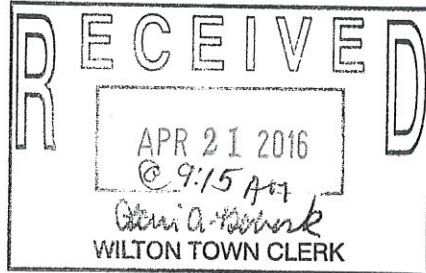


OFFICE OF THE
FIRST SELECTMAN

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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

**BOARD OF SELECTMEN
MONDAY APRIL 4, 2016
MEETING ROOM B, WILTON TOWN HALL**

PRESENT: First Selectman Lynne Vanderslice, Richard Dubow, Michael Kaelin, David Clune, Lori Bufano

GUESTS: Anne Kelly-Lenz, Sarah Taffel, Mike Conklin

OTHERS: 2 Members of the Press and Members of the Public

Ms. Vanderslice called the meeting to order at 7:45 p.m.

A. Consent Agenda

Upon motion by Ms. Bufano, seconded by Mr. Clune, the consent agenda was approved with minor corrections to the March 21, 2016 Board of Selectmen minutes to reflect Mr. Dubow's comments regarding: Fire Station II Building Committee and the Pedestrian Walkway.

Minutes

- Board of Selectmen Meeting – March 21, 2016

B. Discussion and/or Actions

1. Area 9 Cable Council Grant

Ms. Vanderslice reviewed the Area 9 Cable Council Grant. She noted the grant would be used to replace existing equipment that is about 7 years old. Additional funds from the grant would go to support the cost of taping the various Board meetings. There is no additional incremental cost to the Town for the grant. Motion made by Ms. Bufano to approve the Area 9 Cable Council Grant. Motion seconded by Mr. Clune and unanimously carried.

2. Inland Wetland Disturbance Fee

Ms. Vanderslice noted the Board of Selectmen voted to change the fee over a month ago. A letter was received from Casey Healy of Gregory and Adams on behalf of three of his clients requesting a recalculation and a refund of the difference between the old fee structure and the new fee structure. Ms. Vanderslice noted that it would be her recommendation that if you refund for the three individuals, you should refund for all. Mr. Healy's letter (attached) states the reasoning for requesting the refund. Ms. Vanderslice spoke about at the spreadsheet distributed

previously to the Board of Selectmen that shows the impact on the Town if the refunds were given. She stated that she spoke with the chair of the Inland Wetlands Commission to try and understand the rationale for adopting the fees and why he felt that refunds would be inappropriate. Mr. Dubow noted that he would like a better understanding of the fee structure and wanted to hear from Town Counsel before discussing further. The Board agreed and decided to table the discussion until the next Board Meeting to hear Town Counsel comments.

3. Board of Finance Request – RE: Possible Budget Cuts

Ms. Vanderslice noted that she was contacted by Board of Finance Chair, Jeff Rutishauser and requested that the Board of Selectmen provide to the Board of Finance a list of what the Board would do in reaction to a 1%, 2% or 3% cut to the budget. She stated that she would not respond to either a 2% or 3% cut as it is not feasible and Mr. Rutishauser came back with a cut of approximately \$300,000 which is closer to 1%. Discussion ensued on areas where cuts could be made and the Board reviewed the recommendations made by Ms. Vanderslice. Based on her recommendations, the budget could be reduced by \$213,000. There was discussion that if needed additional cuts, Board could possibly go to non-profit organizations. Mr. Clune raised the question of dipping into the reserves to help decrease any increase in the mil rate. Ms. Vanderslice spoke to Mr. Clune's question. Mr. Dubow and Mr. Kaelin felt there has not been enough time to review the recommended cuts or the alternatives to make an informed decision. Ms. Vanderslice noted that her recommendations would go to the Board of Finance Budget Meeting on Wednesday April 6, 2016 with the note that the Board of Selectmen has yet to decide.

4. Miller Driscoll Building Committee Financial Practices

Ms. Vanderslice wanted to clarify conflicting views on the subject on drawing funds from the \$5 million created from savings in the Miller Driscoll Building Project. There was consensus from the Board that no funds would be drawn from the \$5 million without going through the Board of Selectmen for approval. Funds in 3.5 million contingency fund must, at the least, have approval from Chris Burney, Director, Facilities & Energy Management. Request by Mr. Dubow for continued monthly reporting to the Board of Selectmen on spending and progress. Current practice is change orders of \$50,000 or less requires a sign-off in the field by at least three Building Committee members. Any amount above the \$50,000 should come to the committee for approval of change orders as long as it does not exceed the contingency.

