

# Shutesbury Conservation Commission

Minutes – 03/09/2023

Approved – (4/13/23)

*Virtual Meeting*

**Meeting Start:** 7:00pm

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

**Commissioners Absent:** None

**Other Staff:** Carey Marshall (Land Use Clerk)

**Other present:** Elizabeth Goodman (SCC Special Council), Gregor McGregor (Select Board Special Council), Amanda Alix, April Doroski (Fuss & O’Neill), Jill Marland, Mary Anne Antonellis (Applicant), Joyce Braunhut, Penny Jaques, Jan Rowan, Rita Farrell (Select Board Chair), Susie Moshe, Tom Siefert, Tracy McNaughton, Leslie Luchonok, Don Wakoluk, Joseph Salvador, Jon Lawless, Tim Hunting, Shannon Sullivan, Terry Bernard, Neil Jackson (Applicant), Mary Lou Conca, Katie Eagan, Deborah O’Brien, Joan Hanson, Emily Stockman (3<sup>rd</sup> Party Reviewer), Michael Vinskey, Ziporah Hildebrandt, Eric Stocker (Select Board Member), Steven Bressler, Penelope Kim, Brad Foster, Gail Fleischaker, Matteo Pangallo, Kate Cell, Lyn Maire, Michele Regan-Ladd, and all other unidentified individuals.

Chair’s Call to Order at 7:00pm

Meeting is being recorded

## **Consider draft minutes for 12/30/22, 1/12/23 and 2/9/23**

**12/30/2022 – Motion: David moves to approve the 12/30/2022 minutes, Harrington seconds.**

**Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Abstain, and Willson- Abstain.**

**So moved.**

**01/12/2023 – Motion: David moves to approve the 01/12/2023 minutes, Harrington seconds.**

**Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So**

**moved.**

**02/09/2023 – Harrington sent typo corrections to Miriam; changes were reflected as such.**

**Motion: David moves to approve the 02/09/2023 minutes, Willson seconds. Vote: David-**

**Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.**

## **Chair update on CPC application for ARHS Track and Field Proposal, including artificial turf**

DeFant: there are two projects before the CPC; one historic project which entails the restoration of gravestones in the Shutesbury Cemetery and a project sponsored by the Regional School District for a track and field project – CPC Hearing will be Thursday, March 23, 2023 at 7 pm. The hearing will review both projects and allow public comment and questions; CPC will vote which projects will go to Annual Town Meeting. The track and field project has generated concerns over public health (studies suggest PFAS are used during the process of creating artificial turf which has been found to leach into groundwater and turf leads to more athletic

injuries) as stated by both Pelham and Amherst Boards of Health; both Pelham and Leverett CPCs have voted against this project. The proposed location of the artificial turf field would be on top of wetlands; Tan Brook is a perennial stream that is culverted under one of the turf fields. Another issue with the turf field project is that the cost of a turf field is twice as expensive as a grass field; members of the public and both Leverett and Pelham CPCs have asked the Regional School District to choose the grass alternative.

### **Bylaw Regulations revision**

SCC is meeting Monday March 13<sup>th</sup> at 6 p.m. to review the draft of the Bylaw Regulations revision. After SCC's meeting on Monday night, they will break the draft into sections and each Commissioner will be assigned a section to review and edit as needed; Commissioners will share/present their edits at a future meeting date.

