... Mobile Home, residential, vacant land and commercial. Two years is a maximum on non compliance for most properties. Atty Cohen's demand notice are a great tool and most properties are paid through him prior to the tax sale.	Town Hall Bulletin Board
Killingly	Patricia Monahan	Y	Other	Adam Cohen	June-18	aprox \$4,000 per property paid by successful bidder at sale	Properties that are four years or more delinquent.	office policy manual
Pomfret	Pamela Gaumond	Y	Other	Adam Cohen	June-15			
Putnam	Melissa Alden	Y	Other	Adam Cohen	June-18	Adam's fees	The Town and Districts of Putnam use \$5,000.00 and / or 3 years (including current) for its threshold. WPCA criteria is two billing years or \$1,000.00.	Web Page
Somers	Sherri Czyz	Y	Other	Adam Cohen	April-18	Adam's fees	Properties with 2 years delinquent taxes or delinquent taxes in access of	Tax Office P & P Manual
Sterling	Anna Gagner	Y	Other	Adam Cohen	June-18		3 years old or over \$3,000	Policy & Procedure Book
Tolland	Michele Manus	Y	Other	Adam Cohen	Fall 2018		3 Installments or \$10,000 Delinquent	Policy was adopted by the Town Council and is in the minutes as well as our office
Vernon	Terry Hjarne	Y	Other	Adam Cohen		3450-5450 range paid by taxpayer		
Willington	Lisa A. Madden	Y	Other	Adam Cohen	February-18	\$2500-\$3950 Bidder Pays; \$2500 for Town to keep land	For a residential property, if you owe more than \$3,500 or are more than two years in arrears, you will be identified for a tax sale / lien assignment. If the property is abandoned or has no residential dwelling, and you are over one year in arrears, you will be identified for a tax sale/ lien assignment. Commercial properties over one year in arrears will be identified for a tax sale/ lien assignment.	Revenue Web Page
Windham	Gay St Louis	Y	Other	Adam Cohen	1/19/2018	No Cost to Town	Payment history determines a lot, as well as the tupe of property etc... Mobile Home, residential, vacant land and commercial. Two years is a maximum on non compliance for most properties. Atty Cohen's demand notice are a great tool and most properties are paid through him prior to the tax sale.	Town Hall Bulletin Brd
Woodstock	Linda Bernardi	Y	Other	Adam Cohen	September-18	Last sale on April 2016 was paid 2 minutes before opening bid. Adam's fees.	1. Property must be sellable. 2. Real Estate taxes must be delinquent a minimum of 3 years or greater to be considered for Tax Sale. 3. Delinquent Real Estate taxes equal or greater than \$25,000 MAY be considered for Tax Sale earlier than 3 years with no attempts of payments made.	Policy & Procedure book in Office





# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Title of Submission:** Recommended Appointment of Interim Planning and Community Development Director
2. **Date of Board Meeting:** July 9, 2018
3. **Individual or Entity Making the Submission:**  
Maria E. Capriola, Town Manager *Maria E. Capriola*

4. **Action Requested of the Board of Selectmen:**

If the Board of Selectmen concurs with the recommendation of the Town Manager to appoint Michael N. Glidden as Interim Planning and Community Development Director, the following motion is in order:

*Move, to appoint Michael N. Glidden to the position of Interim Planning and Community Development Director effective July 9, 2018 until the date upon the permanent Planning and Community Development Director officially begins work in Simsbury. Further move to increase Mr. Glidden's salary to \$93,791 (on an annualized basis) during his interim appointment as Planning and Community Development Director and that his other employment related benefits as an affiliated employee remain in place. At the conclusion of his service as Interim Planning and Community Development Director, and if he is not appointed to the permanent Planning and Community Development Director position, Mr. Glidden shall be permitted to return to his position as Assistant Town Planner with the salary and employment related benefits assigned to that position.*

5. **Summary of Submission:**

Jamie Rabbitt has recently submitted his resignation from service as Planning and Community Development Director, with his last planned day in the office being June 29, 2018 and his employment ending with the Town on July 6, 2018. We have initiated a recruitment process to find his replacement.

I am recommending Mr. Michael N. Glidden for the Interim Planning and Community Development Director position. Mr. Glidden currently serves as the Assistant Town Planner for Simsbury, which enables him to serve as an Acting Director for short durations per his job description. Mr. Glidden has served the Town of Simsbury since 2013. Prior to his tenure in Simsbury, he worked as a Zoning Official with the Town of Waterford for five years and as a Zoning Assistant for the Town of West Hartford for two years. He holds a bachelor's degree in Geography from Central Connecticut State University. Mr. Glidden is a certified floodplain manager (CFM), and a certified zoning enforcement officer (CZEO). During my time with the Town I have had the opportunity to work with Mr. Glidden on a number of initiatives such as economic development and the Water Shortage Ordinance. He has demonstrated a customer service oriented

approach to helping our residents and patrons, as well as an outstanding ability to problem solve. I am confident that Mr. Glidden will serve the Town well in this interim capacity during this staffing transition.

I recommend appointing Mr. Glidden to the interim position effective July 9, 2018

The Charter is silent on interim appointments. The Town Attorney has recommended that for interim appointments, we utilize a process similar to the appointment process for permanent positions as outlined in the Charter. The Charter does not require review of the permanent Planning and Community Development Director appointment by the various land use bodies; however, the Charter does designate the Board of Selectmen as the final appointing authority upon receiving a recommendation of a preferred candidate from the Town Manager.

**6. Financial Impact:**

The proposed compensation is less than the compensation of our most recent Director, but consistent with practice for upgrades and in accordance with the collective bargaining agreement.

