

Shutesbury Conservation Commission

Minutes – 04/04/2022

Approved – (04/14/22)

Virtual Meeting

Meeting Start: 8:00pm

Commissioners Present: Miriam DeFant, Beth Willson, Mary David, Robin Harrington, Scott Kahan

Commissioners Absent: None

Other present: Emily Stockman, Janice Stone, Don Wakoluk

Chair's Call to Order at 8:00pm

Meeting is being recorded

Draft ORAD for Pratt Corner West ANRAD:

DeFant: Deliberate and issue the ORAD for the Pratt Corner West ANRAD, shares the drafted ORAD Findings via screenshare. Stockman: sent out the draft findings to the Commission, later revised ORAD draft - adding the paragraph starting with "If a Notice of Intent" which clearly states that any submitted site plan(s) associated with a future NOI has to depict all the resource areas and boundaries under the Bylaw, those approved on the ORAD and those present but not reviewed and approved; this is mainly in regards to subsurface water. Stone points out that at the time of writing the subsurface language into the Bylaw, it was meant to be directed at only but due to punctuation, it may read differently. Stockman: Language used was pulled from Bylaw, it is addressing the possibility of other subsurface water but as SCC is moving forward with revising the Bylaw regulations and boundaries, it will be clarified. Kahan wondering if approving the ORAD is clear that the document doesn't address the issue of subsurface water, is jurisdictional and the Bylaw is not ready to fully address it. DeFant: ANRAD was not required to delineate subsurface water, this is a place holder saying that we believe this is a protected resource area that is expected to be regulated under an NOI – acts as a notice for the applicant. Kahan: has this been done before for other ORADs? DeFant: no, because it was recently brought up in the Montague/Carver ANRAD Public Hearing. Town counsel, Donna MacNicol, stated that past practice doesn't stop SCC from not addressing the subsurface stream provision in the Bylaw going forward. Stone: weren't there other wetland flags that we didn't list here? Are we not listing those flags? Stockman: Not seeing the wetlands paragraph - to be consistent with other ORADs, those flags should be added into ORAD. That is a great point. Stockman agrees to create a list of flags needed to add to the ORAD and lists them to DeFant to add to ORAD. Matter is temporarily paused while Stockman gathers the information needed. Stockman: Suggests adding under Finding #2: "The Commission approves the boundary of Bordering Vegetated Wetlands W-GR-1, W-GR-2, W-MBF-100, W-MBF-101, W-MBF-102, W-MBF-103, W-MBF-104, W-MBF-105, and W-MBF-110." That is consistent with past ORADs that have called out the Wetland Boundary. SCC reviews the revised ORAD and corrects minor grammatical errors found. DeFant shares the online form on eDEP and notes the longitude and latitude filled on the form is listed differently in the ANRAD and is already prepopulated. Stockman points out the final revision date was December 22, 2021 and not December 20, 2021 as listed. DeFant fixes the dates to reflect so. SCC reviews the online form and has no further comments. DeFant electronically signed all commissioners signatures with their permission.

Motion: Willson moves to approve and issued the ORAD for Pratt Corner West as

amended, David seconds. Vote: David-Aye, DeFant-Aye, Harrington- Aye, Kahan- Aye, and Willson-Aye. So, moves.

Future discussion with Finance Committee about hiring consultants:

DeFant: spoke to Rita Farrell, after the meeting on March 24, 2022, agreeing to help – directed to reach out to Finance Committee Chair, Jim Walton. Wrote an email to Finance Committee discussing what SCC was looking for, and agreed to add funding discussion to April 5th, 2022 meeting. Reached out to Patrick Garner, he and his colleague Scott Horsley are interested; believe they can help create effective regulation language. Got an estimate of what the scope of work would be needed and wrote up a scope of work draft which was sent out to Commissioners earlier before tonight’s meeting. Funding and hiring consultant(s) discussions are exempt from Open Meeting Law therefore should be deliberated in Executive Session but for now can be discussed in general terms. SCC has generally \$2,500 in SCC Local Bylaw Fund and DeFant sent out a general and generous estimate of what would be paid to Horsley and Garner if hired. In a recent discussion with Town Counsel, Donna MacNicol suggested developing a policy for what SCC wants the applicant to do before submitting an NOI. MacNicol had two recommendations for SCC in terms of what should be accomplished with the hired consultant. First being creating a policy that SCC can adopt without public hearing and second is to develop Regulations that detail what SCC wants the applicant to do in terms of delineating subsurface resource area. MacNicol recommends SCC to include in the final Scope of Work production of both a policy document and Regulation language. Kahan: reviewed draft of Scope of Work, he believes it’s a great start – the more specific the scope the better it is for Shutesbury and SCC. Proposed that SCC doesn’t need consultant for writing the policy, but to develop project conditions or stipulations for the protection of the subsurface resource areas. SCC would then take that and would develop the policies. Also, in addition to delineation methods SCC needs to wade through what activities would be exempt and what activities would lead to harmful impacts to ground systems. DeFant agrees with Kahan but also agrees SCC needs help developing language will stand up to legal scrutiny. Interested in Horsley and Garner due to strong backgrounds in both regulatory and scientific fields. Once definitions and methodology are developed, the hope is to take it and quickly piece together a policy to give to the applicants because Public Hearings may take a month or two. In terms of impact SCC would want a threshold for impacts to avoid the policy affecting residents with smaller projects. Stone: important to get expert advice before developing a policy. DeFant: Not recommending SCC makes the policy ourselves, still need language as one of the deliverables required which may take time to revise and approve– but SCC may be able to develop a preliminary policy in the meantime. Wakoluk: the output of the models, data, monitoring wells or methodology must be able to be understandable to the Commission. Needs to be a hands-on understanding for SCC for what is being required. DeFant agrees and believes there will be multiple meetings for the understanding of research done by the consultant(s). DeFant asks the SCC how it wishes to proceed. Willson: are we allowed to pick whomever we would like or does Shutesbury have to get bids from consultants? DeFant: a competitive bidding process is not required, SCC can select the consultant it believes is best without it having to be the lowest bid. Willson: if not required to do competitive bids, then easier for the SCC. DeFant: SCC should obtain at least three informal phone bids after Scope of Work is finalized. DeFant advises Scope of Work should be finalized quickly to get the ball rolling on the matter. SCC agrees to allow DeFant to proceed

with developing a Scope and seeking bids. SCC plans to ask Finance Committee for \$5,000 for hiring consultant(s) that could possibly roll into the next fiscal year depending on use of time.

Upcoming and Follow up Site Visits:

66 Lake Drive – Wednesday April 6, 2022 at 3:30pm
48 Lake Drive – Wednesday April 6, 2022 at 3:30pm
86 Sandhill Road – Sunday April 10, 2022
114 Montague Road – Sunday April 10, 2022

Motion to Adjourn: David moves to adjourn, Willson seconds. Vote: David-Aye, DeFant-Aye, Harrington- Aye, Kahan- Aye, and Willson-Aye. So, moves.

Meeting Close: 9:00

Documents Used:

- Agenda
- Draft Scope of Work for Bylaw Regulation Revision
- Draft ORAD for Pratt Corner West ANRAD

Respectfully submitted by Miriam DeFant, Chair, 04/16/22