### **Discussion of Shutesbury Highway Department work in a Resource Area on Montague Road**

SCC sent Tim Hunting, Head of the Shutesbury Highway Department (DPW), an email in regards to concerns about tree work that had been done near a Resource Area on Montague Rd. Hunting clarifies they were picking up brush from an ice storm that occurred in January. The brush that was removed was located close to the road and they placed it into trucks to be brought to H.R Robert's pit where the brush would be ground into bark mulch; there was no cutting of trees. DeFant comments she witnessed limbs being cut. Hunting: explains there was a large pine tree on left when entering Montague Road that had a single or few dead limbs that he removed as part of their course of work. There was also brush left behind after a power company dealt with a fallen tree that was also removed. DeFant asks Hunting if he did any stumping; Hunting confirms he did not. DeFant asks Wakoluk, who wrote to SCC with concerns about this work, if he has questions or comments. Wakoluk: he believed he saw trees and stumps in the trucks used during this work. If work is being done on the side of the road that also has Resource Areas in the area, then DPW still needs to file for this work regardless of how small or large the work is; DPW needs to contact SCC; he believes the Memorandum of Understanding (MOU) was supposed to fix this issue. DeFant: she suggests coordinating a process between Hunting and herself to provide clarity on what SCC would like to look at during a site visit; a phone call once a week could suffice. Hunting agrees more communication can be done but is hesitant about where this process will end; he believes it could affect the general functionality of the DPW. DeFant: she understands Hunting's concerns but suggest setting parameters where SCC would want to speak with DPW. In the past it has been discussed that if any repairs of culverts or enlargements of any stormwater features would be activities that SCC would like to discuss/look at; trees that need to be removed in a Resource Area could be done quickly through an Emergency Certification. If it is an issue of public safety, then SCC would not expect DPW to wait for SCC's response. Hunting agrees.

Farrell: she was taken back by the tone of the emails from Wakoluk and the follow up email from DeFant; accusation felt inappropriate for the circumstances. She thanks DeFant for including the MOU since she hasn't seen it before. She understands it was completed in 2014 but believes it is not valid because it was only signed by one Commissioner and Hunting signed it with no approval from the Select Board; problematic to refer to. She has done some research into the Wetlands Protection Act and understands there are some exemptions for highway work;

would like to explore the option of having a standing NOI/OOC to deal with highway work. She plans to check with Town Counsel, Donna MacNicol and the Select Board about the MOU. DeFant agrees that further conversation about these issues can be made at a later time. No site visit is needed.

**Public Meeting for Request for Determination of Applicability: 70 Cooleyville Road, Jackson, septic system repairs**

*Due to technical difficulties, Neil Jackson enters the meeting late.*

Due to Winter Delineation Policy, SCC was unable to conduct a site visit before the public meeting, thus it needs to be continued. Applicant agrees. DeFant clarifies that she was under the impression Ward Smith completed the delineation for the site, but after an email exchange with Jackson, she understands it was completed by Heather Comee; asks if Comee's report was submitted. Jackson confirms Comee's data sheets were submitted with the application; delineation was added to the design plan. SCC agrees to review those documents at the public meeting.

**Motion: David moves to continue the public meeting for the RDA for 70 Cooleyville Road to April 13<sup>th</sup> at 7:00 p.m., Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.**

**Letter to Select Board**

Willson has completed a draft letter to the Select Board in regards to investigations of PFAS and circulated the draft with commissioners for review. **Motion: David moves to approve the Letter to the Select Board about the Fire Department PFAS investigation, Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.** Willson will send the letter to the Select Board via email in a PDF format with SCC CCed.

**Public Meeting for Request for Determination of Applicability: 56 North Laurel Drive, Abdow, dock installation**

Due to Winter Delineation Policy, SCC was unable to conduct a site visit before the public meeting, thus it needs to be continued. The applicant has requested a continuation via an email statement that was shared with SCC.

**Motion: David moves to continue the public meeting for the RDA for the 56 North Laurel Drive Abdow dock installation on April 13<sup>th</sup> at 7:15 p.m., Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.**

**375 Locks Pond Road Determination of Applicability: review pre-construction site visit and erosion controls:**

David and Harrington did a site visit to inspect the erosion controls installed on site. They recommended using erosion socks instead of the silt fence, because the silt fence that was currently used on site was not trenched and therefore was not effective. The Bernards corrected the issue in a timely manner; SCC thanks them.

