

BOARD OF FINANCE

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May 19, 2025

Re: Concerns Regarding Proposed Ambler Farm Lease

To the Members of the Board of Selectmen:

At our May 13, 2025 Regular Meeting, the Wilton Board of Finance (BOF) reviewed the proposed lease agreement between the Town of Wilton and the Friends of Ambler Farm (FOAF). Following that discussion, the BOF voted unanimously to issue this formal opinion outlining our concerns with the lease in its current form.

Preamble

Ambler Farm is one of Wilton's most treasured assets. It provides educational, cultural, and recreational value that enriches our town, and we are deeply grateful for the dedication and hard work of the Friends of Ambler Farm over many years. The Board of Finance is fully supportive of FOAF's mission and recognizes its lasting positive impact on our community.

Our comments should be understood in that context. They are not a critique of the people or programs involved, but a reflection of our fiduciary responsibility to ensure that public resources are managed prudently, transparently, and in accordance with applicable laws and policies. Members of the Board of Finance bring decades of experience in finance, real estate, and law, and we are applying that expertise to safeguard the Town's long-term financial health. As stewards of Wilton's finances, we are obligated to raise concerns when a proposed agreement may expose the Town to significant long-term costs or diminish oversight—especially when those commitments could extend across generations.

Summary of Concerns

In its current form, the proposed lease resembles less a traditional municipal lease and more a long-term financial agreement between the Town and FOAF that binds the Town to a wide range of open-ended obligations. It lacks key safeguards typically found in public-sector agreements, such as annual appropriation contingencies, cost-sharing mechanisms, and clear exit provisions. It effectively delegates full operational control of a valuable Town asset to a private nonprofit while requiring the Town to fund nearly all capital and maintenance costs—without rent, revenue sharing, or ongoing budgetary review. The lease structure also combines deed-designated areas within the property, references capital projects that have not been approved, and creates a de facto 90-year arrangement through automatic renewals triggered by FOAF. These and other provisions raise financial and governance concerns that could limit future Boards' discretion, may conflict with the Town Charter and state law, and expose the Town to material financial risk. While we believe the agreement is well-intentioned, it must be significantly revised to ensure alignment with sound municipal practice and long-term fiscal responsibility.

We are confident that these concerns can be addressed through revisions that continue to support FOAF's important work while ensuring financial sustainability and transparency for Wilton's taxpayers.

Key Areas of Concern and Recommendations

1) Absence of Non-Appropriation Clause

- a. **Issue:** As you know, multi-year municipal agreements are required under state law to include a non-appropriation clause to ensure that future elected bodies are not financially obligated without formal re-approval. This agreement includes future financial obligations but lacks such a clause.
- b. **Recommendation:** Include a standard non-appropriation clause.

2) Potential Conflicts with the Town Charter

- a. **Issue:** The lease appears to bypass the annual budgetary authority vested in the Board of Finance, Board of Selectmen, and Town Meeting by committing the Town to recurring financial obligations without subjecting them to the required approval processes. All Town expenditures must be appropriated annually, and this lease should not be exempt from that requirement.
- b. **Recommendation:** Revise the agreement to ensure that all funding associated with the lease is subject to the Town's normal annual budgeting and appropriation process, consistent with Charter requirements and state law.

3) Potential Conflicts with Board of Selectmen Policies

- a. **Issue:** The lease defines "consent or approval of the Town" as the consent or approval of the First Selectman unless otherwise specified (Section 2.06). However, existing Board of Selectmen policies require full Board approval for certain transactions or actions.
- b. **Recommendation:** Revise the definition to reflect that "consent or approval of the Town" includes the First Selectman or the Board of Selectmen, as required by applicable Board policies.

4) 90 Year Effective Term (Section 3.03)

- a. **Issue:** Although the lease is nominally structured as a 10-year term with eight 10-year renewal options, the mechanism places the burden entirely on the Town to affirmatively terminate the lease within a narrow six-month window every decade. If the Town fails to act during that period, the lease renews automatically. This design effectively grants a de facto 90-year lease term. Such an arrangement is inconsistent with public sector norms, which typically require periodic, affirmative reauthorization of long-term commitments involving public assets.
- b. **Recommendation:** Reform the renewal process to require affirmative Town approval for each renewal term. Renewal should be contingent upon a public vote of the Board of Selectmen based on a performance review, with sufficient lead time and opportunity for public input. Alternatively, restructure the agreement into a renewable lease of shorter duration tied to the Town's annual appropriation process to ensure continued fiscal and operational accountability.

