

## **SEEC Complaint: Election Violations during Wilton's 9-23-14/9-27-14 \$50M Referendum Vote**

### SEEC Complaint Against Wilton's

- First Selectman Bill Brennan,(as sponsor of the Miller Driscoll Building Committee )
- Miller Driscoll Building Committee Chair Bruce Hampson and Vice Chair Karen Birck
- Wilton Board of Education Chairman Bruce Likly & BOE Member/ Building Committee Glen Hemmerle
- Wilton Public Schools Principal Cheryl Jensen Gerner

**Complaint Summary:** Complainant submits Wilton Town Officials, Town employees and School Officials committed multiple election violations during the 3 weeks immediately before the \$50M Miller-Driscoll Referendum voting on 9-23-14 and 9-27-14. That vote, by a margin of 27 votes out of over 1900 votes cast, authorized Town Leaders to borrow \$50M, to fund a school project that will reduce school square footage and delay needed repairs for 4 years.

Of particular concern is the:

1. Publication and widespread distribution of an explicit "Vote YES" pamphlet attributed to the Town.
2. Explicit "Vote YES" Advocacy campaign conducted on Wilton Public School Grounds during "Official" School meetings with parents during the 3 weeks prior to the 9-23-14 Vote. The Advocacy Sessions were attended by Town Officials and School Employees and appears to have been financed by an unknown expenditure of Town Funds.

Since the \$50M Project has been under development since at least 2008, there is reason to believe the date of the 9-23-14 Town Vote was determined by the Town Officials' knowledge and intention to hold as many as 13 "Open House" meetings as Referendum Advocacy Sessions at Wilton Public Schools (WPS) "for parents only". This timing allowed Town and School officials the opportunity to personally contact and persuade the parents of 4,000 students-ie , up to 8,000 parent voters- immediately prior to the \$50M Referendum Vote.

Since there are 11,000 Registered Electors in Wilton, a Town Sanctioned/ funded advocacy campaign with preferred access to thousands of potential voters could be expected to have a material impact on the outcome of the vote.

**Requested Remedy:** Since the ultimate margin of passage -only 27 votes of 1931 total votes cast-is just over 1 %, Complaint submits the appropriate remedy is a revote.

This Complaint is not intended as a final catalogue of all possible election violations prior to the Vote. Reports of other potential violations, including issues with Absentee Voting Applications are still being collected.

## **Section I: Election violations related to a “Vote YES” Advocacy Pamphlet attributed to Town**

The attached “Vote YES” pamphlet (Exhibit 1) was distributed, at a minimum, during:

- a. Sept 10<sup>th</sup> Miller-Driscoll School Parent Night session- Orange Version of Vote Yes Pamphlet was referenced by Building Chair Bruce Hampson during the Referendum Advocacy session
- b. Sept 17<sup>th</sup> Miller Driscoll School Parent Night - Pink Version of Vote YES pamphlet was placed on chairs inside the school for parents immediately prior to the start scheduled advocacy session by the Building Committee Chairs
- c. Multiple Wilton sport events including soccer games, etc heavily attended by Wilton Parent Voters (pamphlet distributed by children)

The Full extent of distribution of the Vote YES Pamphlets is unknown. Complainant suggests SEEC would determine extent of Vote YES pamphlets distribution including other school and “non-public” group meetings (eg Realtors, etc)

**Attribution: the only attribution on the pamphlet is to the Town of Wilton website "wiltonct.org". Given both the attribution and the manner in which this Vote YES Pamphlet was distributed at school meetings conducted by Town and School Officials, there is every indication this was a Town Authorized advocacy Publication produced and distributed in violation of State Election Statutes.**

Per Board of Education Policy P-1110, the Principal, Superintendent or Board of Education must approve written materials distributed at any WPS school. Since the Vote Yes pamphlet was distributed within the school, School Officials permitted the distribution of the “Vote Yes” Pamphlet at the Sept 10<sup>th</sup> & 17<sup>th</sup> school meetings and potentially all 13 Parent Night meetings. Town Officials, including Officials from the MD Building Committee and Board of Education, participated in the Sept 10<sup>th</sup> & 17<sup>th</sup> meetings and were aware of the Vote YES Pamphlet’s distribution to parents on school grounds. During these meetings Town Officials acknowledged the accuracy/ importance of the Vote Yes pamphlet. Town Officials gave no “credit” to any other group for preparation of the Vote YES Pamphlet.