### **Updates on permitting for Lake Wyola dam**

Farrell informs that the Select Board is discussing the different elements that need to be taken care of in order to get the drawdown approved; Select Board plans to discuss steps such as what can be done through volunteer work and what will need to be contracted. DeFant: Mark Rivers had emailed her asking if the current permit would allow for this year's fall drawdown after the permit expires (i.e., in November). The permit seems to be written to allow such but the permit expires before the lowering begins. Her general understanding is that permits cannot approve work past the expiration date, thus the permit does not appear to approve the November drawdown. *This matter will be revisited for further discussion*

### **Review revised Conservation Restriction (CR) draft for West Quabbin Woodlands**

#### **Conservation Area**

SCC has received and reviewed the current revised version on the CR for the West Quabbin Woodlands Conservation Area. DeFant shares the CR draft for SCC to review via screenshare; reviews changes and comments made by the Bridget Likely, Kestrel Trust, EEA Reviewer and an official from the U.S Forest Service (Forest Legacy Program). Willison express her gratitude for Kestrel's service and work on this project and she agrees with the listed allowed and prohibited activities within the CR draft. David and Harrington agree with Willson's comment. DeFant reminds SCC that, if they see fit, a management plan can be developed to further detail rules/regulations. SCC agrees.

**Motion: Willson moves to approve the draft CR for the West Quabbin Woodlands Conservation Area, David seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.**

### **Review request from LWAC for signage at boat launch**

DeFant: LWAC has requested better signage at the Randall Road boat launch due to concern about boaters from outside of Shutesbury who are not familiar with the Town's regulations (traveling in counter clockwise direction and under 30 mph). Currently there is a kiosk that is being used for signage posting for the conservation area, but LWAC is proposing a 18 in. by 24 in. sign that would be affixed to the side of the kiosk for better visibility when loading a boat into the launch. Jaques: the kiosk was installed when she was on SCC and the reasoning for the kiosk was to reduce all the visual clutter that had accumulated in the parking area near the boat launch. There was an agreement between SCC and LWAC to install a kiosk and contain all of the information that pertained to the Lake Wyola/South Brook Conservation Area within that one space; she is hesitant in allowing signage outside of the kiosk. She urges SCC to think about this decision for it sets a precedent. She suggests possibly having one sign posted down at the water's edge for the boat launch since this concern is mainly about boaters.

David: LWAC discussed that location as an option, but was putting it on the kiosk as per the agreement. She believes it is necessary because there are constant ongoing issues with those two previously listed issues. Tracy McNaughton: she agrees with Jaques that keeping anything relating to South Brook Conservation land under the jurisdiction of SCC rather than other committees. In the past, LWAC created a safety committee that placed safety cards that violated the actual rules and bylaws; creating a lot of confusion. DeFant: she appreciates LWAC trying to

keep the agreement, but believes this sign needs to be free-standing on its own, by the boat lunch to be effective.

**Motion: David moves to approve the sign as a free standing sign as submitted by LWAC, Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.**

**Continued Public Hearing for Abbreviated Notice of Resource Area Delineation (ANRAD) for 66 Leverett Road (Lot O-32)/Town of Shutesbury, DEP File # 286-0297**

DeFant: to ensure an efficient meeting and allow Commissioners to ask any questions they might have, the process will include an update from the Applicant, the SCC will then hear from their consultants, then Commissioners will have a chance to ask questions and then, lastly, public comment as time allows. Public comments will be allowed as much possible but her goal is to limit comments no more than 30 minutes; asks that comments be concise as possible and under 2 minutes – one comment per individual unless time allows more. To summarize, this is an Abbreviated Notice of Resource Area (ANRAD) delineation that will be reviewed tonight; there is no project or work being proposed. This has been a lengthy process with both the Town's and SCC's consultants conducting multiple site visits and reviewing wetland lines on the property that were then mapped. SCC's task is to approve those lines and the map as submitted in the final site plan. The last public hearing was in December of 2022, where in theory both SCC and the Applicant were in consensus; Applicant had a few months to revise the map as discussed in that meeting.

