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By email to: firstselectman@griswold-ct.org

December 27, 2016

Kevin Skulczyck, First Selectman
Town of Griswold
28 Main Street
P.O. Box 369
Jewett City, CT 06351

Dear Mr. First Selectman,

As requested, I am writing this letter to more fully update you on the status of our office's investigation into the State of Connecticut's compliance with statutory requirements related to the proposed siting of a state police firing range in the Town of Griswold. On September 30, 2016, our office wrote you an opinion letter laying out several issues related to the State Property Review Board's ("SPRB") involvement, or lack thereof, in the discussions related to funding the range. On October 5, 2016, your office requested meetings with, among others, Governor Malloy, Attorney General George Jepsen, and Department of Administrative Services ("DAS") Commissioner Melody Currey to discuss those issues. We met with A.G. Jepsen and his staff on October 20, 2016, and with Governor Malloy and his staff on November 18, 2016. At both meetings, we were told that a more formal response to those issues was forthcoming.

That response was received from the DAS on November 28, 2016. Our office followed up with several questions on December 6, 2016, and we received a follow-up response on December 12, 2016. All three of these letters are attached for the sake of reference. To summarize, capital project requests were removed from the state facilities plan in 2006, although there does not appear to be any statutory authorization for such a removal. This has the effect (intentional or otherwise) of dramatically limiting the ability of the SPRB to effectively oversee the state's development process. It also appears that, per C.G.S. § 4b-23(k), the state would be forbidden from constructing the gun range until it complies with the statutory requirements related to the state facilities plan. While we have asked DAS for the authority (statute, special act, or case) that exempts the gun range from the planning process, their answer is as simple as "those statutes do not apply."

Based on DAS's responses to date, our original legal opinion remains unchanged: these statutes apply to all state capital facility projects, including the gun range, and so the state is prohibited from constructing the gun range at this time. However, I cannot recommend legal action by the Town of Griswold at this time. Lawsuits over illegal state expenditures are rare, and are outside the typical practice of this firm. When the plaintiff is a municipality, the potential procedural

issues related to those suits are even more complex.¹ Similarly, it is not immediately clear what administrative remedies (if any) there are for allegedly illegal spending, or whether these remedies are available to municipalities. While these are all issues that can be researched, the issues are not simple, and the necessary research would be extensive and expensive. We cannot perform that research within the remaining budget (if any) for this project, and the town would need to authorize additional funding for us to proceed.

Furthermore, these potential procedural issues would all need to be addressed by the Court *before* turning to the substantive matter: whether the state is, in fact, prohibited from constructing the gun range at this time. Again, our opinion, based on the research we have performed to date, is that the state is prohibited from doing so. But there is a significant risk that there is, somewhere, a smoking gun: an authorization for the range which we have not yet found. Further investigation may show that there is no such smoking gun, but our investigation into that question also cannot proceed within the remaining budget.

Because of the potential procedural complexity and the complexity of the factual investigation involved, we are not comfortable recommending further legal action by the Town of Griswold at this time. Our recommendation may change depending on the results of further investigation, but an additional appropriation by the Town is necessary to finance that research.

That said, there are other potential options for opposing the gun range which may be successful. A citizen's group may be able to assert taxpayer standing in order to bring a lawsuit. Such private suits pose fewer procedural issues compared to one brought by a municipality, and as a private suit, would not be publicly financed. While our firm would not represent such a group ourselves,² much of our research on the SPRB and priority funding areas is available in public documents which such a group could build on, and our office would of course happily share those public documents with any such group.

There may also be legislative options for the Town or its citizens. Several other forms of assistance may be available through yourself (upon assuming office as Representative of the 45th District) and other legislators interested in the range, such as the Office of Legislative Research and the various legislative counsels. I know that Senator Guglielmo remains very interested in the gun range, stemming from the issues raised while it was proposed in Willington, and the study he proposed this past session in SB234 seems to be very similar to the type of study anticipated by the General Statutes for all state capital facility projects. Other legislators may also be interested in the issues we have discovered. However, our firm is not a registered lobbyist, and so we are limited in the assistance we would be able to provide to the Town in that forum.

¹ As one example, any plaintiff to a lawsuit must have standing to bring the suit—they must have some specific interest that was or will be harmed by the actions at issue. Lawsuits challenging state spending actions can be brought using what is called taxpayer standing, where a taxpayer (or group of taxpayers) challenges the allegedly illegal expenditure of taxpayer dollars. However, the Town of Griswold does not itself pay taxes, and so would not be able to assert taxpayer standing in such a case. There may very well be other sources of standing, but this issue would require additional research.

² It is our longstanding office policy that, when we regularly represent a municipality or its agencies, we will not represent citizens of that town in any matter in which the town is or may become involved, in order to avoid potential conflicts of interest. We have represented the Town of Griswold or its agencies, in one form or another, for over twenty years, and that policy has been in effect for the duration.

Kevin Skulczyk, First Selectman

December 27, 2016

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Please do not hesitate to contact me if you have any questions or comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Caleb F. Hamel". The signature is fluid and cursive, with the first name "Caleb" being the most prominent part.

Caleb F. Hamel

Enclosures