5. Expansion of Miller Driscoll Building Committee

The Board discussed the expansion of the Miller Driscoll Building committee by one member. Motion made by Mr. Kaelin to approve the expansion of the committee by one member. Motion seconded by Ms. Bufano and unanimously carried.

6. Legal Review Committee

Mr. Kaelin noted that since the last Board of Selectmen meeting he confirmed with FOIA that the Board can meet in executive session with perspective counsel to discuss the appt of town counsel. Mr. Kaelin proposed a meeting with at least three candidates for town counsel, existing town counsel, Redding who is from the firm of Pullman and Comley, Avon town counsel who is from the firm Murtha Cullina to make a presentation. He noted that Shipman & Goodman will likely want to present as will Carmody & Torrance. Further discussion ensued regarding the best way to move forward. Mr. Dubow suggested get in contact with CCM to obtain data, if available, on what other municipalities have done. Mr. Clune suggested that an

RFP should be in place that lays out the qualifications we are looking for with some additional questions that is specific to the Town. Mr. Clune to draft document.

Sarah Taffel, Director, Human Resources, Labor Relations, and Administrative Services addressed the Selectmen on the role of Town Counsel as set forth in the Town Charter as well as the circumstances under which the Board of Selectmen could interview candidates for the Town Counsel position in Executive Session pursuant to the Connecticut Freedom of Information Act. She referenced the Town Charter Section C-44 that defines Town Counsel as the chief legal officer of the Town. As such, the Board of Selectmen could interview prospective Town Counsel candidates in Executive Session pursuant to Connecticut Freedom of Information Act, Section 1-200(6)(A) which permits Board of Selectmen discussion concerning the appointment of a public officer with the public not in attendance. Ms. Taffel also explained, however, that under Section 1-200(6)(A), the candidate(s) must be given notice of the planned discussion and an opportunity to request that the discussion be conducted in open session. She further explained that according to a representative of the Connecticut Freedom of Information Commission, interviews of law firms interested in providing a Town Counsel candidate and associated services could also be conducted without the public present. However, the legal basis for such an Executive Session would be Conn. Gen. Stat. Section 1-200(6)(E), where the discussion would concern the responses to a request for proposals for Town Counsel legal services, documents which pursuant to Conn. Gen. Stat. Section 1-210(b)(24) are exempt from disclosure and, therefore, can be the basis for discussion in Executive Session. Finally, Ms. Taffel stated that although discussion concerning the appointments could be conducted in Executive Session, any action taken with respect to making an appointment must be done in open session.

7. Board/Commissions Vacancy Procedures

Ms. Vanderslice asked Ms. Taffel to speak regarding the board/commission vacancy procedures. Ms. Taffel informed the Selectmen that she had consulted with a representative of the Freedom of Information Commission to identify the circumstances under which members of Town Boards and Commissions could interview candidates to fill elected and appointed vacancies in Executive Session. She reported that she was advised that interviews of candidates to fill both elected and appointed Board and Commission vacancies may be conducted in Executive Session pursuant to Connecticut Freedom of Information Act, Section 1-200(6)(A) since the interviews would be regarded as discussions concerning the appointment of Town officers. She also stated that the interviews should be noticed on the Agenda under the Executive Session title, identifying the agenda item as interview(s) of candidate(s) for the vacancy on the particular Board or Commission and giving the name(s) of the candidate(s) involved, unless there was a compelling reason to exclude the name(s). Ms. Taffel added that any action taken with respect to making an appointment to fill a vacancy on a Board of Commission must be done in open session.

Currently awaiting input from Democratic Town Committee who meets on April 5, 2016.

8. Appointments/Reappointments

Mr. Dubow asked that current status of commission, number of members, openings and affiliation be included when discussion nominees for board/commission openings. Ms. Vanderslice noted the additional opening for the Commission on

Social Services. RTC nominee has pulled his name as he will not be available to attend meetings due to time constraints. Dave Clune made a motion to appoint Genevieve Eason to the Commission on Social Services. Motion seconded by Mr. Kaelin and unanimously carried.

Motion made by Mr. Kaelin to appoint Mandi Schmauch and Keith Fordsman to the Miller Driscoll Building Committee. Motion seconded by Mr. Dubow and unanimously carried.

Conservation nominees will be discussed at next Board of Selectmen meeting.

9. Miscellaneous Other Business

None.

B. Reports

First Selectman's Report

Lampposts – There has been some damage to the lampposts in Wilton Center. There is damage at lower section, and finish removed. May possibly be a manufacturing defect. DPW is having someone come out and take a look. Will be putting on hold requests to use the lampposts until situation is evaluated.

