

Shutesbury Conservation Commission
Minutes – 4/27/23
Approved – (5/25/23)
Virtual Meeting

Meeting Start: 6:00pm

Commissioners Present: Miriam DeFant, Mary David, Beth Willson

Commissioners Absent: Robin Harrington, Scott Kahan

Other Staff: Carey Marshall (Land Use Clerk)

Other present: Leslie Luchonok, Jill Marland, Elaine Puleo (Library Building Committee Chair), Eric Stocker (Select Board), Craig Martin, Rita Farrell (Select Board Chair), Arleen Reed (Board of Health), Matteo Pangallo (Community Preservation Committee), Clif Read, Don Wakoluk, Penny Jaques, Mary Anne Antonellis (Library Director), Frank McGinn, Penelope Kim, Stephen Dallmus (Library Building Committee), Steve Sullivan (Highway Department), and all other unidentified individuals.

Chair's Call to Order at 6:00pm

Meeting is being recorded

Review draft minutes for 4/13/23

Willson was not present at 04/13/2023 meeting and since DeFant, David, and Willson are the only Commissioners present, discussion is tabled.

Site Visits:

66 Leverett Road/Lot O-32 – Willson notes being able to see the new testing borings placed which were not in Buffer Zones or Resource Areas; if more work is to be done in Resource Areas or Buffer Zones, then she hopes SCC will receive communication from the Town/Fuss & O'Neill. DeFant adds that some of the work was in the 100-ft Buffer Zone/No Contest Zone that was established; it is being treated as Buffer Zone. David states that during their site visit they were able to observe that the Town completed the work under the conditions SCC gave them, but would have liked to see the wells numbered/labeled. Willson appreciates being kept informed of work in the Buffer Zone. Willson and DeFant agree.

Lakeview Road Culvert – DeFant and David visited the Lakeview Road Culvert after DeFant signed an Emergency Certification for the site due in part of the stone headway collapsing thus creating a flood. DeFant notes that the Highway Department did a great job armoring the headwater with boulders and riprap. David: damage was extensive; starting to cave in on the other side. Highway would like to set up a meeting to look at the rest of it.

Site Visit Scheduling:

SCC discussed scheduling for the following sites:

- 530 West Pelham Road/Damon (BPA): ground-mounted solar system
- 45 Schoolhouse Road/Sweeney (BPA)
- 13 Cove Rd (Tree Removal Request); waiting for information from an arborist
- 64 Cushman Rd (OOC Amendment Request)/Dandelion Energy
- Lakeview Rd Culvert

Emergency Certification for Lakeview Road Culvert Repairs, Town of Shutesbury

DeFant shares the Emergency Certification for Lakeview Road Culvert Repairs for SCC to review via screenshare. **Motion: Willson moves to ratify the Emergency Certification for Lakeview Road Culvert Repairs, David seconds. Vote: David- Aye, DeFant- Aye, and Willson. *The motion carries.***

29 Leverett Road Determination of Applicability request for a minor change

DeFant shares that SCC has received a request from the applicants who received a DOA permit for 29 Leverett Rd; the applications listed the dimensions of the garage incorrectly as it should have been 24 feet x 40 feet, rather than 22 feet x 40 feet – looking for a letter from SCC allowing this correction. DeFant clarifies this change in dimension doesn't move it closer to any Resources Areas. **Motion: David moves to approve the request to change the dimension to 24 feet x 40 feet as a minor change for the 29 Leverett Road DOA, Willson seconds. Vote: David- Aye, DeFant- Aye, and Willson- Aye. *The motion carries.***

Wetlands Protection Bylaw Regulation peer review updates and timeline for legal and public review

DeFant proposes a timeline for the Bylaw Regulations; receiving a draft back from the peer reviewer by mid-May for review, will send draft to Town Counsel, Donna MacNicol, for review, have the draft posted for public review by late May and then hold a public hearing in early June – timing can be subject to change. David and Willson agree the proposed schedule is a good goal to work towards and understands it may change depending on feedback. SCC reviewed and approved a FAQ handout to post on the SCC homepage. SCC discussed adding content for the informational homepage about the Bylaw Regulation revisions. Information about other communities' approach to bylaws and bylaw regulations will be posted for educational purposes.

