

OFFICE OF THE
FIRST SELECTMAN

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Lynne A. Vanderslice
First Selectman

Michael P. Kaelin
Second Selectman

David K. Clune
Selectman

Lori A. Bufano
Selectman

Richard J. Dubow
Selectman

TOWN HALL
238 Danbury Road
Wilton, CT 06897

RECEIVED FOR RECORD
TOWN OF WILTON

2017 NOV 13 P 4: 07

BY: *QJ*

**BOARD OF SELECTMEN
REGULAR MEETING
MONDAY NOVEMBER 6, 2017
TOWN HALL ANNEX- MEETING ROOM A**

PRESENT: First Selectman Lynne Vanderslice, Michael Kaelin, Lori Bufano, and David Clune (arrived at 7:40 PM)

ABSENT: Richard Dubow (Excused)

GUESTS: Chris Burney, Casey Healy, Elliott Kaiman (Wiggin & Dana) Peter Gelderman (Berchem & Moses), Peter Gaboriault & Donna Merrill (Wilton Land Trust)

OTHERS: Members of the Press and Members of the Public, including Warren and Lauren Howard

A. Call to Order

Ms. Vanderslice called the meeting to order at 7:32 PM

B. Executive Session

- Interview – Jeff Boehme – Area 9 Cable Council
Motion made by Mr. Kaelin seconded by Ms. Bufano and unanimously carried to enter into Executive Session at 7:33 PM for interview of Jeff Boehme for the Area 9 Cable Council.

Out of Executive Session at 7:45 PM

Ms. Vanderslice asked for a motion to add an item to the agenda – Appointment to Area 9 Cable Council. Motion moved by Mr. Clune, seconded by Mr. Kaelin and unanimously carried.

C. Consent Agenda

Motion made by Ms. Bufano, seconded by Mr. Clune and unanimously carried to approve the consent agenda as follows:

Minutes

- Board of Selectmen Meeting – October 23, 2017

D. Public Comment

None

E. Discussion and/or Action

1. Facilities Update – Chris Burney

Chris Burney, Facilities Director gave a general update on the Town's facilities and projects. He noted that in December the Police HQ/Town Hall Campus Study Committee and the Fire House #2 Building Committee will give a more detailed update at a Board of Selectmen meeting. Mr. Burney then gave a review and update on the Miller Driscoll School Project.

2. Millstone Conservation Easement Change Request

Ms. Vanderslice provided the attached overview. Elliot Kaiman of Wiggin & Dana reviewed the request on behalf of his clients at 180 Millstone Rd. His presentation is attached.

Peter Gaboriault, President of Wilton Land Trust spoke in favor of the request for the Amendment.

Peter Gelderman of Berchem & Moses reviewed the proposed agreement for 180 Millstone Rd on behalf of the Town.

The Board asked questions and discussed the proposal presented. It was the conclusion of the Board members that proposed "Plan 2" and the required changes to the conservation restriction agreement would result in a more restrictive conservation agreement. A more restrictive agreement was viewed as a benefit to the Town. The Board acknowledged their actions could result in a precedent of the Board amending a conservation restriction agreement when there was a benefit to the Town in terms of a more restrictive agreement.

Neighbors, Warren and Lauren Howard, stated they preferred Plan 2 versus any other plan they had previously seen for the property.

Mr. Kaelin suggested the Board vote that evening as the attorneys for the owners had indicated there was urgency due to their application before P&Z and Wetlands. Ms. Vanderslice expressed concern that neither Mr. Dubow, nor the Conservation Commission had an opportunity to provide comment. Attorneys Gelderman and Kaiman pointed out that any amended agreement would need to be presented at a future board meeting and comments could be heard then.

Mr. Kaelin made a motion to approve in principle and authorize the First Selectman to retain counsel to produce in writing an agreement of points discussed incorporated in Scheme 2, but with the specific elements outlined, and to instruct counsel to do what he can to tighten up the agreement and improve the definitions (i.e. definition of green house and definition of a farm) in the agreement with the understanding that the Town will not be bound to enter into the agreement until it sees the agreement in writing and authorizing the First Selectman to sign. Upon questioning, Mr. Kaelin clarified that he only stated greenhouse and farm as possible definitions, not meaning to imply that it was necessary to define those terms. Ms. Vanderslice added that a second agreement be drawn up whereby the owners of 180 Millstone would agree to

the reimbursement of associated legal fees incurred by the Town. Motion seconded by Mr. Clune and unanimously carried.