**Cost:** The number of Vote YES pamphlets prepared and distributed prior to the Referendum vote is unknown. Given distribution to as many as 900+ Miller-Driscoll Parents (up to 1800 parent voters at Miller Driscoll alone) as well as confirmed distribution at other venues including, potentially 13 Parent Nights for up to 8000 Parent Voters, the expense of this element of the Vote YES advocacy campaign would have been considerable.

**Given a) the explicit attribution to the Town, b) the circumstances under which the Pamphlet was distributed to parents at Official Meetings with Town/School Officials presence/knowledge/approval of the distribution and c) the failure to identify any other group prepared the Pamphlet, there is every reason to believe this brochure was prepared using Town Funds, personnel, time and resources. Moreover, there is no evidence the “Vote YES” pamphlet was produced using funds from any source other than the Town.**

**No Registered Advocacy Referendum Groups:** According to Assistant Town Clerk Kathy Cooper (**Exhibit 2**) no group Registered as an Advocacy Committee prior to the Final Vote on 9-27-14.

Per the Assistant Town Clerk, "Sensible Wilton" was the only Registered Referendum Committee in Wilton on the date of the initial and subsequent violations. Sensible Wilton confirmed they did not produce or distribute the "Vote YES" pamphlets.

**Complainant submits the production and widespread publication of this Vote YES pamphlet and the manner of its distribution at Official School meetings and other venues constitutes a violation of Election Statutes.**

**Thus, there is more than probable cause these violations improperly influenced the outcome of a very close vote result. Therefore, a revote of the \$50M referendum in full accord with State Election Statutes is justified.**

## **Section 2: Improper Use of Official School Meetings to Advocate Passage of Referendum:** **Improper contact with up to 8,000 Parent voters**

**Town and School Officials conducted “Vote Yes” Advocacy sessions on school grounds during Official school “Parent Night/Open House” functions in the three weeks immediately prior to the 9-23-14 and 9-27-14 Referendum. These 13 Parent Night sessions were “by invitation” events for “parents only” and were not open to the General Public or the Press.**

The Advocacy Sessions were led by Town Officials from the Miller Driscoll (MD) Building Committee and the Board of Ed. By incorporating a Referendum presentation into the “Parent Night” meetings, Town Officials arranged to hold as many as 13 Advocacy Sessions at Wilton Public Schools with potentially **8000 Parent Voters**. Since Wilton has 11,000 Registered Voters, incorporating Referendum Advocacy presentations Town and School Officials improperly lobbied a substantial number of Registered Voters to Vote YES.

In addition Building Committee members, attendees also included elected/appointed Town Officials, School Principals and other school staff. Some of the Advocacy sessions were attended by at least 1 Board of Education member appointed to the Building Committee (Glenn Hemmerle). Thus, parents were led to believe that “Vote YES” was Official Town and School Policy for the \$50M Referendum.

Such activity by Town and School Officials on school property during Official School meetings is in direct violation of State Election Statutes

**A Sample Invitation** to the Advocacy Sessions conducted at Miller Driscoll Elementary School for 1st Grade Parents on September 14, 2014 is attached as **Exhibit 3**. Per the Invitation, parents were expected attend a presentation in the gym at 6:30 PM. Per the invitation: *“The Presentation will include information about the Building Project”*.

Since parent attendance is expected at the Open House to hear the Administrator’s plans for their children’s upcoming school year, and historically teachers have reported on each student’s parent attendance to Administrators, Town and School Officials designed the agenda to take advantage of a “captive audience” and subject the Parent Voters to an Advocacy Session.