**7. Description of Documents Included with Submission:**

None





# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Title of Submission:** Draft Economic Development Commission Ordinance
2. **Date of Board Meeting:** July 9, 2018

3. **Individual or Entity Making the Submission:**

Maria E. Capriola, Town Manager; Melissa A.J. Appleby, Deputy Town Manager

*Maria E. Capriola*

4. **Action Requested of the Board of Selectmen:**

If the Board of Selectmen supports forwarding the proposed Economic Development Commission Ordinance as presented and dated July 9, 2018 to public hearing, the following motion is in order:

*Move, to schedule a public hearing for 6:00PM at the Board of Selectmen's regular meeting on August 13, 2018 to solicit public comment regarding the proposed adoption of the Economic Development Commission Ordinance.*

5. **Summary of Submission:**

With the revised Charter language that went into effect on December 4, 2017, the prior economic development commission was dissolved and the Board of Selectmen was tasked with creating a new economic development commission. Section 609 of the Charter states that "the Board of Selectmen shall create, by ordinance, an Economic Development Commission which shall have the membership, terms, duties and responsibilities, not inconsistent with this Charter or state law, as determined by such ordinance." Such an ordinance has not yet been adopted.

At the Board of Selectmen meeting on March 26, 2018 the Economic Development Work Group was formed to develop a draft ordinance. Members of the work group include First Selectman Eric Wellman and Selectman Cheryl Cook. The Town Manager and Deputy Town Manager provide staff support to the group. The work group has met four times, and has solicited input from members of volunteer boards and commissions, non-profit agencies, and members of the business community. The draft ordinance is based on discussions with the work group, feedback from stakeholders, and sample ordinances from other towns.

The Town Attorney has reviewed the draft ordinance. By Charter, only electors may be appointed to boards and commissions, with the exception of the Building Code Board of Appeals. Therefore, business owners that own property in town but do not reside in Simsbury will be unable to be appointed to the Economic Development Commission.

Section 404 of the Town Charter sets forth the requirements for a public hearing on and publication of an ordinance. The Board of Selectmen is required to have at least one

public hearing on a new or amended ordinance. We are required to give at least 7 days' notice in a newspaper having general circulation in the town. The Town Clerk also posts the notice in a public place, and copies of the ordinance must be available at the Town Clerk's Office. We also post the ordinance on the Town's webpage. A second hearing must be held if substantive changes are made to the ordinance (as determined by Town Counsel).

Once the ordinance is passed, it must be filed with the Town Clerk and posted in its entirety or in summary form within 10 days after final passage. The Board of Selectmen would have to approve use of a summary. The ordinances would become effective on the twenty-first day after final publication. General Code will assign the Chapter number to this new ordinance.

**6. Financial Impact:**

None

**7. Description of Documents Included with Submission:**

- a) Draft Economic Development Commission Ordinance, dated July 9, 2018
- b) Draft Commission Membership Slots

**Draft Ordinance**  
**Chapter \_\_\_\_**

**Economic Development Commission**  
**July 9, 2018**

**Section \_\_\_\_.** Establishment

Pursuant to the provisions of section 7-136 of the Connecticut General Statutes and Chapter VI, Section 609 of the Town Charter, the Board of Selectmen hereby creates, by ordinance, an Economic Development Commission. Pursuant to Section 609 of the Town Charter, the membership, terms, duties and responsibilities, not inconsistent with the Town Charter or state law are hereby established. Hereinafter, the Simsbury Economic Development Commission will be referred to as the "Commission."

**Section \_\_\_\_.** Purpose of Commission

The Commission shall serve as an advisory board to the Board of Selectmen. The purpose of the Commission shall be to promote and develop the economic resources of the Town and to advance the Town's economic development goals as defined by the Board of Selectmen. The Commission shall be empowered to conduct research into economic conditions and trends, and to collaborate with community organizations which promote economic development.

**Section \_\_\_\_.** Appointment of Members

a) **Voting Members.**

1. The Economic Development Commission shall consist of seven (7) voting members who shall be Electors of the Town as defined in the Charter and appointed by the Board of Selectmen. Each member shall be appointed to three year terms.

At the time of establishment of the Commission three (3) members shall be appointed to two (2) year terms and four (4) members shall be appointed to three (3) year terms. Thereafter, all terms shall be for three (3) years.

No member shall serve more than two full three-year terms, regardless of whether those terms are consecutive.

2. Any vacancy on said Commission shall be filled by appointment of an elector of the Town by the Board of Selectmen for the unexpired portion of the term. No member shall be appointed to fill a partial term caused by a vacancy on more than one occasion. A member may fill one partial term in addition to the two full three-year terms referenced above.
3. Member appointments are intended to be non-partisan and based on qualifications and experience as it relates to economic development. Member qualifications and



experience may be further defined by a separate resolution of the Board of Selectmen. Voting members shall not be elected officials of the Town, nor active full-time or part-time employees of the Town who work the minimum number of hours to be considered benefits-eligible.

- b) **Non-Voting Members.** The Town Manager shall be an ex-officio member of the Commission with full participation rights, but will not have the ability to vote on Commission matters. Other ex-officio members may be added by a separate resolution of the Board of Selectmen.

## **Section \_\_\_\_.** Organization

- a) **Chair and Vice Chair.** On or before the thirty-first day of October each year, the members of the Commission shall meet and elect from among the appointed members a Chair and Vice Chair.
- b) **Administrative Support.** The Town Manager's Office will provide administrative and technical support to the Commission. The Town Manager in his or her discretion may assign other staff persons as needed to provide administrative and technical support as needed.
- c) **Meeting Schedule.** Regular meeting schedules shall be established annually and filed in accordance with Connecticut General Statutes.
- d) **Quorum.** The presence of four (4) members of the Commission shall constitute a quorum to take action. No action shall become valid unless authorized by a vote of the majority of the total membership present and voting.

## **Section \_\_\_\_.** Reports

On or before the thirty-first day of October each year, the Commission shall prepare and submit to the Board of Selectmen an annual report of its activities and, if applicable, recommendations for improving the economic condition and development of the Town. The Commission may be asked from time to time to present more frequent reports of its activities and to appear before the Board of Selectmen to report on those activities.

## **Section \_\_\_\_.** Expenses

- a) **No Compensation, Reimbursement of Expenses.** Members of the Commission shall receive no compensation for their services. However, members shall be reimbursed for necessary expenses incurred in the performance of their official duties, when such funds are available in the Town's approved budget and authorized in advance by the Town Manager.
- b) **Commitment of Town Funds.** In the performance of its duties, the Commission shall not incur any expense, or obligate the Town to pay any expense, unless funds have been

appropriated by the Town specifically for the use of the Commission and authorized in advance by the Town Manager.