Doroski: since the last Public Hearing, they had the wetland flags surveyed and updated the locations to provide an accurate map; providing supplemental information including the updated wetland report with the survey flag locations. They are asking for the issuance of the ORAD. DeFant: Stockman has drafted the ORAD for issuance and during her discussion with Stockman about the draft, they discussed the portion of BVW-3 that is not being delineated as agreed by SCC and the applicant; findings will clearly state such and SCC will not be approving the Buffer Zone line for BVW-3. Stockman: as summarized by DeFant, during the peer review process and as reflected by the final plan produced by Fuss & O'Neill, there is a portion of BWV-3 where the boundary has not been formally established due to fill in the area. Sometimes during an initial assessment and delineation a scientist can obtain the requisite data to establish the boundary of a filled wetland; however, there are times where the fill is substantial enough (~3 – 4 feet) where the boundary cannot be established during the general normal practices. When this is the case, it is common practice that, either through NOI or responding to an Enforcement Order, the landowner would retain the services of a consultant scientist to prepare or produce a plan of restoration action to present before the Commission seeking approval. Typically, restoration and boundary determination coinciding at the same time is usually seen; when in the field, removing the fill from the edge of the wetland and working backwards. This requires heavy equipment in the sensitive area as needed to remove the depth of the fill; as the underlying soils are exposed, they are evaluated to determine if they are hydric/wetland or if enough fill was removed to document an upland or non-hydric soil. This is not a process that is under review right now as part of the ANRAD; Applicant has clearly stated on their final plan of record that the boundary has not been determined; therefore, they are not seeking an approval for this specific portion. She

recommends that the ORAD reiterate that there is an open boundary that remains to be determined.

DeFant asks if the delineation for a future project could happen at the same time as the restoration. Stockman: from a practical standpoint, that has been her experience; in order to remove the amount of fill necessary to examine the underlying the soils while in the field, the exploration can be continued and can remove the unpermitted fill from the wetland. A second process she has seen is a simple exploration through trenching; rather than removing all the fill, trenches and transects are established to determine the boundaries within those transects, but they require a second visit at a later date to remove the rest of the fill. In restoration, it is important to be cognizant that these are protected and delicate ecosystems, thus you do not want to spend more time in them than necessary; this is usually expedited by doing both the restoration and boundary line determination at the same time. DeFant notes her concern that there is currently a Buffer Zone line for BVW-3 that is more of a provisional Buffer Zone line, since the boundary of the wetland is not determined; concern is if the line could have been a different color or an added notation for such. Doroski screenshares the finalized map for the Lot O-32 ANRAD for SCC to review via screenshare. Doroski: the area in discussion is between wetland flag number 3a114 -115; the Buffer Zone is drawn around BVW-3 with the reasoning being there is an area where there is potential fill within the wetland, and, since the forested area and vegetation being more mature up to 30 feet or so away from the wetland, even if BVW-3 extended to the east, this Buffer Zone from this lower portion of the BVW would encompass any extension of the BVW. With that reasoning now stated, she understands DeFant's comment. DeFant: she understands the reasoning but would have preferred a notation with it; this matter will be listed within the ORAD. David agrees with DeFant's comment. SCC has no further questions.

Leslie Luchonok: he been a 30-year resident and has witnessed the property being trashed over the years. His desire is to have the property to be restored as much as possible, especially any illegal dumping in the wetlands. He wishes to read excerpts of reports listed on the SCC webpage and encourages comments from Stockman, Goodman, and McGregor. In Stockman's November 22<sup>nd</sup>, 2022 report it reads '... unpermitted fill and dumping within the protected BVW is a violation of the Massachusetts Wetlands Protection Act (WPA). It is our understanding that SCC is currently working with the landowner to address the violation. A BVW restoration plan is anticipated.' In Fuss & O'Neill's report, on behalf of the Town (dated the same day), it states 'the applicants are respectfully requesting to allow for the assessment of the BWV between 3a115-115 to occur during restoration efforts.' In Stockman's report dated December 1<sup>st</sup>, 2022 it reads, 'boundary of 3a114-115 will be determined during the restoration efforts; therefore, this portion of the BVW boundary will be excluded from the ANRAD.' In a later Fuss & O'Neill report it states, 'Stockman Associates recommends SCC include findings with the ORAD to clearly address any special circumstances such as excluded boundaries and forthcoming restoration.' He asks when the restoration plan will take place; wishes to see it done sooner than later, specifically before the construction of the library. DeFant thanks Luchonok for his comment and informs him that this Public Hearing is only for the ANRAD, thus the discussion of a restoration plan is not a part of this Public Hearing process. At this time, no work has been proposed through a submitted application; therefore, SCC is not in the position to deliberate about such. If any Town officials or consultants would like to make a comment, they are allowed to, but do not have to if they do not wish to.

