

**Shutesbury Planning Board**  
**Minutes – May 11, 2026**  
Approved – June 1, 2026  
*Hybrid Meeting*

**Board Members Present:** Michael DeChiara, Tom Siefert (Associate Member), Keith Hastie, Steve Bressler, Ashleigh Pyecroft, Jeff Weston

**Board Members Absent:** Deacon Bonnar, Nathan Murphy

**Other Staff Present:** Matteo Pangallo (Land Use Clerk)

**Others Present:** Leslie Bracebridge, Diane Adams, Gregg Adams

**Call to Order:** 7:11pm

This meeting is being recorded. Weston is participating remotely.

In the absence of Nathan Murphy, DeChiara is acting chair.

DeChiara activates Siefert as a full member of the Board.

### **Public Comment**

There is no public comment.

### **Landowner Education and Guidance**

Siefert asks if an abutter who has submitted a Notice of Intent to the Conservation Commission needs to get a building permit first. Bressler notes that he is not sure if they need it before getting the Notice of Intent but they would need a building permit. Pangallo points out that there is no requirement to get the building permit before getting the Notice of Intent.

### **Discuss and vote on minutes of April 13, 2026**

Motion to approve the minutes of April 13, 2026: Siefert; second: Bressler. Vote: Bressler - aye; Hastie - aye; Siefert - aye; DeChiara - aye; Weston - aye. *The motion is approved unanimously.*

### **Member Updates**

Siefert reports that the Lake Wyola Advisory Committee is discussing whether Birch Drive, which is a private road, is a shared driveway or not and notes that this is a zoning question because a shared driveway would require a permit. He reports that this came about because of

questions regarding who is responsible for plowing the road. Bressler recalls a discussion at Town Meeting at some point regarding the Town plowing Lake Wyola roads. Siefert notes that he believes that the policy regarding Town plowing of Lake Wyola specifically exempts shared driveways, which is why this is being discussed. He points out that the records at the Registry of Deeds identify Birch Drive as a road and not a driveway.

DeChiara congratulates Bressler and Siefert on winning seats on the Planning Board in the May 9 election. They congratulate DeChiara on his winning a seat as well. There is discussion about when the term of office begins and Pangallo indicates the Elections Division has advised that the term begins as soon as the person is sworn in.

Pangallo reports that the Jewish Community of Amherst is discussing acquiring a parcel on Leverett Road for a second cemetery and that the Planning Board will be involved in the review process. Pyecroft notes that the question seems to be whether the driveway can come off the property line that is not the frontage side.

### **Discussion of the state's new clean energy regulations**

DeChiara reviews the history and provisions of the Clean Energy Law. He walks through the Department of Energy Resources's new consolidated permit application process. He approves of the new pre-filing process for being robust and thorough and he describes the pre-filing process. He explains the timing of the permit process, the risk of constructive approval, the stages of the process, and the exception for ministerial purposes. He notes that if any board that is part of the consolidated process rejects the project, the permit is denied. Pyecroft asks if the applicant could restart a rejected project and DeChiara explains that it would have to be appealed to DOER.

Siefert asks if both parties can agree to extend the 12 month timeline and DeChiara explains they cannot. He notes that there is no clock on the pre-filing process, which needs to include public outreach and a public meeting as well as a dedicated website for information.

DeChiara explains that the local government representative determines when the pre-filing process has been satisfied and only then does the clock start on the permit review. He explains that the Select Board is, by default, the local government representative and can designate an individual to serve in that capacity. Hastie suggests that the Select Board could have a designated representative but then step in at the end of the process to confirm the process was done completely. DeChiara notes that even if the Land Use Clerk were to take on this role, it is impossible to know what to budget for that additional work. He explains he has been lobbying to allow for 53G consultants to be hired at the applicant's expense to serve as the local government representative, though that does not seem to be allowed in the current regulations. Pangallo asks if the cost of hiring such a consultant could be built into the fee structure and DeChiara notes that

is something some towns have been discussing. Bressler asks if the fee could be made sufficient to hire an outside consultant because then the applicant would not be the one doing the hiring. DeChiara agrees, which he notes is what the 53G system would allow.

DeChiara reports that the law goes into effect July 1, 2026. The Select Board has voted to start taking consolidated permits effective October 1. There has not been a decision made yet about the designated representative.

Bressler asks who would be responsible for increasing fees. DeChiara explains it would be the Planning Board because the Board runs the Special Permit process. Bressler thinks increasing the fee is a reasonable stop-gap until DOER agrees to the 53G consultant option.

Siefert asks if changing fees requires a hearing and DeChiara answers that no hearing is required, just a vote in a public meeting. Pyecroft notes that after going through the process the Board will have a better idea of how much it would cost.

DeChiara reports that DOER is developing model bylaws for towns to use but they are now two months behind schedule. He explains that DOER was planning to create an online application portal for every town to use but he found the system ineffective and it lacks the capacity to collect information that would be needed to comply with specific local requirements.

Bressler expresses concern that it is the applicant who scores their own application. Hastie asks if the Board gets to review the scoring and DeChiara explains that the Board can review it. Hastie finds the scoring criteria simplistic. Bressler agrees and finds it particularly problematic that the applicant gets to score their own application. DeChiara explains that the only way to appeal the scoring is if the underlying data is inaccurate or flawed.