**Section \_\_\_\_.** **Removal of Members**

- a) **Removal for Cause.** Any member of the Commission may be removed by the Board of Selectmen, upon the recommendation of the Town Manager, for cause. Such member will be afforded an opportunity for a public meeting with the Board of Selectmen prior to a final decision being made regarding their status for removal. The purpose of the public meeting is to give the member an opportunity to be heard in person before the Board of Selectmen prior to a final decision being made.
- b) **Removal for Absences.** Any Commission member who is absent from more than fifty (50) percent of Commission meetings during any twelve (12) month period may be removed from the Commission, and the vacancy shall be filled by the Board of Selectmen. An exception may be granted by and at the discretion of the Town Manager due to a member's illness or other exigent circumstances.

**Section \_\_\_\_.** **Invalidity**

If any part, subsection, sentence, clause, phrase or other portion of this Chapter is, for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Effective Date:** \_\_\_\_\_

**Public Hearing:** \_\_\_\_\_

**Adopted:** \_\_\_\_\_

**Published:** \_\_\_\_\_

**Town Clerk Attest:** \_\_\_\_\_

***Draft EDC Membership Slots***  
***Would Require a Separate Resolution of the Board – Not to be Included in the Ordinance***

**7 EDC Member Slots as Follows:**

- (1) Member representing the Simsbury development community, commercial or residential
- (3) Members representing the Simsbury business community
- (1) Member with land use or architectural expertise
- (1) Member with marketing, public relations, or communications expertise
- (1) Member with tourism expertise

**EDC Ex-Officio Member Slots as Follows (in addition to Town Manager, by Ordinance):**

- (1) Member of the Board of Selectmen
- (1) Member of the Planning Commission
- (1) Member of the Zoning Commission

**TOWN OF SIMSBURY – BOARD OF SELECTMEN  
REGULAR MEETING MINUTES – JUNE 25, 2018**

**“Subject to Approval”**

Page | 1

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**CALL TO ORDER**

The Regular Meeting of the Board of Selectmen was called to order at 6:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. Present were: First Selectman Eric Wellman; Board members Michael Paine, Cheryl Cook, Christopher Kelly, Sean Askham and Chris Peterson. Others in attendance included: Town Manager Maria Capriola; Deputy Town Manager Melissa Appleby; Police Chief Nicholas Boulter; Attorney Robert DeCrescenzo; Colleen O'Connor, Tax Collector, Missy Dinunno, Executive Director of the Simsbury Meadows Performing Arts Center, and other interested parties.

**PLEDGE OF ALLEGIANCE**

Everyone stood for the Pledge of Allegiance.

Mr. Wellman proposed an addition to the agenda to briefly discuss the Board's upcoming goal setting session.

Ms. Askham made a motion to add an agenda item to discuss a goal setting session for the Board of Selectmen between Sub-Committee Reports and Communications. Mr. Paine seconded the motion. All were in favor and the motion passed.

**PUBLIC AUDIENCE**

Joan Coe, 26 Whitcomb Drive, spoke about marijuana, contaminated property, the charging station, C-tech Solar tax abatement and other issues.

Mr. Kalechman, 971 Hopmeadow Street, spoke about a Zoning Hearing on the marijuana factory property concerns, the Federal law, and other issues.

Jay Devivo, 1 Five Gates Farm, spoke about regulating short-term rentals having events and parties at them and enforcing the regulations.

**FIRST SELECTMAN'S REPORT**

Selectman Wellman reviewed his First Selectman's report.

**TOWN MANAGER'S REPORT**

Town Manager, Maria Capriola, reviewed her Town Manager's report.

**SELECTMEN ACTION**

**a) Proposed Tax Sale Policy and Appointment of Special Legal Counsel**

Mr. Wellman said the Tax Collector has expressed interest in pursuing tax sales for properties that are seriously delinquent. There is no formal policy on this issue.

**TOWN OF SIMSBURY – BOARD OF SELECTMEN  
REGULAR MEETING MINUTES – JUNE 25, 2018  
“Subject to Approval”**

Page | 2

Ms. Capriola said the tax sales could be more equitable than going through the foreclosure process. There would need to be a standard policy. If a policy is formed, the tax sale would be held in January of 2019. Attorney Adam Cohen from Pullman & Comley and Ms. O'Connor were in attendance for any questions.

After discussion, Ms. Capriola was given direction on this item. No action was taken at this time.

**b) Acceptance of Emergency Management Performance Grant**

Mr. Wellman said the Town has received notice that we will be receiving an Emergency Management Performance Grant.

Ms. Cook made a motion, effective June 25, 2018, to accept the Emergency Management Performance Grant in the amount of \$11,987.50 and to authorize Town Manager, Maria E. Capriola, to execute all documents related to the Grant Award. Mr. Kelly seconded the motion. All were in favor and the motion passed.

**c) Acceptance of Donation from Simsbury Bank for Cadet Program**

Mr. Wellman said Simsbury Bank generously offered to donate \$4,000 for the Police Cadet Program in the Simsbury Police Department.

Chief Boulter said this program has been going for 17 years now. It is a one week program which gives leadership skills and team building skills to those who attend.

Mr. Askham made a motion, effective June 25, 2018, to accept a donation from Simsbury Bank in the amount of \$4,000 to be used for the Simsbury Police Cadet Program in the Simsbury Police Department. Further move to recommend to the Board of Finance that the \$4000 donation be transferred to the Community Policing Special Revenue Fund (Fund 213-42110) and appropriate the use of those funds for the Simsbury Police Cadet Program with our thanks. Mr. Kelly seconded the motion. All were in favor and the motion passed.

**d) Police Department Vacation Carryforward Request**

Mr. Wellman said Chief Boulter is requesting that vacation carryover requests for five personnel in the Police Department be granted. He said it is standard practice for vacation carryover requests up to 10 days be approved or denied by the Board.