DeFant: in the ORAD, SCC will be commenting on a Resource Area that is not protected by WPA but is protected by the Town's bylaw. Since it was not delineated, it will not be a part of the ORAD at this time. SCC is in the process of working on new Bylaw Regulations to better define SCC's standards will be for that Resource Area in the future for future projects. There is no further public comments. SCC agrees they have enough information to close the Public Hearing.

**Motion: David moves to close the Public Hearing for the 66 Leverett Rd/Lot O-32 ANRAD, Willson seconds.** Stockman: for clarification, it is her understanding that once a Public Hearing is closed, that there is no further discussion with the public; deliberation will begin amongst SCC and if any additional discussion on any draft materials, then the Hearing should remain open – she defers to Goodman for legal clarity. Goodman: she agrees with the comments stated by Stockman. A Public Hearing is not closed if comments or reactions are expected. It is common that boards and/or commissions will go back and ask or clarify a fact or point which happens but it's not right.

DeFant: since the ORAD will be issued under both WPA and the Town's Bylaw, the ORAD will clearly state such, but the WPA Form 4B is for the WPA; she believes SCC should take an alternative form 4B to issue the ORAD under the Bylaw – she has edited Form 4B to better suit the Town's Bylaws specifically. She asks if she should share it now to ensure it is correct. Goodman agrees and adds it will allow for public comment. DeFant screenshares the Bylaw Form 4B ORAD for Goodman and SCC to review via screenshare; edits are considered. DeFant suggests using this format for future ANRADs for consistency and clarity. DeFant screenshares the Final Draft ORAD for Goodman and SCC to review via screenshare; edits are considered. **Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved. SCC grants DeFant permission to sign for them electronically.**

**Motion: David moves to approve the ORAD under both WPA and Town's General Wetlands Protection Bylaw for 66 Leverett Rd/ Lot O-32, Willson seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. So moved.**

#### **Updates on future permitting for Lot O-32 for new library**

DeFant: last week she was contacted by the Library Director, MaryAnne Antonellis, who shared her concerns about how to approach developing an NOI for the clean-up of BWV-3. Antonellis shared that the Town was looking to develop a scope of work for this project and to hire a consultant; unclear what is required and needed for the clean-up work – looking for clarity/guidance from SCC. She shared with Antonellis that the Town would have to have a consultant who would do/propose the investigation that was discussed by Stockman. SCC would then review and comment on that proposal, based on feedback they received from Applicant's consultant and their own consultant, if they hire one.

SCC's preference in earlier discussions was to have these two NOIs (BVW-3 restoration NOI and library construction NOI) bundled together with the restoration serving as a mitigation project. She encouraged Antonellis to talk to their consultants about what mitigation projects look like, because, from her understanding, a mitigation plan might be mandatory/required

because there will be impacts on Resource Areas and Buffer Zones for the library project; doing it bundled will save the Town some time and funds, because the Applicant will have to delineate BWV-3 boundary anyway, if there will be any work in its vicinity. Goodman: adding onto what Stockman had discussed earlier about the restoration work, her understanding is that the mobilization/site costs can be reduced, because equipment will be needed for work and a NOI is filed for the library project work which can also include the removal of fill. Stockman: her intent in her summary was two twofold; one to speak procedurally in regards to how filled wetland can be restored. There are essentially two options because when working in the Resource Area proper, the work will require either an NOI or an Enforcement Order where the work is done under the responding restoration plan. In regards to expediting the process, it is typically seen that the boundary is established at the same time as the restoration because of that mobilization and the equipment necessary; rather than entering the field with equipment and then take some occasional test pits and work through the boundary, it's often more practical to also remove the fill as the boundary is established. In regards to whether SCC is comfortable bundling the restoration with a construction project, in her opinion, is another matter because work couldn't be done without the issuance of an OOC; it would be challenging to issue that order without knowing where the boundary is. DeFant: she asks if there could be an instance where the project is proposed far away enough from that BVW-3, that it wouldn't be necessary to delineate that wetland boundary. Stockman: that may be a slippery slope in those matters because she agrees with Doroski's assessment that there is a landscape change there; definitely a more mature forest when moving towards the easterly section of the property, thus the likelihood would be the wetland would not expand tremendously, though this is not a scientific certainty. It is not the job of SCC to design a project or restoration, but it is SCC's job to review one; the details lie in what is presented from the Applicant.