Proposal to draft a new Wetlands Protection Bylaw

At last meeting, SCC had a preliminary discussion about updating the Wetlands Protection Bylaw and suggestions to update it. SCC agrees to continue studying this issue while also revising the Regulations for the current Bylaw. SCC noted that the content and structure of most wetland bylaws around the state are very similar to one another and that bylaws are much shorter and simpler than regulations. DeFant suggests basing any new draft Bylaw update on the MACC (Massachusetts Association of Conservation Commissions) Model Bylaw, but modify it as needed. Willson agrees that SCC could work on it parallel to the Regulations as it is a simpler document than the Regulations, but notes that the public review process for a new Bylaw is more complex and time consuming than for the Regulations. SCC agreed that it is not possible to produce a new bylaw in time for the 2023 Annual Town Meeting, but one could be possibly produced for a Special Town Meeting. DeFant suggests that SCC study the MACC Model Bylaw that was created in 2016, and also look at documents from other more recent MACC trainings that provide updated guidance from MACC lawyers on suggested updates to the MACC Model Bylaw. MACC provided guidance on how to make Bylaws and Regulations more sensitive to climate change issues. DeFant plans to also add the MACC bylaw model document on the SCC webpage for public access.

LWAC updates

David shares LWAC is currently still working on the sign SCC had approved in a previous meeting and working on drafting an RFP with the Town for the Lake Wyola Dam repairs and lake lowering. LWAC has created a draft and received input; once an updated draft is complete, it will go to the Select Board for approval. The culvert repair project has a schedule set to begin in early July (See *Sawmill River Culvert Repair Project* in the *Updates on pending applications* section for more info).

Updates on pending applications

Sawmill River Culvert Repair Project – The applicant withdrew their request for an extension and no longer is looking to amend the OOC. DeFant has been communicating with the project manager because he stated in an email that the in-water work could be conducted within the time constraints of the existing permit; she reviewed the existing permit and noticed the time constraints apply to both in-water and Buffer Zone work. She has followed up with the project manager to inquire if they have enough time to

complete the Buffer Zone work within the time constraints as well or if they need to amend it; waiting for a response. She notes there needs to be a pre-construction site visit to inspect the erosion controls.

64 Cushman Road OOC Amendment/Heard/Dandelion Energy – Applicant/consultant have requested to amend the OOC, similarly to what 86 Sand Hill Road project did, to revise the construction sequence; using a different drill rig and changes in the erosion controls. A site visit has already been scheduled. A preliminary meeting will take place next meeting for SCC to determine whether the request is a minor or major change. Applicant/consultant is looking to have public hearing open on May 25, 2023.

Lot O-32/66 Leverett Rd restoration project NOI – Fuss & O’Neill plan to submit the NOI within the next week or so. A preliminary meeting will occur next meeting to discuss requested exemptions that require SCC input. Fuss & O’Neill plan to have the public hearing open on May 25, 2023.

FRCOG request for SCC Comments on draft Lake Wyola Watershed Plan

DeFant shares SCC received a draft of the Lake Wyola Watershed Plan from FRCOG along with a request that they review it and give written comments before they release the plan for public comment. FRCOG plans to have a joint public meeting with SCC, Select Board, and LWAC to present their results, receive feedback, and hear any further public comment; plan would then be finalized. SCC review at the May 11 meeting.

Unanticipated Business

Montague Rd Culvert Beaver Issue – Willson asks if there are any updates regarding the beaver issue that occurred in the Montague Rd Culvert. No new information has been given. Willson heard from a resident that the water level had raised. Sullivan shares that beavers at the Montague Road culvert have built a dam atop the broken beaver fence. He believes the beaver dam can no longer be pulled apart by hand and would require heavy machinery. He confirms that water level has raised but hasn’t affected the road yet. DeFant asks if there are any plans being made to address the issue and if SCC will be receiving any permit/communication. Sullivan is unaware of any plans at this moment. Sullivan will follow up with Hunting and have him reach out to SCC. DeFant suggests having a follow up meeting with Mike Callahan from Beaver Solutions, who installed the beaver fence, to inspect the location. Sullivan agrees and notes that its condition was affected over the winter from snow and ice.

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

Meeting Close: 6:45 pm

Next Meeting: May 11, 2023, at 7 pm

Documents Used:

- SCC Draft Minutes 04.13.2023
- 66 Leverett Rd/Lot O-32 Site Visit Form
- Lakeview Rd Culvert Site Visit Form
- Lakeview Rd Culvert Emergency Certification
- 29 Leverett Rd DOA Request email
- 29 Leverett Rd Letter regarding typo
- Bylaw regulation FAQs Sheet
- FRCOG Lake Wyola Watershed Plan Draft
- Emails regarding Sawmill River culvert Project (request withdrawal for extension/amendment)
- 64 Cushman Rd request OOC amendment email(s)
- Fuss & O’Neill emails regarding Lot O-32/66 Leverett Rd Restoration Project NOI

Respectfully submitted by Carey Marshall, Land Use Clerk, 5/9/23