Mr. Askham made a motion, effective June 25, 2018, to approve the Police Department's Vacation Carryforward request, as presented in their table and requiring Selectmen action. Further stipulate that the approved excess vacation days must be used on or before December 31, 2018. Any unused approved excess vacation days still on the books as of January 1, 2019 will be forfeited. Should an employee leave service for any reason, including but not limited to retirement or resignation, they will not be paid out for the approved unused excess vacation days authorized by the Board of Selectmen. Mr. Paine seconded the motion. All were in favor and the motion passed.



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**e) Proposed Public Gathering Permit – Dancing Under the Big Top**

Mr. Wellman said the Performing Arts Center is requesting a public gathering permit for the event “Dancing Under the Big Top” to be held at the Performing Arts Center on August 9, 2018.

Ms. Dinunno said this event will be a dinner and dancing event under their tent.

Mr. Peterson made a motion, effective June 25, 2018, to approve the public gathering application as presented for the Dancing Under the Big Top event and to authorize issuance of the public gathering permit contingent upon the event sponsors receiving final approvals from the Farmington Valley Health District. Mr. Askham seconded the motion. All were in favor and the motion passed.

**f) Proposed Public Gathering Permit – 2018 Tariffville Farmer’s Market**

Mr. Wellman said he and Ms. Capriola are requesting there be no fee charged for this event, on the Tariffville Green, as it is their first year. The dates would be Sunday afternoons from June 24 – October 28, 2018 from 10 – 3.

Mr. Askham made a motion, effective June 25, 2018, to approve the public gathering application as presented for the 2018 Tariffville Farmers Market and to authorize issuance of the public gathering permit contingent upon the event sponsors receiving final approvals from the Farmington Valley Health District and receipt by the Town of the event sponsors certificate of insurance. Mr. Paine seconded the motion. All were in favor and the motion passed.

**g) Proposed Agreement with CNG for Service Installation**

Mr. Wellman said the Town will save \$13,000 per year by converting the Simsbury Farms Complex to natural gas.

Mr. Askham made a motion, effective June 25, 2018, to authorize Town Manager Maria E. Capriola to execute the service installation agreement with CNG as presented. Mr. Paine seconded the motion. All were in favor and the motion passed.

**h) Proposed Water Shortage Ordinance Referrals**

Mr. Wellman said a sub-committee of the Board of Selectmen has been reviewing the feasibility of implementing a Water Shortage Ordinance. The purpose of the ordinance would be to protect, preserve and maintain the public health, safety and welfare if there is a threatened or critical water shortage.

Mr. Kelly made a motion, effective June 25, 2018 to refer the Water Shortage Ordinance to the Planning Commission, the Zoning Commission, the Culture, Parks and Recreation Commission, the Conservation and the Farmington Valley Health District. The purpose of this referral is to seek feedback on the proposed ordinance and to determine whether or not any modifications to the draft ordinance may be needed. Referral responses will be respectfully by July 27, 2018. Ms. Cook seconded the motion. Mr. Wellman, Mr. Paine, Mr. Kelly, Ms. Cook, and Mr. Peterson were in favor with Mr. Askham opposing. Therefore, the motion passed.

**i) Proposed Letter of Support for AARP Age Friendly Community Designation**

Mr. Wellman said the Aging & Disabilities Commission is interested in pursuing the AARP Age Friendly Community Designation application. This requires a letter of commitment from the Town executive.

Mr. Paine made a motion, effective June 25, 2018 to support the Aging and Disability Commission's request to pursue the AARP Age Friendly Community Designation and to authorize Town Manager Maria E. Capriola to issue the letter of support as presented. Mr. Kelly seconded the motion. All were in favor and the motion passed.

**j) Proposed Social Services Job Descriptions and Social Worker Classification**

Mr. Wellman said the Personnel Sub-Committee is proposing minor modifications, which are mostly reflective of duties being assigned and reassigned to staff due to the upcoming addition of a new social worker position.

Mr. Askham made a motion, effective June 25, 2018 to approve the proposed modifications to the job description for the Director of Social and Community Services and the Coordinator of Elderly Outreach Services as presented. Ms. Cook seconded the motion. All were in favor and the motion passed.

Mr. Askham made a motion, effective June 25, 2018 to approve the creation of the position classification of Community Social Worker and the job description as presented. Furthermore to approve an annual salary range for the Community Social Worker position of \$55,000 - \$70,000 (MSW level) or \$45,000 - \$60,000 (BSW level), which may be amended from time to time through resolutions of the Board of Selectmen. Mr. Kelly seconded the motion. All were in favor and the motion passed.

**k) Proposed Appointment of Pension Counsel**

Mr. Wellman said Erik Sharp, the Town's pension counsel has moved from Wiggin and Dana LLP to Murtha Cullina, LLP. We do hire the firm and not the individual. His rate would not change.

Ms. Cook made a motion, effective June 25, 2018 to appoint the firm of Murtha Cullina LLP as pension counsel for the Town of Simsbury through December 2, 2019, with the understanding that staff has the option to conduct an RFQ for retirement plan counsel after June 30 2018. Furthermore to authorize town Manager Maria E. Capriola to execute the engagement letter as presented. Mr. Askham seconded the motion. All were in favor and the motion passed.

**l) Proposed Agreement for Shared Deputy Building Official**

Mr. Wellman said Simsbury and Bloomfield are sharing a Building Official, the cost of which is split between the two towns. The arrangement seems to be working well and they would like to continue this.

Ms. Cook made a motion, effective June 25, 2018 to approve the “Agreement for Shared Professional Services – Deputy Building Official” with a term of July 1, 2018 through June 30, 2019 and to authorize Town Manager Maria Capriola to execute the agreement. Mr. Paine seconded the motion. All were in favor and the motion passed.

**m) Consideration of Tax Abatement for C-Tec PPA ISC, LLC**

Mr. Kelly said C-Tec is the company who owns the solar array at the International Skating Center. The company is requesting an exemption from their personal property taxes. Their last request was rejected by the Board of Selectmen in 2014. Mr. Wellman said they are not current on their taxes, which is required before consideration of an abatement.

Mr. Kelly made a motion to table this item. Ms. Cook seconded the motion. All were in favor and the motion passed.

