

## Shutesbury Conservation Commission

Minutes – 5/11/23

Approved – (6/8/23)

*Virtual Meeting*

**Meeting Start:** 6:00pm

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

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

**Other present:** Leslie Luchonok, Jill Marland, Hannah Kowalski, Don Wakoluk, Mary Anne Antonellis, Joyce Braunhut, Mark Rivers, Lois Brown, Stephen Sullivan, Gail Fleischaker, Penny Jaques, Joseph Salvador, Michael DeChiara, Erin Jacque, and all other unidentified individuals.

Chair's Call to Order at 6:00 p.m.

Meeting is being recorded

### **64 Cushman Road Amended OOC Request, DEP File # 286-0288**

Applicant and landowner obtained an Order of Conditions (OOC) in May/June of 2022 and have submitted a request to amend the OOC; David and DeFant conducted a site visit earlier in the week. They are requesting an amendment for two reasons: proposing using a different drill rig that provides better erosion controls than their standard Sonic drill rig and proposing to do part of the trench through the existing driveway. In addition, they will be treating the water that results from the drilling by infiltration through silt bags. The location of the bore holes are to remain the same as listed in the original permit. DeFant thanks Kowalski for sharing photos of the silt bags currently being used for a similar project for SCC to review. Willson asks where the silt bags will be moved to infiltrate the water. Kowalski explains that the bags will be brought to the north end of the property away from the stream to allow for the water to re-enter the water table; will be shown on map in a future public hearing. SCC has no further questions. There is no public comments. SCC agrees that a new NOI is not required.

**Motion: David moves to vote to make the determination of the request for OOC amendment to be a minor change, Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. *The motion carries.***

*The public hearing for 64 Cushman Road Amended OOC will open at the next meeting on May 25, 2023 at 6 p.m.*

### **Lot O-32 Wetland Restoration Notice of Intent Site Plan and Fee Waiver Requests**

DeFant explains the waiver requests are in regards to the recently submitted Lot O-32/66 Leverett Road Wetland Restoration NOI; the public hearing is on May 25, 2023 at 6:30 p.m. The first waiver request is to waive the application fee because it is a municipal project. Antonellis has submitted a formal fee waiver request as she did for the RDA and ANRAD applications fall of last year. SCC has no questions or comments. There are no public comments.

**Motion: Willson moves to waive the fee for the Lot O-32/ 66 Leverett Rd Wetland Restoration NOI, David seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. *The motion carries.***

Antonellis reads April Doroski's (Fuss & O'Neill consultant) request asking to waive two requirements: the full-sized site plans to be substituted for the provided 11in X 17in copies that are zoomed beyond the required scale and the requirement for 2-foot contours lines to be substituted for 3-meter contour lines shown on the current site plan. David states that she has reviewed the hard copies given and they are in readable condition; SCC agrees. There are no public comments.

**Motion: David moves to waive the full-sized site plan requirement and 2-foot contour requirement for the Lot O-32/ 66 Leverett Rd Wetland Restoration NOI, Willson seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye, and Willson- Aye. *The motion carries.***

*A site visit with SCC, April Doroski, and Mary Anne Antonellis is scheduled for May 24, 2023.*

#### **Highway Department Emergency Certification for Beaver Dam Breaching at Montague Road/Dudley Pond Culvert**

Emergency Certification was requested for the smaller upstream culvert that connects and upstream pond to Dudley Pond; there was a beaver fence installed by the Highway Department. SCC has reviewed this culvert before during different site visits. In April, the Highway Department removed beaver dam material near the culvert; the existing beaver fence has been damaged. Steve Sullivan, Highway Department worker, had shared at the April 27 SCC meeting that Highway Department has no current plans for further work. DeFant received email from Tim Hunting, Highway Department Superintendent, stating that water level in the upstream pond is now much higher and the culvert is at risk of flooding. On 5/2/23, DeFant and David did a site visit with the Highway Department and Town Administrator. The Highway Department sought an Emergency Certification to gradually breach the beaver dam using heavy equipment. Later same afternoon, Chair received an email from a Montague Rd resident saying there were flooding issues at the downstream dam. DeFant visited site the same afternoon and observed that a part of the beaver dam had blown out, resulting in rapid flooding of Dudley Pond and leaking at Dudley Pond dam; debris and sediments were observed flooding the dam and overtopping the downstream beaver dam. Site visit photos were shared with the SCC. DeFant contacted the Town Administrator about safety concerns. Emergency Certification allows 2 days of work breaching the dam, but beavers are rebuilding the dam. Highway Department is reaching out to Mike Callahan of Beaver Solutions for an assessment. DeFant spoke with Callahan who suggested there were different options, including adding a diversion dam of boulders upstream. Willson states an Emergency Certification should have a condition that a flow protection device or deceiver should be put in place as it has been recommended by a professional; SCC agrees.

**Motion: Willson moves to ratify the Emergency Certification for Beaver Dam Breaching at Montague Road/Dudley Pond Culvert, David seconds. Votes: David- Aye, DeFant- Aye, Harrington- Aye, Kahan- Aye and Willson- Aye. *The motion carries.***

### **Highway Department Pratt Corner Road Guardrail Repairs over Dean Brook**

On April 28, 2023 there was a Town-wide announcement about a road closure on Pratt Corner Road for road maintenance. DeFant emailed Torres and Hunting inquiring what work is being done. They informed her the Highway Department was replacing the metal guardrails over Dean Brook. DeFant and David completed a site visit the next day on April 29 where they observed that staked erosion controls would be needed. DeFant required that erosion controls be used. The work was completed on May 1. DeFant and David completed another site visit to observe the staked erosion socks, noting they were in good condition.

