

Shutesbury Planning Board Meeting Minutes
December 12, 2016 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Linda Rotondi, Ralph Armstrong, and Steve Bressler

Planning Board members absent: Jim Aaron

Staff present: Linda Avis Scott/Administrator Secretary

Guests: Elaine Puleo, Attorney Michael Pill, April Stein, Alan Kurtz, Mary Lou Conca, Rolf Cachat, James Cachat, Lucy Gertz, and Penny Jaques

Bonnar calls the meeting to order at 7:10pm.

Wheelock Solar Project Update: Pill appreciates receipt of the 11.18.16 email from Mary Lou Conca to the Planning Board. Pill notes that Conca provided written testimony to the Federal case and that two of the plaintiffs in the case are present (Cachat-Schilling et als vs. Town of Shutesbury Planning Board et als); the Board, as a body, and Bonnar and Lacy, as individuals, have been named in the suit. Pill recommends the Planning Board consult MacNicol/Town Counsel and the lawyers for the case before responding.

Lacy reports that he spoke with Eric Johnson/UMAS prior to this meeting: Johnson has not heard from SWCA since October therefore is not aware of SWCA's progress in updating their archeological report. Lacy reports contacting Bettina Washington/Tribal Historic Preservation Officer (THPO) about 2 1/2 weeks ago about the possibility of assisting the Planning Board; to date, Washington has yet to respond to Lacy's inquiry. Rolf Cachat/229 Leverett Road notes that Pill is the attorney for Cows and Lake Street and asks if the Town has hired Attorney Pill. Lacy: the town has not hired Pill. R. Cachat states to Scott that he finds meeting minutes to be deficient; statements he has made have not been included. Pill notes that, in the past, he consulted on a study about Lake Wyola and has done pro-bono bylaw work for the town. Pill acknowledges that he represents Cows, Lake Street, and the individuals in the Federal lawsuit.

Bonnar acknowledges Conca's 11.18.16 email and asks if Conca would like to speak to her concerns. Conca/105 Wendell Road states that she is not prepared to discuss her email. Conca, referring to the 8.17.16 Planning Board meeting held at the elementary school states she understood the Planning Board would be allowing a THPO to verify the Wheelock land and that we are still waiting for that to happen. Lacy: the Planning Board has not received a proposal from Doug Harris/Deputy THPO; the Board has publicly stated the type of relationship we can have with Harris and he does not seem to be interested. Lacy restates that he contacted Washington to see if she would be interested in working under the same terms - her response is pending; a couple of times, the Board has communicated to Harris their interest in working with him. Lacy notes that Harris has chastised the Board. Conca states she is not quite sure how the Board was chastised or why the Board feels that way; she will be contacting Harris to see what he says. Conca: there are trespass signs up now so Harris could not go in; it is private property. Lacy: a THPO could enter the property with landowner permission; Town Counsel has determined the Board cannot demand THPO access to the property as to do so goes beyond the Planning Board's authority; the Board abides by Town Counsel's guidance; to

write a defensible permit, we operate within the confines of our authority. Conca asks for clarification. Lacy: the Board and Town Counsel are not against a THPO entering the property - our goal is to operate within the law; Town Counsel's services are paid for by taxes. Bonnar: we cannot impose a condition that is illegal. R. Cachat to Lacy: you said Harris has not made an offer, however, in June, Harris did make an offer however he could not conduct a review without direct observation of the site and he also made a second offer at another meeting; you also said review by a THPO may be done. Lacy: it may not be possible for the Planning Board to work with a THPO. Pill: please keep in mind that they are trying to drag you into a discussion relative to the litigation. Bonnar calls the discussion to a close due to disruptive comments. Rotondi leaves the meeting.

Stein states that she is present to express her appreciation for the work of the Planning Board. Puleo seconds Stein's appreciation and recommends the Board have a police officer present as a matter protocol.

Planning Board Meeting Minutes:

Bonnar: the version of the 8.17.16 minutes in the packet are incomplete; Torres/Town Administrator provided a more complete set of these minutes earlier in the meeting; this version will require review in advance of the next Planning Board meeting.

Pill notes that meeting minutes are not a transcript; it is not appropriate to criticize minutes that do not include all statements; minutes need to include those present, votes, and pertinent discussion; appreciates Scott's minute taking and respectfully disagrees with prior statement by R. Cachat. Pill states his uncertainty about leaving the meeting without a police escort.

Armstrong leaves the meeting briefly to request the presence of a police officer.

Lacy moves and Bressler seconds a motion to approve the 11.14.16 Planning Board minutes as presented; motion is unanimously approved.

Farm and Forestry Committee: Bonnar, as a member of the Farm and Forestry Committee, reports that the Committee was expected to report on their work on a "Right to Farm" bylaw. No other members from the Committee are present therefore this agenda item will be carried over to a future meeting.

Bonnar, Patton, and Patton Montague Road ANR: Bonnar, recused as a Planning Board member, states that the ANR survey is flawed. The Board will consider the ANR request once the survey is revised.

At 7:40pm, Police Sgt. Masiuk arrives to confirm that the Planning Board is not in need of her presence.

Master Plan Working Group (MPWG) Update: Lacy, as member of the MPWG, reports that two public workshops have occurred; the 12.5.16 workshop was not as well attended; those who have attended have been engaged, thoughtful, and ready to contribute. Per

Lacy, a wrap-up meeting will be held in January or February that will include a report from the consultants; subsequently, the goals and objectives chapter will be written and a report given at town meeting. Gertz asks if the goals and objectives are derived from meetings and what the next steps are. Lacy: yes; subsequent to completing the goals and objectives, the Town will decide whether to continue with the master plan. Jaques notes the significant response from the survey and asks what the role of the Planning Board is in the process. Lacy: first, the Planning Board delegated a charge to the MPWG and then the consultant was hired; if the town decides to adopt a master plan, it must be approved by the Planning Board. Bonnar: the June 2004 Master Plan focused heavily on zoning. Lacy: this time, the focus is more on capital building, broadband, new demographics, and finances.

Zoning Adjustments for Annual Town Meeting: Lacy has a running list of proposed adjustments to the Zoning bylaw, some of which are from the ZBA, that the Board may want to consider prior to the May 2017 town meeting. Lacy will create a draft list of these adjustments for the next Planning Board meeting.

Armstrong affirms the recommendation by Puleo that the Planning Board have a police officer present for their meetings. The Board agrees to plan for a police officer to be present for discussions related to the Wheelock solar project.

Bressler: Town Council is very clear that the Planning Board cannot require a condition that the applicants hire a THPO; can the Board hire one? Lacy: the Planning Board can hire a THPO to advise the Board, however, a THPO cannot walk the property without permission from the landowner. Bonnar: this did not seem to be clear to those who were present earlier in the meeting.

At 7:51 pm, Armstrong moves and Lacy seconds the motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. 11.18.16 email from Mary Lou Conca

Respectfully submitted,
Linda Avis Scott
Administrative Secretary