5) Open-Ended Town Obligations (Sections 5.01, 6.09, 7.01)

- a. **Issue:** While the lease imposes annual repair caps on FOAF (\$1,000 per item / \$10,000 per year, CPI-adjusted), any costs above those amounts become the Town's responsibility—with no cap or approval mechanism. Over the life of a 90-year lease, this exposes the Town to uncapped infrastructure and facilities maintenance obligations, regardless of budget conditions or shifting priorities. These obligations are effectively evergreen and not clearly subject to annual appropriation decisions, which may conflict with standard municipal fiscal practices under Connecticut law.
- b. **Recommendation:** Include language to explicitly condition any Town expenditures under the lease on annual appropriation. Establish an annual ceiling on the Town's obligations and require a joint capital plan and funding mechanism developed by FOAF and the Town for any repair or capital project exceeding a set dollar threshold. Incorporate routine reporting and prioritization mechanisms to give the Town greater control over long-term fiscal exposure.

6) Utility Subsidies (Section 5.01)

- a. **Issue:** The lease requires FOAF to pay the first \$1,000 in utility costs annually (adjusted by PURA increases), with the Town obligated to pay all utility costs beyond that threshold. This structure exposes the Town to potentially uncapped utility liabilities, with no meaningful guardrails to control or forecast annual costs.
- b. **Recommendation:** Revise the utility cost-sharing mechanism to include a fixed cap on the Town's annual contribution, and require FOAF to submit an annual budget with projected usage and

justification for public funding. This would align with prudent fiscal oversight and introduce predictability into the Town's operating budget.

7) Capital and Environmental Costs (Sections 6.08, 7.01)

- a. **Issue:** The Town bears all costs for invasive species removal, tree work, septic systems, and structural repairs. FOAF is responsible only for cosmetic maintenance.
- b. **Recommendation:** Introduce cost-sharing provisions that reflect FOAF's exclusive use and benefit of the property, as well as their financial capability. All associated expenses should be subject to the Town's annual budget review and approval.

8) FOAF Retains All Revenues (Section 6.01)

- a. **Issue:** FOAF retains all income from events, rentals, donations, camps, and retail operations, with no financial reporting or requirement to offset Town subsidies. While FOAF is required to provide CPA-reviewed financials, the lease does not link FOAF's retained earnings or reserves to the level of public subsidy. There is no obligation to offset Town contributions in years where FOAF runs surpluses or accumulates significant unrestricted net assets.
- b. **Recommendation:** Establish a policy that ties Town subsidies to FOAF's demonstrated financial need. For example, subsidies could be contingent upon FOAF maintaining less than a defined threshold of unrestricted net assets, ensuring that Town funds are only used when necessary.

9) FOAF Sole Operational Authority (Section 3.01)

- a. **Issue:** FOAF has full control over the use of the premises with limited Town oversight. While this reflects the organization's long history of stewardship, the formal delegation of such authority in a binding lease agreement requires a higher standard of accountability to ensure transparency and public trust.
- b. **Recommendation:** Require that the Town appoint at least one-third of the voting seats on FOAF's board, consistent with practices for other Town-supported entities.

10) Lack of Audit and Budget Oversight (Section 6.01)

- a. **Issue:** While FOAF must provide CPA-reviewed financials, it is not subject to audit or to the Town's budgeting process.
- b. **Recommendation:** Require FOAF to submit annual financial statements and budget requests for review and approval through the Town's normal budget process. The Town should reserve the right to audit FOAF's financials upon request. FOAF should not be eligible for Town funding outside the budget or bonding processes.