DeFant asks if Stockman and/or Goodman could clarify what it mean when SCC discusses the dynamic of the burden of the Applicant and the Commission regarding guidance and designing the project. Stockman: When an applicant files for NOI, the Regulations state the burden of proof is on them to demonstrate they're meeting the requisite performance standards under the Regulations. The role of SCC is to review that work and confirm that standards are being met; if they're not met, then they can deny the work of condition the work in such a matter that they standards will be met. In the Regulations, there are several presumptions that need to be overcome. DeFant asks if she is correct in understanding that they must be overcoming the presumption of impact. Goodman: the law hinges on the fact that that if person by alters a wetland Resource Area, permission needs to be granted by the Commission. To ask for permission, an application needs to be submitted through an NOI which will identify the Resource Areas and describe the effects that work will affect in terms of square feet. There are a series of presumptions in the state regulations about what each Resource Area supports, how it is useful and its interests that are protected by the work that may influence that; it's too complicated to summarize. Then, there is a completely different process under the WPA for Enforcement Orders (EO) where someone has already altered or affected a Resource Area where SCC's job is to ask them to fix it. Sometimes work can be done under an EO where the Commission could require the landowner to come back to them with a plan to restoring the site including undoing an activity that altered the Resource Area (such as removing fill). The Applicant can propose a restoration plan in a form of a mitigation plan where the Commission could then ask to propose this work through an application if the Commission sees it fit for such

proposed work/mitigation. Her suggestion is to complete both proposed NOIs as as one bundled NOI because she has heard from DeFant that the Town has said they do not have the funds for wetland restoration.

Willson: she is interested in what Doroski stated earlier; the Buffer encapsulating any significant change that could occur to the wetland line in the area that needs to be mitigated. If the Town does a bundled NOI, if there is any impact proposed in the application, then mitigation will more than likely be required, thus more reason to do the clean-up as part of the mitigation. The question is how can a design be put together when there is gap in the wetland line? To clarify that, she believes going back to look at the gap to further discuss what kind of change in the wetland line will be proposed; Doroski may have more information to clarify this matter.

Doroski: they have discussed with the Town a new strategy and based off what Stockman has stated and the concerns brought up by Willson about not knowing the exact boundary. The new idea is for the Town to proceed with the filing of two NOIs; first for the wetland restoration and to delineate that boundary, and the other for the new library. The reasoning for two NOIs is because, for the reasons previously discussed, delineating that boundary will allow for more accurate and precise planning, and in addition, they believe two separate filings will facilitate the review of the library NOI. They are listening to the concerns from the Commission about the fill and addressing them sooner than later is in the interests of the WPA. DeFant: she had a conversation with Mark Stinson, MassDEP Circuit Rider, who stated he had spoken to you [Doroski] and you [Doroski] had suggested doing a limited project of ecological restoration: is that how it will be possibly conceptualized? Doroski: yes, but they'll look more into what that means, but the first NOI will just be for the restoration; only improving the site over existing conditions. DeFant attending the last Library Building Committee meeting where a proposed schedule was outlined, it seems that schedule includes that the permitting process would be completed by Fall. She wonders where the restoration NOI schedule fits into this scheduling plan. Doroski confirms that they are looking to submit the restoration plan by the end of this month. DeFant thanks Doroski for her information; she appreciates the information that she has been getting from the Select Board and Fuss & O'Neill.