**APPOINTMENTS AND RESIGNATIONS**

**a) Proposed Appointment of Samuel Ziplow (D) as a Regular Member of the Historic District Commission with an Expiration Date of January 1, 2019**

Mr. Peterson made a motion, effective June 25, 2018 to appoint Samuel Ziplow as a regular member of the Historic District Commission with a term expiring January 1, 2019. Mr. Paine seconded the motion. All were in favor and the motion passed.

**REVIEW OF MINUTES**

**a) Regular Meeting of June 11, 2018**

There was a name correction on page 1 – Public Audience- Duane Royer should be Duane Royce. No motion was made.

**SELECTMEN LIAISON AND SUB-COMMITTEE REPORTS**

- a) Personnel** – no report at this time.
- b) Finance** – no report at this time.
- c) Welfare** – no report at this time.
- d) Public Safety** – Mr. Askham said he attended a Statewide exercise that was very informative. He said it was excellent to see how prepared we are and how seamless we are in performing our duties.
- e) Board of Education** – no report at this time.

Ms. Cook said solar panels will be installed at the Virginia Connelly residence.

Mr. Wellman asked the Board to give Ms. Capriola some direction on a goal setting session, and what needs to be accomplished at that meeting.

Mr. Askham said it is an important exercise to discuss budget items, what we value and what we need to prioritize.

Mr. Paine feels we need to look at long term goals as well.

Ms. Capriola said this should be a separate meeting from the Board of Selectmen meeting, maybe from 9-12 on a Saturday. She asked the Board members to get a list of goals and priorities together to discuss. The meeting would possibly take place sometime in September.

Mr. Kelly feels we should start with tactical priorities first.

### **COMMUNICATIONS**

#### **a) FY16/17 Annual Report**

There was no discussion or motion at this time.

### **ADJOURN TO EXECUTIVE SESSION**

#### **a) Pursuant to CGS §1-200(6)(B) concerning Pending Claims and Litigation – Deepwater Wind Appeal, Petition 1313**

Mr. Askham made a motion to adjourn to executive session at 7:20 p.m. pursuant to CGS §1-200(6)(B) concerning Pending Claims and Litigation – Deepwater Wind Appeal Petition 1313 with the Board of Selectmen, Town Manager Maria E. Capriola, Deputy Town Manager Melissa Appleby and Attorney Robert DeCrescenzo. Ms. Cook seconded the motion. All were in favor and the motion passed.

### **ADJOURN FROM EXECUTIVE SESSION**

Mr. Paine made a motion to adjourn from Executive Session. Ms. Cook seconded the motion and it passed unanimously. Executive Session adjourned at 7:34 pm.

### **ADJOURN**

Mr. Paine made a motion to adjourn the meeting. Ms. Cook seconded the motion and it passed unanimously. The meeting adjourned at 7:34 pm.

Respectfully submitted,

Kathi Radocchio  
Clerk

**June 23, 2018**

# **Microchip Clinic & Dog Licensing Event**

Hosted by the Simsbury Animal Control Officer  
and the Simsbury Town Clerk



Thank you to all that participated and a special thank you  
to Dr. Hal Mooney of Hopmeadow Animal Hospital  
for volunteering his time to administer microchips



# Memo

**To:** Maria E. Capriola  
**From:** Ericka L. Butler, Town Clerk  
**Date:** July 2, 2018  
**Re:** Increases in Town Clerk Fees

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Effective July 1, 2018, the following Town Clerk Fees have increased:

Public Act No.18-36	Current Fee (ending June 30th, 2018)	New Fee (Effective July 1, 2018)
CGS 30-53 - Liquor Permit Filing	\$2.00	\$20.00
CGS 7-34a - Misc. Doc. Filing (Trade Names)	\$5.00	\$10.00
CGS 7-34a - Map Filing & Indexing	\$10.00	\$20.00
CGS 7-34a - Subdiv. Map Filing & Indexing	\$20.00	\$30.00
CGS 7-34a - Notary Public Oath & Comm.	\$10.00	\$20.00
CGS 7-73 - Marriage License Fee	\$30.00	\$50.00
CGS 7-73 - Removal, Transit & Burial Permit	\$3.00	\$5.00
CGS 19a-323 - Cremation Permit	\$3.00	\$5.00

Confirmation of these fee increases was not sent out to the Town Clerks until 6/13/18, so the additional revenue expected from these increases was not included in the proposed Fiscal Year 2019 Town Clerk Revenues. I expect these fee increases to increase the Fiscal Year 2019 Town Clerk Proposed Revenues by about \$4,000. These fees are set by the State of Connecticut, and the increases were passed at the most recent legislative session.



# Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

Maria E. Capriola - Town Manager

**Via E-Mail (jkaplan@pullcom.com) and Regular Mail**

June 27, 2018

Jonathan A. Kaplan  
90 State House Square  
Hartford, CT 06103-3702

**Re: Board of Selectmen Decision on Tax Abatement for ISCC Solar Installation**

Dear Mr. Kaplan,

At its Regular Meeting on Monday, June 25, 2018, the Board of Selectmen considered the proposed tax abatement for C-TEC Solar PPA ISC, LLC in connection with a photo-voltaic system owned by C-TEC and installed at the International Skating Center in November 2013. It had previously considered a request on September 22, 2014, at which time the Board of Selectmen voted 3 to 0 to deny the abatement.

According to the Town's Resolution Regarding the Establishment of a Business Development Incentive Policy, adopted by the Board of Selectmen on June 22, 2015, "Delinquency in any fees or taxes that have not been waived and that are otherwise due to the Town of Simsbury from the applicant or any related entity shall render the applicant and application ineligible."

Because C-TEC currently has outstanding personal property taxes owed to the Town, all outstanding taxes and fees would need to be paid prior to the Board's consideration of an abatement. Last night, the Board of Selectmen voted to table this request until all outstanding taxes and fees are paid.

Please feel free to reach out with any further questions on this matter.