During their first site visit, DeFant observed an area where sediment has been washing down into a wetland and possibly Dean Brook. Maintenance is most likely needed. DeFant suggest SCC follow up with this and asks if SCC would like to proceed with any further action. Willson believes that no further action is needed because the work has been completed and they placed the erosion controls as requested; suggests a possible site visit to view the area of sedimentation DeFant discussed; DeFant and Harrington agrees.

### **FRCOG request for written comments on draft Lake Wyola Watershed Plan**

DeFant shares the Draft Lake Wyola Watershed Plan comments for SCC to review via screenshare; edits considered.

Rivers informs SCC that there is a 2005 study that discusses sedimentation in North Cove; it discussed concerns of residents about possible risks of upstream beaver dam failures. DeFant asks if there was ever any property destruction as a result of beaver dam failures on Fiske Brook. Rivers states there was no property damage but about past storms in the 1990s led to silt deposits in North Cove; suggests that SCC look into its ability to order corrective action if siltation should reoccur; can SCC direct corrective action without having to go through DEP or EPA approval? Willson clarifies for it to classify as an emergency, then it would have to be threatening human health and safety; in that specific situation, where silt is impacting a Resource Area and recreational access, it wouldn't classify as an emergency. She believes in this situation a plan to fix it could be created quickly, especially with the help from a consultant; would have to go through the normal permitting process. DeFant agrees with Willson and adds that if a similar event were to occur from human action, then an enforcement action could result that requires restoration, but that is different from an extreme weather event that couldn't have been predicted. Willson suggests looking into Municipal Vulnerability Preparedness (MVP) Grants to assist in funding a plan for this certain emergency event.

### **Review draft minutes for 4/27/23 meeting**

*Discussion is tabled to next meeting*

### **Site Visit Scheduling**

SCC plans to conduct site visits on May 24<sup>th</sup>, 2023 for:

- **678 Pratt Corner Road** (Restoration follow-up)
- **Lot O-32** (NOI Application)
- **530 West Pelham Rd** (Ground Mounted Solar system)
- **2 Lakeview Rd** (Garage BPA)

**13 Cove Road** Tree Removal Request site visit is pending receipt of an arborist report.

### **West Quabbin Woodland Conservation Area Updates**

DeFant informs SCC that the \$5,000 CPA fund for West Quabbin Woodland Conservation Area will be on the warrant for Annual Town Meeting this year because there was a miswording in the previous one in 2022. The CR agreement is still pending with the state and is not recorded yet. DeFant suggest SCC starting brainstorming where the parking lot should be placed and where trails should be located. DeFant has spoken with Kestrel's baseline survey staff who lives in Town who expressed interest in meeting with SCC for a site visit to propose possible parking lot location and/or trails; possibly in June.

### **South Brook Conservation Area (site visit planning)**

SCC plans to schedule a site visit over summer to the South Brook Conservation Area and will reach invite Liam Cregan to join them.

### **Chair Updates**

**Camel Brook Bridge** – SCC received an NOI from DCR for the construction of a new bridge on DCR land going over Camel Brook. SCC issued a Determination of Applicability in 2017.

### **Updates on Shutesbury Wetlands Protection Bylaw Regulations revision process**

Draft is being reviewed by consultant Patrick Garner. Willson suggests SCC discuss the draft regulations at the May 25<sup>th</sup> and June 8<sup>th</sup> meetings and hold two public hearing meeting separate from their meeting dates; possibly June 21<sup>st</sup> and June 28<sup>th</sup>. SCC agrees. SCC plans to have Town Counsel Donna MacNicol review the draft as well and possible have her present during the public hearing(s).

Rivers asks how SCC will be publicizing the public hearings. DeFant informs Rivers there is a section on SCC's webpage dedicated to these regulations revision and hearing information will be posted there along with possible sending out a town-wide email announcement. David states that SCC should send the draft out to other town boards for review before the public hearings; allowing SCC time to review their comments/questions to make any edits if needed – SCC agrees. Rivers asks if there are plans for SCC to meet in person again for meetings. No plans have been discussed.

### **Proposed new Shutesbury Wetlands Protection Bylaw discussion**

SCC will continue to put topic on agenda to begin discussion. DeFant suggests SCC review the current bylaw and the MACC Model Bylaw. Information has been posted on the SCC homepage.

DeFant reached out to MacNicol for guidance about which sections are non-enforceable and is awaiting an opinion. Rivers asks if the letters from McGregor and Goodman are attached to the minutes. Marshall notes that Rivers could ask Grace Bannasch, Town Clerk, for these documents as a public records request; DeFant agrees.

### **Review of ongoing concerns and communications about beaver activity, culvert maintenance, and dam conditions near Dudley Pond on Montague Road**

*Discussion tabled*

**Email communications from public**

*Discussion tabled*

**Community education**

*Discussion tabled*

**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: 8:00pm**

**Next Meeting: May 25, 2023, at 6 p.m.**

**Documents Used**

- Agenda
- 64 Cushman Rd OCC Amendment Request Email
- 64 Cushman Rd Site Visit Form
- Montague Road/Dudley Pond Site Visit Forms
- Montague Road/Dudley Pond Culvert Emergency Certification (Beaver Dam Breaching)
- Emails between Highway Department, Town Administrator, and SCC Chair regarding Dean Brook guardrail repairs
- Lot O-32 BVW Restoration NOI fee and site plan waiver requests
- Draft Lake Wyola Watershed Plan comments
- Gregor MacGregor, Esq., email to Select Board Chair and Library Director regarding the SCC Bylaw Regulations , 3/8/23
- Elisabeth Goodman, Esq, email to the Conservation Commission Chair regarding MacGregor opinion, 3/22/23

*Respectfully submitted by Carey Marshall, Land Use Clerk, 5/30/23*