Ferrell: as Doroski has been saying, they have had this discussion with their consultants, but it must go before the Select Board because this will require additional funding for the NOI application. To address a comment from Goodman, they are hoping they will be able to use the Town's equipment to complete the restoration excavation. If it was left to the contractors that are doing the library construction, then they would have to pay about 10 times as much. There is some cost in doing the NOI, but there is some possibly large savings if they do not use general contractors doing the excavation and restoration.

DeFant: Now that SCC knows that there is a NOI being developed, do we wish to have a 3<sup>rd</sup> party reviewer for this application? Willson: her initial thought is no, but this matter is something usually decided once an NOI is submitted. The restoration NOI, as discussed currently, sounds like it will be straight forward enough to not need a 3<sup>rd</sup> party reviewer. DeFant: she raises the question to benefit the Town so they have earlier notice. She does not have expertise in restoration and believes she needs guidance. Willson adds that she has written several restoration work NOIs and has expertise; notes that the area is small; therefore, should be straight forward. David agrees and believes waiting to see the submitted NOI first before deciding if a 3<sup>rd</sup> party

reviewer is necessary is best. SCC agrees with Willson and David's comments. Ferrell recommends SCC that the Town as the applicant has spend over \$10,000s in funds for the site/project already; Town will be hiring a consultant which will most likely be Fuss & O'Neill. She encourages SCC to think about the additional expenses when it comes to 3<sup>rd</sup> party consultants.

DeFant: when she attended the Library Building Committee meeting, it resulted in a recommendation/ request for representatives of the Commission to meet with the design team for the library in order to help them with the design process. There is a meeting scheduled for March 16<sup>th</sup> at 2 p.m.; she and David will be present via Zoom. She is looking for guidance on how to approach the meeting. David: she and DeFant are there to review the proposed work and design by the committee/ architects/ contractors and not rule in any fashion, correct? DeFant confirms they will can't rule in this meeting. Willson: this meeting is a preliminary discussion and isn't sure if any other agencies such as Board of Health, Planning Board or Zoning Board of Appeals will be present due to other anticipated permits for the project as she has seen in other Town meetings. In this case, SCC would be present to raise any concerns and answer any questions around any Resource Areas in the vicinity of the site, what SCC would expect in an application in terms of staying outside or inside Resource Areas and mitigation if it will be required. Antonellis: she believes the architects will be looking for SCC's priorities: what things are important, what mitigation has been successful in the past, what kind of impacts are dismissible, what impacts that need to be absolutely need to be avoided, etc. The designers, civil engineers and landscape architects have a lot of experience design projects in and around wetlands. DeFant notes she was impressed with the architects and project manager during the meeting; seem very knowledgeable.

DeFant: One question they asked during that meeting that she was unable to answer at the time was how SCC would react if the septic tank was in a Buffer Zone; it's a large system septic system that will have to be mounded raised system that is roughly 5,000 sq. ft. There are limited places to put the system and they presented multiple layouts which she screenshot. She believes SCC would most likely want to see any features as far away from the BVWs as possible, therefore if anything has to be in the Buffer Zone then the outer 50 feet of Buffer Zone would be more desirable than the inner 50 feet – particularly for a septic system, as much out of the Buffer Zone as possible would be desirable if possible. For priority, she believes preserving Buffer Zone vegetation as much as possible would be a priority. She understands there was discussion of moving the library into the tree line with the idea of staying away from the disturbed/cleared Buffer Zone if necessary. Willson: this would mean taking down trees in upland areas in order to avoid wetlands areas? DeFant confirms that is what was discussed; she shares a screenshot from the meeting for SCC to review via screenshare. The screenshot shows the proposed library within the tree line and the proposes septic tank outside of the Buffer Zone except for a tiny portion of the top left corner; the project manager is committing to creating the building as a Net Zero building but this design would require tree removal for solar gain. DeFant: there was another layout shown that had the library tighter against a Buffer Zone which could be affected by the unknown boundary of BWV-3. Antonellis shared a different proposed layout for SCC to review via screenshare. Antonellis discussed draft designs and briefly described advantages and disadvantages; these are preliminary draft designs thus there is no final design at this time. She informed SCC that they will most likely not going with an L-shaped building because it is