Sincerely,

Maria E. Capriola  
Town Manager

cc: Robert M. DeCrescenzo, Esq. – Town Counsel

Telephone (860) 658-3230  
Facsimile (860) 658-9467

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# Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

Maria E. Capriola - Town Manager

## MEMORANDUM

**To:** Board of Selectmen Members  
**From:** Maria Capriola, Town Manager  
**Date:** July 2, 2018  
**Subject:** Water Shortage Ordinance Letters & Referrals

Attached to this memo are sample letters that were sent from my office to community stakeholders and Town commissions seeking their feedback on the proposed Water Shortage Ordinance. Included in the tables below are the agencies, organizations, and community stakeholders that letters were sent to. We have asked to receive feedback from our formal referrals by July 27<sup>th</sup>.

### Letter sent to Community Stakeholders:

Ethel Walker School	Dr. Meera S. Viswanathan
Westminster School	William Philip
Masters School	Ray Lagan
Hopmeadow Country Club	Angela Mierzejewski
Tower Ridge Golf Course	Ethan Logan
International Skating Center of CT	Bob Crawford
McLean	David J. Bordonaro
Main Street Partnership	Sarah Nielsen
Simsbury Chamber of Commerce	Lisa Gray
Simsbury Fire District	Gary Wilcox, Kevin Kowalski, Jim Baldis
Simsbury Land Trust	Amy Zeiner
Aquarian Water	Jeff Ulrich
Connecticut Water Company, Avon water owned by CT water	Robert Wesneski
Tariffville Water Company	R. Scott Madigan

### Letter sent as formal referrals to Boards and Commissions:

Planning Commission	Bill Rice
Zoning Commission	Dave Ryan
Culture, Parks and Recreation Commission	David Bush
Conservation Commission	Margery Winters
Farmington Valley Health District	Jennifer Kertanis



# Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

Maria E. Capriola - Town Manager

## SAMPLE - Community Stakeholder Letter

June 27, 2018

Community Stakeholder  
Title of Stakeholder  
Community Business/Organization  
*Sent via Email:*

Dear Mr./Ms. Stakeholder,

The Board of Selectmen established a subcommittee to review the feasibility of implementing a Water Shortage Ordinance. The draft of that Ordinance is included with this letter.

The purpose of this ordinance is to protect, preserve and maintain the public health, safety and welfare whenever there is a threatened or critical water shortage in Town due to dry conditions, providing the ability for the town to impose various water use restrictions, and the authority to enforce those restrictions.

As a community stakeholder that could potentially be impacted if this ordinance is adopted, we would appreciate your review of the attached. We would welcome written or verbal feedback from you. Written feedback can be sent to the Town Manager's Office email at [townmanger@simsbury-ct.gov](mailto:townmanger@simsbury-ct.gov) or addressed to the Town Manager's Office at 933 Hopmeadow Street, Simsbury, CT 06070.

Verbal feedback can be provided to the Board of Selectmen during Public Audience portions of their regularly scheduled meetings. The next regularly scheduled meetings are July 9<sup>th</sup> and August 13<sup>th</sup> at 6PM in the Main Meeting Room of the Town Hall.

We anticipate a formal public hearing will be held on the Ordinance at the September 10, 2018 Board of Selectmen meeting at 6PM. The date is subject to change, and when an official date is confirmed it will be posted on the Town's website ([Simsbury-ct.gov](http://Simsbury-ct.gov)).

Thank you,

*Maria E. Capriola*

Maria E. Capriola  
Town Manager



# Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

Maria E. Capriola - Town Manager

## SAMPLE - Internal Boards Letter

June 27, 2018

Name of Chairperson  
Internal Board  
*Sent via Email:*

Dear Mr./Ms. Chairperson,  
The Board of Selectmen established a subcommittee to review the feasibility of implementing a Water Shortage Ordinance. The draft of that Ordinance is included with this letter.

The purpose of this ordinance is to protect, preserve and maintain the public health, safety and welfare whenever there is a threatened or critical water shortage in Town due to dry conditions, providing the ability for the town to impose various water use restrictions, and the authority to enforce those restrictions.

At their June 25<sup>th</sup> meeting, the Board of Selectmen made a referral to your agency seeking feedback on the proposed Water Shortage Ordinance. The Board would appreciate your feedback and will welcome any such response by July 27<sup>th</sup>.

Any feedback you may have can be addressed to the Town Manager's Office email at [townmanger@simsbury-ct.gov](mailto:townmanger@simsbury-ct.gov) or through written letter sent to the Town Manager's Office at 933 Hopmeadow Street, Simsbury, CT 06070.

We anticipate a formal public hearing will be held on the Ordinance at the September 10, 2018 Board of Selectmen meeting at 6PM. The date is subject to change, and when an official date is confirmed it will be posted on the Town's website ([www.simsbury-ct.gov](http://www.simsbury-ct.gov)).

Thank you,

*Maria E. Capriola*

Maria E. Capriola  
Town Manager



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Date: July 2, 2018

To: Maria E. Capriola, Town Manager  
Board of Selectmen

From: Michael Glidden CFM CZEO  
Acting Director of Planning and Community Development

Robin Newton CZEO  
Code Compliance Officer

Re: Short- Term Residential Rentals: i.e. Air BnB
---

The Planning Department along with the Board of Selectmen received complaints concerning short-term residential rentals in Simsbury. Planning Department staff, in coordination with the Town Manager's office and the Town Attorney is developing a plan in order to address this issue through the Zoning Regulations or Town Ordinance.

Short-term residential rentals are commonly associated with online services such as Air BnB, Home Away, and VBRO. These web based service providers enable property owners to rent out residential homes or units on a temporary basis. Interested parties are able to setup stays via the website for a temporary rental. Staff has researched the above mentioned websites in order to better understand how many properties are being used as short-term residential rentals in Simsbury. According to our research, there are 17 properties that are being listed on various websites as short term residential rental units.

From a regulatory perspective, there are several areas staff is investigating in order to best determine how this use will be handled:

**Zoning:** The current Zoning Regulations are permissive meaning unless a use is specifically stated in the regulations, it is prohibited. Robin Newton notified known operators in Simsbury that the use is not permitted under current Zoning Regulations (see attached correspondence).

**Building Code:** The Connecticut State Building Code has specific language dealing with residential rentals that are fewer than 30 days. These are treated differently than single family residences.