During the video-recorded 9-23-14 Town Meeting, one Kindergarten parent from Chipmunk Lane, complained that Town and School Officials conducted a “sales pitch” for the approval of the \$50M referendum. Other parents complained that the presentations did not allow questions or comments during the Advocacy Presentations. Thus, the Building Presentations were designed and executed as “one way” Advocacy sessions by Town and School officials. The evident objective was to persuade parents to authorize Town Leaders to borrow \$50M, to fund a school project that will reduce, not increase, school square footage and will not provide immediate needed repairs to the roof and HVAC system but rather will delay repairs for nearly 4 years.

**Exhibit 4** confirms questions or comments were prohibited by Town/School officials during the Official Advocacy Presentations. Per Miller-Driscoll Principal Jensen-Gerner’s email on 9-19-14 , (*which reported a “Full House” at each Miller Driscoll Parent Meeting*) confirms questions and comments were not allowed.

Explicit advocacy by Town Officials to a “captive audience” include:

- During the 9-10-14 Advocacy presentation, a witness reports Building Committee Chair Bruce Hampson referenced the validity of the Orange “Vote Yes” pamphlets that were distributed at that Miller-Driscoll Parent Open House meeting as having correct information. Another father reports the presentation was a “sales pitch”
- During the 9-15-14 Middlebrook Parent Open House meeting, a witness reports that Building Committee Vice Chair Karen Birck, explicitly encouraged people to vote in support the renovation.

**Based upon all available evidence- *particularly the confirmed distribution of the Section 1 Vote YES Pamphlet*- the “Miller-Driscoll Renovation Referendum Presentation” by Town and School Officials were “Sales Pitch” or Advocacy sessions.**

**Direct, explicit advocacy by Town Officials on School Property at an Official School Meeting is a violation of State election laws.**

**Lack of Alternative “Official” Information Meetings for Voters who are not “Parents”:**

Town Officials scheduled only a single, poorly publicized, public information session on 9/4/14 for “non-parent” voters during what is often a vacation/condensed work week given the Labor Day holiday. Press Reports indicate it was attended by approximately 40 of Wilton’s 11,000 Registered Voters. It appears that only this 9-4-14 information session permitted public comment/questions.

Participants reported Building Committee Members issued conflicting times for the meeting –some were advised the meeting would begin at 7:30pm---but it actually began at 7:00pm.

During the 9-4-14 “General Public” Q&A session, non-resident employees of the schools were allowed to speak in favor of the project. The non-resident “advocacy” speeches consumed the very limited time allotted to Q&A , thereby denying Resident voters the opportunity to ask questions or get any answers.

While scheduling only a single General Information Session for the public is *not* an election violation, to the extent Town Officials intentionally under-informed the general public *while making arrangements to conduct improper “captive” advocacy sessions with 8000 parent voters* deserves separate consideration as part of the SEEC investigation of the Election Violations.

**Conclusion: Although the decision by Town Officials to schedule the vote around the Annual Parent Night sessions is not an election violation per se, the use of the School Meetings as Advocacy Sessions was a violation. In that regard, Complainant submits those documented election violations coupled with indications Town Officials intentionally limited communications and similar opportunities with the General Public both represent aggravating factors in the reported Election violations.**

**On that basis, Complainant suggests a revote is the appropriate remedy.**

## **Conclusion and Proposed Remedy:**

The aforementioned, documents violations of the State Elections Statutes by Town and School Officials. Given the narrow margin of the final vote-27 votes out of over 1900 cast- there is at least probable cause that these election violations affected the final outcome in favor of the Position publicly advocated by those individuals named in the Complaint.

Since the Advocacy meetings with up to 8000 parent voters included what appears to be a Town Funded "Vote Yes" pamphlet, these violations constitute serious misconduct by Town Officials with respect to the \$50M referendum.