expensive. They plan to find where the neighbor's well with the help from the Board of Health. DeFant: there are design issues around where the best location is in terms of groundwater, where the septic system can be placed; because there is no final design, SCC can't comment, but if SCC agrees, she believes the only comment they have is that preserving tree canopy is important. Doroski: Fuss & O'Neill is a part of the civil engineering team, but she doesn't want to steal their thunder by sharing the designs without them present but informs SCC they did an excellent job creating 3 different scenarios that are minimizing impacts within the Buffer one. She has been impressed with how well they have been able to stay as far away from the wetlands as possible and understands they will continue to work on these three scenarios being aware of the setbacks before them.

DeFant: she asks Antonellis if there is any other clarity SCC could provide her in terms of mitigation. From her understanding, mitigation plans could involve restoring a wetland or creating a new wetland, which can be tricky. It could involve perpetual conditions, meaning some areas would be a 'no disturb' area or only native vegetation will be allowed. Willson agrees with DeFant explanation and adds that removing invasive species and planting native species is also a go-to restoration method; it's all based on square feet of impact. DeFant informs that mitigation could also be off-site in cases where there aren't any options of mitigation on the same site. Doroski: although two separate NOIs are being proposed as of right now pending final approval; they are hoping that since the Town is pursuing the restoration of the two BWVs, that when SCC is reviewing the library NOI, the restoration NOI could be considered as some sort of mitigation. She wanted to note this is possible since the Town is pursuing the restoration in a faster timeline and taking note of what SCC has said. The Town wants to provide any Buffer Zone mitigation for the new library and restoring the wetlands beforehand is a great potential for that.

Kahan: it is difficult to share any comments since there isn't anything specifically for SCC to act on. He agrees that avoidance is a good general principle and he appreciates all the work that has been done to do so; important to avoid impacts and minimize where it can't be avoided. For mitigation, it is typical to replace the disturbed area to what was there before the disturbance. Since the disturbance of wetlands were a violation of the WPA, then the restoration is an act onto itself to put them back to where they were, as opposed to replacing a lost function and value from other impacts that may occur from the creation of the library. DeFant: to clarify and ensure she understands what Kahan is saying, if the restoration is being pursued because there was a violation that needs to be corrected, then as mitigation, it may not balance out the impacts of the development of the library. Kahan confirms that is correct. DeFant isn't sure if there is a way to tie two NOIs as such in terms of the mitigation. Goodman: in her experience she has not seen this happen. There are some Resource Areas where restoration gives the right to build such as in Riverfront Area, but in this case, where fill is being removed from a BWV, it's simply remedying a violation. SCC could be open to what would be proposed in the narrative, but she isn't sure especially since the work is being done is two separate applications. Stockman agrees with Kahan's and Goodman's comments.

### **Unanticipated business**

**Site Visits** – 70 Cooleyville Rd and 56 North Laurel Rd need site visits scheduled but can't be scheduled until snow cover has melted.

**Highway Department Relations** – Kahan: with spring coming up and the discussion earlier with how SCC and Highway Department communicate, he believes it would be good if SCC did wetland identification along dirt roads like they have in the past. SCC agrees. Ferrell adds that she will bring this to the next Select Board meeting along with the issue of the MOU.

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

**Meeting Close: 9:43pm**

**Next Meeting: April 13th, @ 7 pm**

**Documents Used:**

- Montague Rd Tree work emails
- Highway Department and SCC MOU 2014
- 70 Cooleyville Rd RDA
- Draft Letter to Select Board
- 56 North Laurel Dr RDA
- Draft CR Agreement for West Quabbin Woodlands Conservation Area
- 66 Leverett Rd/ Lot O-32 ANRAD
- Draft 66 Leverett Rd/ Lot O-32 ORAD
- Draft Designs for new Public Library

*Respectfully submitted by Carey Marshall, Land Use Clerk, 3/30/23*