Flower Baskets – will be put up this year. There has been a change in sponsorship. Have lost a few of our sponsors, which is understandable, as they have been doing it for many years. The Garden Club is a sponsor this year along with Bankwell and a few personal donations. Suzanne Knutson has volunteered her time to put it together. Have roughly half the money from previous years, but were able to get baskets at half the price. Baskets require some labor on the part of the Garden Club and they volunteered. Hanging the baskets will proceed at no cost to Town other than the cost of watering. Currently working with Steve Pierce on cost effective ways to achieve that.

Seeley Road Railroad Crossing – Repair on the tracks begin this weekend April 8-14, 2016. Road will be closed to traffic.

Ms. Vanderslice recognized Mr. Dubow for the Lifetime Achievement Award he received from the DTC on Saturday, April 2, 2016.

Selectmen's Reports

Mr. Dubow

Publicly thanked the DTC and all who put together the events of the evening. He noted that all benefit from those that work for the town in various capacities and the DTC applauded all volunteers for their contributions. He encouraged all to get involved, noting that there are many ways to do that. Can start off small and will find it to be a very satisfying experience.

Mr. Kaelin

Mr. Kaelin noted that the Wilton Womens Club celebrated their 50th anniversary on Friday 4/1/2016 at a luncheon and fashion show. The event was very successful with all proceeds going to the NRVF. He noted the DTC event that honored Mr. Dubow was well attended and congratulated Mr. Dubow on his award and thanked him for his more than 30 years of service to the Town of Wilton. He also noted that Carole Young-Kleinfeld, Democratic Registrar for the Town was also recognized by the DTC with the Outstanding Democrat Award. Wilton Library celebrated their 120th anniversary at

dinner gala on Saturday night 4/2/2016 and raised a lot of money. The YMCA will hold the Wilton Community Celebration on Sunday May 22, 2016 at Millstone Farm. Mr. Kaelin the Board would like to show appreciation for everyone who volunteers their time and talents to the Town.

Mr. Clune

Mr. Clune thanked Mr. Dubow for all his many years of service to the Town. He also noted that Wilton Library Gala was a wonderful event for the Town and the Gala honored Tom Adams and his wife for their many contributions to the Town. Mr. Clune mentioned Mr. Tom Fujitani who passed away over the weekend. He noted that Mr. Fujitani was a great teacher and a legendary coach at the High School who left a lasting impression on his students and his peers.

Ms. Bufano

Ms. Bufano thanked Mr. Dubow for his years of service to the Town.

C. Public Comment

Mike Lindquist owner of Wilton Auto and Tire at 210 Danbury Road and now owner of 650 Danbury Rd spoke regarding the Inland Wetlands Disturbance Fee.

D. Adjournment – Having no further business, motion made by Mr. Kaelin to adjourn meeting at 9:30PM. Motion was seconded by Mr. Clune and unanimously carried.



Jacqueline Rochester
Recording Secretary
Taken from Video

Discuss w/ JAI
Sullivan

JULIAN A. GREGORY
(1964-2002)

PAUL H. BURNHAM
SUSAN L. GOLDMAN
J. VANCE HANCOCK
J. CASEY HEALY
DERREL M. MASON*
MATTHEW C. MASON*
JAMES D'ALTON MURPHY*
EDWARD M. SCHENKEL
RALPH E. SLATER
ROGER R. VALKENBURGH *

* ALSO ADMITTED IN NEW YORK

GREGORY AND ADAMS, P.C.

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JULIAN A. GREGORY
(1964-2002)

THOMAS T. ADAMS
(1929-2015)

PLEASE REPLY TO SENDER:

J. CASEY HEALY
DIRECT DIAL: 203-571-6304
jhealy@gregoryandadams.com

February 4, 2016

To be delivered by hand

The Honorable Lynne Vanderslice
Town Hall
238 Danbury Road
Wilton, CT 06897

1ST SELECTMANS OFFICE

FEB 08 2016

Re: Inland Wetlands Commission – Revised Fee Schedule

Dear Mrs. Vanderslice:

With reference to the enclosed draft minutes of the Inland Wetlands Commission public hearing held on January 14, 2016, following the close of a public hearing held by the Commission regarding the fee schedule for applications filed with the Commission, the Commission approved a revised fee schedule.

By my letter to the Commission under date of January 14, 2016, I advised the Commission that in my opinion the existing “project wide disturbance” and “commercial development” fees levied by the Commission violated Section 22-42a (e) of the Connecticut General Statutes. As attorney for Wilton Youth Football, Patrick Downend and Michael Lindquist, I requested that the project wide and commercial development fees that the Commission charged on their applications be recalculated under the new schedule and that the excess fees charged to them be refunded. With reference to the draft minutes, it appears that the Commission does not believe it would be “appropriate” to provide refunds.