DeChiara describes the site suitability criteria DOER is using but notes that the information being used does not adequately represent the concerns of the local community. For example, climate resilience is based on whether a proposed facility would be at risk of flooding and not whether the community around it would be at risk of flooding because of the facility. Hastie states that the whole criteria scheme places clean energy below all other uses, including biodiversity, carbon sequestration, and agriculture. DeChiara notes that the regulations do not cover protection of drinking water, wetlands, or noise.

Bressler notes some concerns about the Dover Amendment being used to override a poor site suitability score. DeChiara notes that the regulations specifically say a municipality cannot reject a project based on a poor site suitability score and that the explanation from DOER is that the assumption was that such an unsuitable site would result in prohibitive mitigation factors.

DeChiara finds that reasoning backwards. He points out that DOER has ruled that if a municipality follows the new regulations, they cannot be sued under the Dover Amendment.

DeChiara reviews the process by which an applicant can modify scores. He notes the local boards cannot challenge the score for a site.

DeChiara reviews the exemptions for small projects under 1 acre and front-of-meter facilities. Pycroft asks about the size of Wheelock and Hastie answers that it is roughly 30 acres.

DeChiara explains what would happen if a project were to be constructively approved and the standard conditions, both substantive and administrative, that DOER would impose on such projects. He considers them generally sound.

DeChiara reviews the draft public health, safety, and environmental guidelines, including slope, National Fire Protection Association standards, setbacks, and more. He explains that DOER has said towns can have stricter requirements but that is not indicated in the regulations. He explains that DOER has claimed that municipalities will not need to change their own regulations in order to comply but he finds that hard to believe.

Bressler is concerned that the model bylaws will be suitable for urban eastern areas more than rural communities. DeChiara agrees and is worried that rural communities and their groundwater dependence are not really part of the mindset at DOER. Hastie notes that there has been no evidence associating solar development with groundwater contamination or with a battery facility affecting groundwater. DeChiara raises the point that the problem he sees is that, even if the Board decided protecting groundwater was a concern in the site suitability assessment, because it is not included in the regulations the Town could be exposed to a Dover Amendment challenge if it tried to use such criteria. Hastie suggests that it could still be included in the mitigation requirements to offset impacts on resources.

Bressler notes that the prefiling process could take as long as the Town feels is necessary. Hastie notes that these new regulations thus would require a developer to make a considerable investment in preparing for a filing. DeChiara adds that the prefiling process also requires a developer to consider alternatives. He assumes that if a project gets through prefiling, it should be a strong and organized proposal that is ready to move forward.

Bressler notes that the hearing happens in the prefiling process and that he does not consider this a streamlining because prefiling could be a long process.

DeChiara expresses displeasure that DOER did not seek meaningful input on the regulations from municipalities.

Siefert asks what the Board of Health's role is in the new permitting process. DeChiara explains that Boards of Health have extraordinary powers beyond Attorney General review and can adopt powerful regulations. He does not know if DOER would consider Board of Health approval part of the consolidated permit or beyond it.

Hastie thinks the next priorities are establishing the local government representative and a mechanism for funding the local government representative.

Pyecroft brings up the need to update Shutesbury's regulations and DeChiara agrees that at the very least they will need to be amended to indicate they will comply with the new law. Bressler suggests identifying anything in the new regulations that are not in Shutesbury's regulations. DeChiara notes there are also things in the Town's regulations not in the DOER's, such as archaeological preservation of historic and indigenous sites and resources. Hastie asks if there are state regulations requiring notification of archaeological impact but DeChiara notes there are some regarding burial sites.

Bressler is concerned that DOER might be saying stricter regulations are allowed but that is not indicated in the written regulations. He says that with the Dover Amendment still in effect the Town would remain at risk of being sued for adopting stricter regulations.

A discussion follows about the history and intention of the Dover Amendment and the risks of climate change and flooding.

### **Unanticipated Business**

Pyecroft reports that she connected with the Wheelock facility contact and found out that the annual report was submitted to the Town's Administrative Assistant. Pyecroft told her that it needs to be sent to the Planning Board as well and DeChiara notes that sending it to the Board is one of the Special Permit conditions. He points out that the 2026 report is several months overdue. DeChiara would like to schedule another site visit in the summer and Hastie would like to have a botanist come with them. Weston expresses his concern about the vegetation growing close to the battery facility and asks Pyecroft to let the contact person know they need to remove it and should perhaps dump gravel for clearance. Pyecroft suggests Board members email her with questions and concerns to share with the contact person before the site visit.

DeChiara notes that Murphy has suggested changing the June meeting date to June 1 or possibly cancelling the June meeting if there is no business.

Pangallo notes that the two Associate Member seats will now be open and DeChiara has heard from some people who may be interested.

DeChiara reports that he and Hastie were talking about strategies for economic development. He notes that the zoning system was adopted in 2008 and wonders if changes could encourage appropriate commercial development, such as overlay districts or changing frontages. He suggests this is something the Board could consider taking on in the coming months.

### **Adjournment**

Motion to adjourn: Bressler; second: Hastie. Vote: Bressler - aye; Weston - aye; Hastie - aye; Siefert - aye; Pyecroft - aye; DeChiara - aye. *The motion is approved unanimously.*

**Adjourned:** 8:37pm

### **List of Documents Used:**

- Informational handouts regarding the new Clean Energy Law