**Health Code:** The Connecticut State Health Code requires permitting and registering of lodging homes. Short-term residential rental units would trigger a review and potential approval by Farmington Valley Health District.

**Fire Prevention:** The change in occupation of the structure from a Building Code perspective will also trigger a different processing of the residential unit, as it relates to the Connecticut Fire Prevention Code.

Telephone (860) 658-3200  
Facsimile (860) 658-9467

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8:30 - 1:00 Friday



The Zoning Commission will have the subject of short-term residential rentals as an agenda item at their next meeting on Monday July 16, 2018. Staff will discuss the matter with the Commission.

This subject may be on a future agenda for Board of Selectmen if the Zoning Commission decides that regulating should be handled via an ordinance.

In the meantime, staff is researching how other communities throughout the nation are handling this subject, so that any regulatory changes which are developed will be comprehensive and address some of the basic issues which are being brought to our attention.

Staff is available to answer any specific questions members may have on this subject.



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

*Office of Community Planning and Development*

July \_\_\_\_\_, 2018

Property Owner

RE: Use of Single Family Homes as Short Term Rentals

Dear Property Owners:

The Zoning Office has been in receipt of complaints regarding the use of single family home residences, accessory dwelling units and accessory buildings for the purpose of short term rentals. These rentals are currently listed on sites such as Air Bnb, VRBO, Home Away, Craigslist, etc. The Town of Simsbury's Zoning Regulations regulate the type of uses permitted throughout the Town. Short Term rentals is not listed as a permitted use and is therefore considered prohibited. Currently the only "short term rentals" allowed would be a hotel or motel and these uses are not allowed in any residential zone.

You are being provided 30 days to voluntarily cease the prohibited use on your property. After 30 days the Town will begin issuing Notice of Violations for any short term rentals still operating. If you have any questions or would like to discuss further you may call me at 860-658-3240.

Respectfully,

Robin M. Newton, CZEO  
Code Compliance Officer

Telephone (860) 658-3245  
Facsimile (860) 658-3206

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8:30 – 4:30 Tuesday through Thursday  
8:30 – 1:00 Friday



# STATE OF CONNECTICUT NEWS RELEASE

Consumer Counsel Elin Swanson Katz

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## **FOR IMMEDIATE RELEASE**

Contact: Elin Swanson Katz

Elin.Katz@ct.gov

(860) 827-2910

### **Consumer Counsel Elin Swanson Katz, Seeking to Promote Broadband Access for All, Initiates Lawsuit Against PURA Decision**

**NEW BRITAIN, Conn. (June 20, 2018)** Consumer Counsel Elin Swanson Katz announces that the Office of Consumer Counsel (OCC), including the Office of State Broadband within OCC, has today filed an administrative appeal in the Connecticut Superior Court in New Britain challenging a recent decision by the Public Utilities Regulatory Authority (PURA) that limited the rights of municipalities to develop broadband (a/k/a high-speed internet) services for their residents and businesses. PURA issued the Decision on May 9, 2017 in its Docket No. 17-09-37, *Petition of the Communication Workers of America, CTIA, Frontier Communications of Connecticut and the New England Cable and Telecommunications Association for a Declaratory Ruling regarding Permissible Use of the Municipal Gain by Connecticut Municipalities*.

At issue is the permitted use by municipalities of a space on each utility pole or conduit that is legally reserved for municipal or other public use, a space known as the “municipal gain.” While this statutory authority allowing municipalities to have a free attachment place on utility poles was first granted by the state General Assembly in 1905, the Connecticut Legislature revised the statute in 2013 so that it could be used by the municipality or other public user “for any purpose.”

Despite the broad statutory language that would allow municipalities to use the municipal gain “for any purpose,” and written and oral arguments submitted to PURA arguing that the municipal gain statutory authority includes the delivery of broadband services to the public, including through commercial arrangements with third parties, PURA ruled in its Decision that municipalities are not permitted to use the municipal gain for purposes of delivering broadband services to the public, including through commercial arrangements with third parties. If not overturned, this PURA ruling would cancel the plans of numerous municipalities that are seeking to use the municipal gain to ensure that their citizens have affordable and reliable broadband access, which access is sorely lacking in numerous communities.

Various incumbent internet service providers, including Frontier and the cable television companies operating in this state, sought this PURA ruling to prevent broadband competition from municipalities. While these companies have failed to provide ubiquitous, affordable access to broadband in across Connecticut, they also seek to prevent the municipalities from supporting their residents, businesses (small and large), and community anchor institutions by encouraging development of ubiquitous broadband to all addresses in towns. The OCC has encouraged many towns to develop public-private partnership arrangements with third parties to use the municipal gain to resolve these “broadband deserts.”

“Despite being one of the most digitally connected states in the country, we still have tens of thousands of citizens who are unserved or underserved by the existing broadband market,” Consumer Counsel Katz said. “These members of our community cannot fully participate in the digital economy. We have children in low-income urban communities who resort to doing their homework in fast food restaurants because they lack access to affordable broadband services in their home. We have young people leaving our rural areas in droves because they don’t want to live in an area that doesn’t have decent broadband available. We see small businesses struggle and falter because they can’t get the affordable high-speed access to the internet that is essential for commerce today. In so many different ways, underserved and unserved areas of our state suffer because a lack of affordable broadband services limits access to information about education, public safety, health, employment, government, recreational and tourism opportunities, and many other key types of information valuable to citizens and businesses.” Consumer Counsel Katz noted two studies commissioned by the OCC which documented this situation: [\*Assessment of the Broadband “Homework Gap in Hartford”\*](#) and [\*A Brief Overview of Broadband Deficiencies in Connecticut\*](#).

Unfortunately, the Decision relied on the arguments of the incumbent internet service providers, who have failed to provide ubiquitous broadband access, in holding that municipally-sponsored broadband using the municipal gain would lead to unfair competition that harms the existing providers. In doing so, the Decision illegally nullified the 2013 statutory amendment that stated that municipalities could use the municipal gain “for any purpose.” In essence, the Decision appears to substitute its own economic theory, that public entities like municipalities should not be involved in broadband development, for the legislature’s 2013 statutory amendment that opened the door to municipal broadband. PURA also illegally limited the rights of municipalities to meet the educational, public safety, and health needs of their citizens, including through commercial arrangements with third parties.