3. Annual Town Meeting Date and Adjourned Vote Date

Ms. Vanderslice reviewed the dates for the Annual Town Meeting and Adjourned Vote Date. She noted the meeting should be held in the first week in May per Charter. Motion to set the date for the Annual Town Meeting as May 1, 2017 with the Adjourned Vote the following Saturday of May 5, 2017. Motion moved by Ms. Bufano, seconded by Mr. Clune and unanimously carried.

4. Financial Update

Ms. Kelly-Lenz provided an update on the impact of the State budget on the Town's financial and provided additional financial information.

5. Appointment – Area 9 Cable Council

Motion made by Ms. Bufano to appoint Jeffery Boehme as a representative to the Area 9 Cable Council. Motion seconded by Mr. Clune and unanimously carried.

F. Reports

1. First Selectman's Report

Ms. Vanderslice reminded all that Election Day is tomorrow November 7, 2017 and polls are open from 6:00am to 8:00pm and same day registration is available at Town Hall.

Ms. Vanderslice thanked the Chamber of Commerce for the Halloween festivities. Turnout for the event was great.

Ms Vanderslice announced that the Town is teaming with the Wilton Football Association for a Community Bonfire on November 17, 2017 at the Cider Mill Softball field from 6:00pm-9:00pm. All are welcome. She noted that assuming all goes well and the event is well received, the Wilton Football Association expects to resurrect the traditional bonfire from years past at next years' homecoming weekend.

Ms. Vanderslice stated that there will be a gathering of community leaders on November 13, 2017 followed by a larger gathering to develop programming to encourage communication amongst residents. She noted that we are all different, but share one community for all of our benefit. The community is encouraged to move away from the negative words and interaction towards positive words and interactions. She noted the Board can expect to see the Town continue to partner with Wilton organizations on community building events.

Ms. Vanderslice noted that she was asked to meet with members of the Community Steps program (program for students that have already graduated high school and continue to be educated up to age 21). Employment opportunities were discussed.

2. Selectmen's Reports

Mr. Kaelin

Mr. Kaelin spoke with regard to the recent incidences happening in the town as well as throughout the country. He noted that part of CERT training in the Town is how to deal with terror and active shooting situations. If you see something say something, 90% of situations can be avoided if we pay more attention and help each other. He also noted that in addition to the Halloween parade he attended the homecoming football game which was a fabulous event as well.

Mr. Clune

Mr. Clune wished Ms. Bufano the best with regard to the Election tomorrow. He also noted that all advertisement is up at Lilly Field and the Stadium and thanked JR Sherman and Dave Cote for all their time and effort and Ms. Kelly-Lenz for her assistance.

Ms. Bufano

Ms. Bufano thanked the board for their support. She noted the Halloween parade was a fun time and great showcase for the Town. She also noted that there was a great turnout for Hazardous Waste Day that took place on October 28, 2017.

G. Public Comment
None

H. Adjournment
Having no further business, Ms. Vanderslice asked for a motion to adjourn. Motion made by Mr. Clune to adjourn meeting at 9:40pm. Motion was seconded by Ms. Bufano and unanimously carried.

Next Meeting – November 20, 2017



Jacqueline Rochester
Recording Secretary
Taken from Video

MILLSTONE

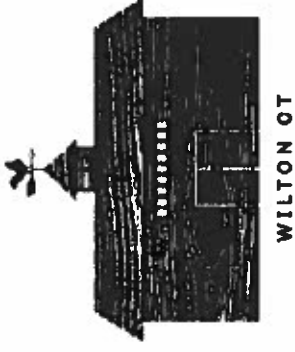
As you all know the Town, the Wilton Land Trust and former owners of the property at 180 Millstone Road entered into a Conservation Restriction Agreement for which the Town and Land Trust paid approximately \$2.3MM. The current owners of the property are seeking to further develop the property. They have presented multiple versions of potential development plans to the Town and the Land Trust. All have been out of compliance with the agreement. You recall, we previously received a letter from the Conservation Commission stating their opposition to one of the earlier plan.

Tonight the proposal is on the agenda as they now have a proposed plan which closer to compliance than the others. The proposed plan has not yet been reviewed by any other town agencies and it will be up to the Board to determine if the current amendment proposal should be approved without input from Conservation Commission, Inland Wetlands or P & Z. Of course, those bodies will have applications presented to them and will be making their decisions based on land use considerations as set forth in their regulations. In other words, the BOS is approving the amendment to the Conservation Restriction, not the actual project.

The owners are seeking to renegotiate the restriction agreement. We'll hear about it in detail, but I wanted to point out that the property owner is offering to build at a size which is less than allowable and has offered to perform trail upgrades. Up until this afternoon, we had thought the owners were offering a third benefit to the Town, but that is not the case.