I hereby request that the Board of Selectmen authorize: (i) the recalculation of the fees charged to Youth Football and Messrs. Downend and Lindquist and (ii) the refund any excess fees. I note the following in the minutes:

1. Commission Chairman Hall stated that “it’s important to ensure the fees are in sync with other area towns.”
2. Environmental Analyst Mike Conklin stated that a comparison was completed to confirm what other municipalities charge and that he did not find any other municipality that based their application fee on project wide disturbance.

3. Mr. Conklin advised the Commission that he spoke with Town Counsel Patricia Sullivan who opined that charging a project wide disturbance fee is not within the jurisdiction of a wetlands commission.
4. Mr. Conklin also advised the Commission that Town Counsel Sullivan "warned" him that the current fee schedule could be considered "punitive."

Wilton Youth Football and Messrs. Downend and Lindquist are entitled to a refund of the excess fees charged them for the reason that those application fees violated State statute as recognized by the Commission in revising its fee schedule.

Respectfully submitted,



J. Casey Healy

JCH/ko

Enclosure

cc: Mr. Kevin Wall – Wilton Youth Football
Mr. Patrick Downend
Mr. Michael Lindquist

INLAND WETLANDS
COMMISSION
Telephone (203) 563-0180
Fax (203) 563-0284



TOWN HALL
238 Danbury Road
Wilton, Connecticut 06897

MINUTES

January 14, 2016

PRESENT: John Hall, Chairman, Liz Craig, Tom Burgess, Nick Lee, Mark Andrews

ALSO PRESENT: Mike Conklin, Environmental Analyst; Liz Larkin, Recording Secretary; Kevin O'Brien, O'Brien Premiere Properties; Tom Quinn, Peak Engineers; Rob Sanders, Rob Sanders Architects; Richard Branch, Property Owner

ABSENT: Dan Falta, Rick Stow (notified of intended absence)

I. CALL TO ORDER

Mr. Hall called the meeting to order at 7:31 p.m.

II. PUBLIC HEARINGS

A. Regulation Revision for Inland Wetlands Fee Schedule

Mr. Conklin read the documents into the record including the letters from O'Brien Premiere Properties, and Gregory & Adams in their entirety. Mr. Quinn asked that Mr. Conklin read Ms. Sesto's letter as well, which he did.

Ms. Craig asked if DEEP responded with any feedback from the package of information that was provided to them in December. Mr. Conklin confirmed that they did not respond within the 35 days they are allotted per state statute.

Mr. Hall explained that the commission is revisiting the current fee structure in place since September 1, 2013 whereas the activity fee is based on the disturbed land project-wide. He indicated that he did not remember approving the current fees in 2013. He thinks it's important to ensure the fees are in sync with other area towns. Mr. Conklin stated that a full comparison was completed to confirm what other towns are charging, and the fee based on disturbance project wide was not something he found anywhere else. He confirmed he spoke with Town Counsel and they recommended removing the project wide fee as this is not in the jurisdiction of the Wetland Commission.

Ms. Craig stated that even though an activity is not in a regulated area, it will still change how the water moves in the area. She stated that how much water a property will hold is important to this commission. Mr. Hall stated that if someone wants to disturb their wetland, they would be

required to come through this commission and this will not be affected by the fee schedule.

Ms. Craig asked if this discussion would be taking place if Ms. Sesto was still in charge. Mr. Conklin confirmed this is just being brought up now as we just started getting push back from residents and land use professionals. He stated that the Lindquist application for a service station and used car sales had a request for a lower fee and the commission denied this request. Mr. Conklin explained that there were no large developments that came in since then, so there was no initial indication that there was a problem. Mr. Conklin stated that Ms. Sullivan of Cohen & Wolf, town counsel, warned him that the current fee structure could be considered punitive. Mr. Hall went further to state that some projects only have a small area of disturbance but a lot of intensive use with no buffer. Ms. Craig asked if the proposed fee schedule will cover the costs of the department. Mr. O'Brien responded that the fees are not in place to cover salaries as it is a self-sustaining department. Mr. Quinn added that this should not be a pay as you go operation. Mr. Hall added that Mr. Healy's letter clearly cites what can be charged based on the regulations.

Mr. Quinn stated that developers and engineers want to do the right thing by staying as far from wetlands as possible. He suggested having a bonding system that returns the funds if the builder is keeping with the approved plans. Mr. Andrews stated that there are enforcement fees that the commission can charge for unpermitted work. Mr. Quinn confirmed it costs his clients about \$20,000 for him to prepare a plan and asked why the commission would charge the same amount just to review plans that are already completed.