“If these broadband challenges exist in Connecticut, they exist everywhere in our country. This is a national problem,” Consumer Counsel Katz added. “Fortunately, we have dozens and dozens of municipalities in our state that are interested in joining a national movement to create public-private partnerships to build community broadband networks that can provide affordable, ultra-high-speed broadband services to every citizen. These municipal efforts are of course opposed by major internet service providers, who don’t want the competition. They would rather keep their monopolistic grip on the internet, and be able to charge exorbitant prices for what is often inadequate speed and poor service. Fortunately, the Connecticut legislature gave municipalities a powerful tool, the municipal gain, as a means to level the playing field and facilitate the development of municipal networks as an option for consumers. It is use of this tool that PURA’s decision eliminates, as the decision says that it cannot be used for municipal networks. However, both my office and our municipalities are prepared to fight for our consumers, and we will not give up if we have to fight this all the way to the Supreme Court.”

Katz noted that the Connecticut Conference of Municipalities has already filed its own suit with the Superior Court in New Britain challenging the same PURA decision. OCC expects that the two suits and any others that may be filed by to be consolidated into a single proceeding. A ruling would not be expected until late 2018 or 2019.

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## ACTION NEEDED: USE OF THE MUNICIPAL GAIN UNDER ATTACK

PURA has opened a proceeding entitled *Petition of the Communications Workers of America, CTIA, Frontier Communications of Connecticut, and the New England Cable and Telecommunications Association for a Declaratory Ruling Regarding Permissible use of the Municipal Gain by Connecticut Municipalities*, Docket No. 17-09-37. Public comments have been solicited by PURA with a deadline of December 29<sup>h</sup> for submission. CCM has intervened in this proceeding and will be submitting comments.

As most of you are aware, use of the municipal gain, as outlined by General Statutes §16-233, provides that each municipality is entitled to one space, or “gain” on utility poles within the public street right of way, for “any purpose:”

Each town, city, borough, fire district or the Department of Transportation shall have the right to occupy and use for any purpose, without payment therefor, one gain upon each public utility pole or in each underground communications duct system installed by a public service company within the limits of any such town, city, borough or district. The location or relocation of any such gain shall be prescribed by the Public Utilities Regulatory Authority. Any such gain shall be reserved for use by the town, city, borough, fire district or the Department of Transportation.

During the 2017 General Assembly session efforts were made, to no avail, by Frontier Communications and wireless and wireline providers, to repeal the “any purpose” language and further narrow the statute. This proceeding is no different than previous attempts by providers to weaken the statute and we need your collective voices to support our efforts to protect municipal rights.

Please consider requesting to intervene and submitting comments on behalf of your municipalities. Below are several points that each municipality should make when filing:

1. The municipality should request status as an intervenor pursuant to Conn. Gen. Stat. § 4-176(d). The municipality should indicate that its interest in the proceeding is due to the Petitioners’ request for a declaratory ruling intended to limit the rights of municipalities to use the municipal gain, notwithstanding the “for any purpose, without payment therefor” language under Conn. Gen. Stat. § 16-233.
2. Although the municipality does not have any present plans to utilize the municipal gain for the provision of broadband services, it does not consider the PURA the appropriate forum to adjudicate the questions presented by the petitioners.
3. PURA has no statutory authority to determine, authorize or limit the use of the municipal gain under Conn. Gen. Stat. § 16-233. The statute only authorizes the PURA to “prescribe” the location or relocation of the physical gain. Thus, the statute itself limits PURA’s authority. (The legal doctrine is named “*Inclusio unius est exclusio alterius*” or the inclusion of one is the exclusion of another.) The legislature has not provided PURA with the statutory authority to determine what the municipal gain use may be, whether the municipality may use contractors or even whether municipalities may assign the rights to use the municipal gain. Accordingly, the petitioners’ requests for a declaratory ruling are directed to a forum that has no legal authority to answer them.
4. For all of these reasons, the municipality requests PURA either decline to issue the declaratory ruling that the Petitioners’ request or, alternatively, render a declaratory ruling that PURA has no statutory authority to issue the ruling requested.

Please let Donna Hamzy, Advocacy Manager with CCM, know if you have questions or need further clarification or guidance around this proceeding and the PURA process. Donna can be reached via email at [dhamzy@ccm-ct.org](mailto:dhamzy@ccm-ct.org) or via phone at (203) 843-0705.



## *Janus v AFSMCE*

### **U.S. Supreme Court Declares Agency Fees Unconstitutional**

The United States Supreme Court recently decided [\*Janus v AFSMCE\*](#) which reversed 40 years of labor law precedent and concluded that requiring public employees to pay “agency fees” for labor unions that they don’t want to belong to violates the First Amendment of the U.S. Constitution.

The ruling specifies that agency fee or “fair share” fee provisions in collective bargaining agreements are invalid, specifically stating that agency fees and similar payments may not be deducted from an employee’s pay unless the employee has expressly consented to the deduction.

Current Connecticut statute already requires consent for payroll deductions. State and municipal employees may have already consented to the deduction of agency fees. However, there may be employees that no longer wish to pay those fees.

Next Steps: CCM has consulted with legal counsel from Murtha Cullina regarding the municipal impact and proper implementation of the *Janus* decision, as well as working with other state leagues on their approach as a result of the decision. In addition, CCM has asked the Attorney General’s office for official guidance. As a result, the AG’s office has been consulting with the Comptroller’s office and will hopefully be providing some feedback in the near future.

Until formal guidance is provided by our legal and state partners, CCM is encouraging member municipalities to consult with their Corporation Counsels and be prepared for employees approaching them and requesting that the agency fee deductions be stopped, effectively withdrawing their consent.

When additional information is available, CCM will be sure to let you know.

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Please contact Randy Collins ([rcollins@ccm-ct.org](mailto:rcollins@ccm-ct.org)) (203) 498-3053) or Michael Muszynski ([mmuszynski@ccm-ct.org](mailto:mmuszynski@ccm-ct.org)) or (203) 498-3064) if you have any questions.