As previously stated, I am concerned about creating a precedent. Mike Conklin previously shared that there are approximately 40 properties with conservation restrictions. Casey Healy, on behalf of the owners, has indicated he believes only eight of those properties involve purchased conservation restrictions. You have that email. One of those eight property owners has an open request to the Town consider renegotiating their agreement. Normally, I would not be in favor of changing these conservation restrictions. However, the current owners and attorney Healy maintain that the changes they are requesting are beneficial to the town. That would be the only way, in my view, for this board to even consider such changes.

We will begin with a presentation by representatives for the property owner, followed by the Land Trust and then Peter Gelderman, who along with Town Counsel Ira Bloom has been working on this matter.



millstone **farm**

Meeting Regarding Planned Equine Facility and Potential Enhancement of
Conservation Restriction with Respect to the Millstone Farm Property

November 6, 2017

Conservation Restriction – Basic Background

- In April 2001, what is today the approximately 71 acre Millstone Farm property (the "Property") was made subject to a Conservation Restriction (the "Restriction");
- The parties to the Restriction are the Town of Wilton, the Wilton Land Conservation Trust, and, as the successor to prior owners, Millstone Property Holdings LLC ("Millstone"); and
- The Restriction, broadly speaking, separates the Property into a Reserved Residential Area and a Non-Reserved Residential Area. The Restriction primarily restricts the development and use of the Non-Reserved Residential Area.

Millstone's Planned Equine Facility Within the Reserved Residential Area

- Millstone is working on plans for an equine facility at the Property (the "Equine Facility").
- As summarized here and on the following page, at a high-level, the Restriction, without any modifications or amendments to the same, allows for the construction of the Equine Facility within the Reserved Residential Area:
 - **General Purpose and Intent of the Restriction as the same relates to the Reserved Residential Area—**
 - The purpose of the Restriction is "to assure that the [Property], *other than those portions constituting the Reserved Residential Area*, will be retained forever predominately in its natural, scenic, forested, or open space condition, to encourage the use of the [Property] for agricultural purposes...." (Emphasis added; please see § 1 of the Restriction.); and
 - The parties to the Restriction "agree that the Reserved Residential Areas...are located in an area of the [Property] where future lawfully permitted activities, improvements, or disturbance will generally pose no threat to and are not inconsistent with the conservation values of the [Property] or the Purpose of this [Restriction]." (Emphasis added; please see § 2.0 of the Restriction.)

Millstone's Planned Equine Facility Within the Reserved Residential Area (Continued)

- **Uses Specifically Prohibited under the Restriction as to the Reserved Residential Area—**
 - Beyond the Restriction's general prohibition of uses inconsistent with the purpose of the Restriction (see prior page), the only prohibited uses with respect to the Reserved Residential Area (as distinct from the Non-Reserved Residential Area with respect to which a number of uses are prohibited) are set forth in § 2.1 of the Restriction as follows: "[t]he Grantors' activities shall be conducted in a manner designed to prevent runoff, erosion, sedimentation, or drainage flows that would have an adverse impact on the [Property] or be inconsistent with the Purposes of this grant of [Restriction]."
- **Millstone Enjoys Express Rights to Develop the Equine Facility on the Reserved Residential Area—**
 - Setting aside for discussion's sake that there are no prohibitions in the Restriction preventing Millstone from constructing the Equine Facility in the Reserved Residential Area, the terms of the Restriction expressly contemplate that Millstone may choose to develop the Equine Facility, without limitation, in the Reserved Residential Area. More specifically:
 - (i) § 3.7.3 of the Restriction, which contemplates construction of an equine facility on a portion of the Non-Reserved Residential Area, makes specific reference to the construction of the relevant improvements, as an alternative to locating the same in the Non-Reserved Residential Area, as accessory buildings under § 4.1(b) of the Restriction: "[t]o the extent that structures are created under Paragraph 3.7.3.a and 3.7.3.b they shall not be created under 4.1(b) as accessory buildings and vice versa, such that the [Property] shall contain only one additional barn (in addition to the existing barn), and one covered riding ring or one greenhouse or greenhouses not exceeding 2500 square feet."; and
 - (ii) § 4.1(b) of the Restriction, in turn, reads in relevant part "[b]larns, stables and other agricultural Accessory Buildings permitted in the 8 Acre Reserved Residential Area shall be subject to the aggregate and structure limitations for agricultural structures set forth in Paragraph 3.7.3.a and 3.7.3.b, such that the [Property] shall contain, *whether located in the 8 Acre Reserved Residential Area or in the Non-Reserved Residential Area*, only one barn additional to the existing barn, and one covered riding ring or one greenhouse or greenhouses not exceeding 2500 square feet." (Emphasis added.)