The commission then discussed some loopholes with the current fee schedule. The example Mr. Conklin provided was for the property directly across the street from Town Hall. The proposed activity is to repave the entire parking lot where 9 spaces are within the regulated area. The owner could potentially bring in smaller pieces of the proposal and save spending activity fees. This could be an issue as the town does not get to look at the entire property to properly protect the resource. Mr. O'Brien stated that it does not make sense to charge for disturbance on a subdivision as the plans are hypothetical and typically change. Mr. Quinn added that Planning and Zoning looks to ensure slopes are at acceptable levels. Mr. Sanders stated that the 100 foot buffer is the wetlands jurisdiction. Mr. Conklin stated that tying a \$200 per lot fee to subdivisions that are not regulated would not be fair.

Ms. Craig asked if there is any encouragement for builders to create more low-impact development. Mr. Conklin confirmed that Planning and Zoning has site coverage maximums. Mr. Hall stated that not many applications this board receives are excessive and he does not think it is appropriate to alter land use by charging fees. He confirmed that all additional charges should be based on the regulated area and Mr. Andrews agreed. Ms. Craig stated that uniformity is important so it would make sense to charge for disturbed land in the regulated area across the board and remove the \$200 per lot fee when reviewing a subdivision. Mr. O'Brien confirmed that this will need to be approved by the Board of Selectman prior to being put into place.

Mr. Burgess MOVED to APPROVE the Fee Schedule as altered with uniformity for all three scenarios to be the base fee + \$200/1,000 square feet of disturbed land in the regulated area only, SECONDED by Mr. Lee and CARRIED 5-0-0.

Mr. Lee MOVED to APPROVE the new Significant Application Form to reflect the amount of disturbed land in the regulated area, SECONDED by Mr. Burgess and CARRIED 5-0-0.

Mr. Hall and Mr. Andrews stated that they did not feel it would be appropriate to provide refunds for application fees received under the "project-wide" fee schedule since September 2013 and asked that this recommendation be shared with the Board of Selectmen.

III. APPLICATIONS TO BE REVIEWED

A. WET#2369(I) – BRANCH – 14 Stonecrop Lane – additions and alterations to existing residence

Mr. Sanders provided revised plans to the commissioners and explained the site as being 2 acres in size with half the lot in New Canaan. The proposed addition will be 945 sq. ft on the home that was built in 1968. In conjunction with the addition, the existing systems will need to be replaced. The septic is being placed close to the house and Mr. Sanders showed how this will work with the existing 20 foot slope.

Mr. Sanders explained that the previous second floor addition is being removed as it is in poor shape and this new addition will extend to the terrace. He noted the regulated area runs right through the existing home and the septic will be entirely in the regulated area. Mr. Sanders stated that they completed percolation tests and found good soils in the proposed septic area.

Mr. Sanders admitted that the amount of fill to be deposited is more than the 60 cubic yards that was shown on the septic plan so the application is not accurate. The increased amount of fill to be deposited due to the subsurface drainage will be more than 100 cubic yards so the application would fall under the Significant Level Activity. The commission discussed the best way to move forward from here and it was decided they would have to re-submit a Significant Level Application and provide the required notice to neighbors.

Mr. Hall suggested that a construction sequence and access plans be prepared. Mr. Sanders confirmed the contours on the current plan are level with the proposed septic at the edge of the 100 feet. Mr. Andrews asked that the contour lines be extended throughout the entire parcel. Mr. Lee noted that the cultecs will be installed first, then the septic. Mr. Sanders agreed with this sequence and confirmed they will work from the back to the front of the site.

Mr. Hall asked if the soil and erosion measures are okay as proposed. Mr. Sanders confirmed they are as they are not changing the contours. Mr. Hall added that there is vegetation at the bottom of the slope. Mr. Conklin stated that he discovered a violation during his recent site visit. He indicated that many mature trees were cleared on the slope which needs to be addressed via a corrective action permit. Mr. Conklin suggested rolling this violation into the current proposal to save time and money for the owners. He advised the homeowner, Mr. Branch, that he should add a generator location and LP tanks so that he can get everything he wants on one permit.

Mr. Lee suggested a low boulder wall at the top of the slope to keep the disturbance out of the regulated area in the future. Ms. Craig asked that they stabilize the slope with vegetation. Mr. Hall asked that all trees that were removed are placed on a map so that the commission can determine what significant mitigation will need to be installed.

The applicant and his agent will proceed with the current proposal under the Significant Level Application and will handle the violation separately.