11) Nominal Rent Structure (Section 1.01(e))

- a. **Issue:** FOAF is granted effective rent-free (\$1 per year) use of a large, valuable public property in exchange for general public benefits. While such arrangements are not uncommon with nonprofits, this lease includes no formal performance benchmarks, usage reporting, or public accountability standards to justify the Town's continued subsidy. This may create a perception of unequal access or favoritism, and it limits the Town's ability to ensure that the asset is used in the best interests of all residents.
- b. **Recommendation:** Tie continued rent abatement to clear, measurable community benefits—such as educational programming, open access hours, or program participation levels. Require annual reporting and regular public presentation of results. If FOAF fails to meet agreed-upon public service metrics, the Town should retain the option to review or amend the lease.

12) Yellow House (Section 12.02)

- a. **Issue:** The lease states that it is the Town's intention to restore the Yellow House to habitable condition using appropriations, fundraising, and grants. However, no such plan has been adopted by Town Meeting, nor has a proposal been developed and approved by the Board of Selectmen for submission to Town Meeting.
- b. **Recommendation:** As no decisions have been made regarding the Yellow House, it should be excluded from this lease. The uncontaminated land surrounding the Yellow House should be identified and, if appropriate, leased separately. If a two-lease approach is not adopted, at a minimum, the language referencing future intentions should be removed, and restrictions should be placed on the use of both the Yellow House and the contaminated surrounding area.

13) Residential Subleasing (Sections 12.01–12.03)

- a. **Issue:** FOAF may sublease residential units, but the Town covers habitability improvements and assumes financial risk.

- b. **Recommendation:** The Town should retain authority over all residential use. Rent from third-party tenants should accrue to the Town, and rent from Town employees should offset the Town's obligations. The "Yellow House" should not be included in this lease and any related revenues should be handled independently, consistent with the Town's funding and maintenance responsibilities. This arrangement can be implemented through the annual budget approval process.

14) Insurance Coverage (Sections 8.01–8.08)

- a. **Issue:** While FOAF is required to carry insurance and name the Town as an additional insured, the lease does not explicitly require Town approval of coverage terms, carriers, or limits. Nor does it obligate FOAF to provide proof of ongoing compliance annually.
- b. **Recommendation:** The Town, as property owner, must approve all insurance policies to ensure adequate coverage and risk mitigation. If FOAF incurs additional insurance costs as a result, these should be submitted as part of its annual budget request.

15) Bond Counsel and Credit Rating Risks

- a. **Issue:** Open-ended financial obligations may raise concerns for bond counsel or rating agencies regarding the Town's long-term liabilities.
- b. **Recommendation:** Obtain legal and financial review to determine whether the lease could impact the Town's offering disclosures, debt capacity, or credit rating.

16) Lack of Exit Mechanism

- a. **Issue:** There is no provision allowing the Town to terminate the lease if FOAF ceases operations, materially deviates from its mission, or fails to comply with material terms of the agreement. This omission could leave the Town without recourse in the event of mission drift, organizational failure, or legal noncompliance.
- b. **Recommendation:** Add a termination clause that allows the Town to exit the agreement under defined circumstances to protect taxpayer interests.

17) Oversight, Safety, and Risk Management Concerns

- a. **Issue:** The lease limits the Town's ability to intervene or oversee activities on the property, despite bearing the financial and legal risks associated with ownership. FOAF's financial capacity may be insufficient to absorb liabilities from accidents or litigation, making the Town the effective guarantor.
- b. **Recommendation:** Remove language that restricts Town oversight. Establish a governance mechanism that gives the Town enforceable oversight authority—potentially a standing board or review committee. The Town should also have veto power over activities that raise safety, liability, or zoning concerns. Because the lease and associated Town-funded commitments could be viewed as assets of FOAF, the Town should retain the right to terminate the agreement at any time if doing so is in the Town's best interest.

Final Thoughts

The Board of Finance offers these concerns in the spirit of responsible and constructive governance. Our goal is not to delay or obstruct, but to ensure the Town enters into an agreement that is legally sound, fiscally responsible, and consistent with our shared values of transparency, accountability, and good stewardship.

With thoughtful revision and open collaboration, we are confident that Wilton can craft a lease structure that supports Ambler Farm's mission while protecting the long-term interests of taxpayers and preserving the authority of future Town leaders.

We thank you for your time, your public service, and your attention to these important matters. We stand ready to assist in the development of a revised agreement that reflects our shared commitment to the Town and Ambler Farm.

Sincerely,

The Board of Finance