Potential Enhancement of Conservation Restriction

- As referenced above, § 3.7.3 of the Restriction imposes certain limitations on the ability to construct structures on the Property. In relevant part, Millstone is allowed to construction either a 26,400 square foot indoor riding ring or one or more greenhouses not exceeding 2,500 square feet in the aggregate.
- By way of background, there currently are hoop/greenhouses on the Property totaling approximately 3,400 square feet. These structures were in place at the time Millstone acquired the Property. Pictures of these structures are at the end of this slide deck.
- The above-described hoop/greenhouses are integral to Millstone's ability to contribute to and participate in Wilton's growing farm to table/eat local movements. The Wilton Land Conservation Trust has made it clear to Millstone that its continued farming operations from the hoop/greenhouses is extremely important to and a high priority for the Land Trust. While Millstone certainly values its ability to contribute to and participate in these agricultural activities, it must cease doing so and remove the hoop/greenhouses if leaving them in place will in turn jeopardize Millstone's right to construct an indoor riding ring as part of its Equine Facility.

Potential Enhancement of Conservation Restriction (Continued)

- Millstone has reviewed its Equine Facility plans and come up with an approach which would squarely embrace and enhance the integral conservation purposes of the Restriction and allow Millstone to continue its agricultural activities from hoop/greenhouses.
- More specifically, Millstone is willing to: (i) voluntarily submit the Property to additional restrictions in favor of the Town and the Land Trust by reducing the size of the indoor riding ring and barn from the currently allowed 31,400 square feet (26,400 for the indoor riding ring and 5,000 for the barn) to approximately 18,800 square feet (approximately 13,800 for the indoor riding ring and 5,000 for the barn); (ii) enhance the trails on the Property for the Town's and the public's benefit at Millstone's cost and expense; and (iii) move certain existing fencing that interferes with the aforementioned trails.
- Millstone's willingness to further restrict the Property and to complete trail enhancements and fence relocations is predicated upon the Town and the Land Trust agreeing to (A) allow Millstone, at Millstone's expense, to either (x) move the existing hoop/greenhouses to the to-be-created 3 acre residential lot on Tito Lane (the "3 Acre Residential Lot") or (y) remove the existing hoop/greenhouses and, on the 3 Acre Residential Lot, construct replacement hoop/greenhouses which are substantially similar in size and nature to the existing hoop/greenhouses, all without impairing Millstone's right to also construct the reduced size indoor riding ring and (B) clarify that the Restriction allows for the legally-required septic system for the Equine Facility to be located in the preferred location from engineering and public health perspectives. In Millstone's conversations with the Wilton Health Department, the Health Department has expressed a desire to avoid the septic system being located in the Reserved Residential Area and have indicated no objections to locating the same as shown on Millstone's plan for the reduced size/enhanced Restriction approach.

Potential Enhancement of Conservation Restriction (Continued)

- In addition to the aforementioned cost-free trail enhancements, fence relocations and obvious net reduction in square footage and intensity of construction, as well as the fact that the continued existence of hoop/greenhouse structures is consistent with the agricultural spirit and intent of the Restriction, here are some of the benefits of Millstone's reduced size/enhanced Restriction approach:
 - Material reduction in tree and rock wall removal;
 - Significantly less site disturbance;
 - Substantial decrease in earth removal;
 - Correction of preexisting non-compliance; and
 - The ability for Millstone to continue its agricultural activities from hoop/greenhouses

Conclusion

- While Millstone has the ability to proceed with the construction of its Equine Facility without an amendment to the Restriction, we firmly believe that the reduced size/enhanced Restriction approach outlined above is most in keeping with the original purpose and intent of the Restriction and best serves the interests of all parties to the Restriction.
- We have heard from the Town's counsel that an expressed municipal concern is, with respect to other development restricted properties, not wanting to create precedent that the Town is willing to reduce conservation restrictions. While we do not believe the particulars of this project serve as legal precedent with respect to other projects, in this case, the Town of Wilton and the Wilton Land Conservation Trust would be receiving meaningful and substantive incremental restrictions and protections with respect to the upcoming development of the Property, as well as a commitment to municipal resource-free trail enhancements and fence relocations, in exchange for, in substance, allowing Millstone to continue its agricultural activities from hoop/greenhouses. In other words, even if one takes the view that this project may create some legal precedent in Wilton, in the event the parties agreed upon the reduced size/enhanced Restriction approach outlined above, the precedent would be this:
 - The Town of Wilton is open to considering proposals from owners of development-restricted property to further restrict and/or enhance applicable restrictions and benefits in favor of the Town and the public.
- The foregoing is for discussion and information purposes. All rights at law and in equity are reserved.