Since the election violations are numerous, there is just cause for a revote of the \$50M project in accordance with State Election statutes.

Complainant notes the underlying \$50M issue is material to Wilton Voters. Wilton's Annual Property Tax collections are just over \$100M. While Town Officials plan to borrow the \$50M, this single project represents the equivalent of nearly 50% of annual property tax collections. As such a project of this magnitude for the Town deserves a "clean" vote unaffected by such extensive Official Misconduct.

Moreover, since this \$50 M project has, per Town documents, for the past 6 years been pursued primarily to benefit fewer than 50 full time Pre-school students at the expense of 900 other Miller Driscoll, a revote is necessary to overcome disinformation by Town Officials during their improper Parent Advocacy sessions. Specifically, upper grade parents deserve an opportunity to confirm whether or not spending so much Town Money to create excess capacity for the pre-school will compromise upper grade programs. Town Officials did not allow those questions to be raised let alone answered.

Given the above Complainant submits a full revote is the only appropriate remedy.

## VOTE **YES** FOR THE MILLER-DRISCOLL RENOVATION PROJECT

Tuesday, September 23<sup>rd</sup> at 7:30 pm at the Clune Center and

Saturday, September 27<sup>th</sup> at 9 am to 6 pm at the Clune Center

### The proposed Project Includes:

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| ✓ NEW ROOFING AND SKYLIGHTS                  | ✓ ELECTRICAL UPGRADES   |
| ✓ NEW HEATING, VENTILATING & COOLING SYSTEMS | ✓ ONE CENTRALLY LOCATED CAFETERIA WITH 2 SERVING LINES & 2 DINING AREAS |
| ✓ FIVE NEW PRE-K CLASSROOMS                  | ✓ TECHNOLOGY INFRASTRUCTURE UPGRADES                                    |
| ✓ NEW PRE-K MULTIPURPOSE ROOM                | ✓ IMPROVED PARKING & SITE CIRCULATION                                   |
| ✓ FIRE SUPPRESSION SPRINKLER SYSTEM          | ✓ WINDOW REPLACEMENT  |
| ✓ INCREASED BUILDING & CLASSROOM SECURITY    | ✓ PLAYGROUNDS RELOCATED TO REAR OF BUILDING                             |
| ✓ SEPARATE, SECURE PRE-K & K-2 ENTRANCES     | ✓ NEW FLOORING & CABINETS   |

SEE [www.wiltonct.org](http://www.wiltonct.org) FOR MORE INFORMATION ON THE PROJECT

### FREQUENTLY ASKED QUESTIONS

- How much will the Miller-Driscoll Renovation Project cost?**  
The total estimated cost of the project is \$50M. Wilton anticipates a state reimbursement of \$6.1M making the anticipated net cost of the project to Wilton being \$43.9M.
- Why isn't building a new school an option?**  
The town of Wilton cannot build a new school on the current site while keeping the old school functioning. The Town of Wilton does not own another property on which to build a new school. If the current school were to be demolished and a new school built in its place, there is no place for the students during construction. The surrounding towns do not have an empty school for us to use. There is no available space within Wilton for the approximately 900 students who attend Miller-Driscoll each year. Allen's Meadow is owned by the State of Connecticut and cannot be used as the site of a new school.
- What happens if the town votes no for the project?**  
The proposed project is the fastest and most cost effective way to comprehensively renovate the school. If the voters do not approve the project, the school will remain in its current condition. Any improvements to the school will be delayed and will be more costly.
- When will the project start and how long will it take to complete?**  
If approved, the detailed construction documents are scheduled to be completed by July 2015. The project would be competitively bid in the fall of 2015 with construction scheduled to start by January 2016. Completion of the project is slated for December 2017.
- Why can't we build a second story on the current building or build a smaller two story building?**  
It is a State of Connecticut requirement that pre-K, K and grade 1 must be on the first floor. The current building was constructed as a one story structure and significant reinforcement of the original structure would be needed in order to build a second story on the existing building.