

Shutesbury Conservation Commission  
Minutes – 8/23/2023  
Approved – (12/14/23)  
*Virtual Meeting*

**Meeting Start:** 6:00 p.m.

**Commissioners Present:** Miriam DeFant, Mary David, Robin Harrington

**Commissioners Absent:** Scott Kahan, Beth Willson

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

**Other present:** Rebecca Torres (Town Administrator), Matthew Styckiewicz (Engineer), Mary Anne Antonellis (Library Director), Steve Sullivan, Mary Lou Conca, Janice Stone, and all other unidentified individuals.

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

Meeting is being recorded.

**Locks Pond Culvert Replacement Amended Order of Conditions Request, DEP File # 286-0279**

SCC received a request for an Amended OOC for the Locks Pond Culvert Replacement. SCC will hear a short summary describing what the requested changes are and then determine whether the proposed changes are minor or major. SCC agreed to have a public hearing for the Amendment on Wednesday August 30, 2023, at 6 p.m. Rebecca Torres (Town Administrator) and Matthew Styckiewicz (Engineer) confirm that is correct, noting that abutter notifications were sent out and the legal ad has been posted. DeFant asks if an application to Natural Heritage Endangered Species Program (NHESP) has been submitted. Styckiewicz confirms they have done so. DeFant asks if Styckiewicz can inform the NHESP that SCC needs a response from them before the hearing as an Amended OOC can't be issued without it. Styckiewicz understands and confirms he will do so.

Styckiewicz summarizes that the project was delayed and if they were to start now, they won't be finished with the time-of-year restrictions outlined in the current OOC. Their Amendment Request is to extend the time-of-year restrictions so that they may finish the work within the wetland Resource Areas this year instead of waiting until next year. The second request is for an extension of the permit itself. The permit is to expire of mid-November of this year. To ensure the project is complete this year, they are proposing to extend the permit for 3 years to allow the completion of the project and to allow for a monitoring period to observe the new natural stream bed, the riprap, etc. This would also allow the Town a chance to correct any sedimentation or erosion events if they were to occur or to replace any vegetation as needed. The third amendment or change would be to update the control of water plan. The current control of water plan doesn't have the capacity for the current flow observed this year, so to create a higher capacity, they plan to use the same overall plan (gravity-fed bypass system) but with a single 48-inch diameter pipe instead of two 18-inch diameter pipes. The new pipe would be installed adjacent to the existing culvert and with the same elevation. This would allow for an increased flow without substantially increased velocity. This change reduces the need for a pump on site because this method holds a larger capacity; 40 cfs (cubic ft per second) instead of 20 cfs cited in the original control of water plan. A pump is still proposed to be on site in case it is needed in an urgent event.

DeFant inquired about a possible inconsistency in the narrative/ calculations and the numbers on the site plan. Styckiewicz confirmed he read DeFant's comment but couldn't locate what she was referring to; he will check again. DeFant: SCC previously asked for the site plan to be revised so the outflow isn't perched; site plan was revised in 2021 with that notation, but she didn't see this on this new version. Styckiewicz understands and states that if she is correct about the site plan not having the same calculation as the narrative then the contractor won't have an issue correcting that. In terms of the perched outflow, since it was noted on the original site plan, then he doesn't see it being an issue for the contractor, but that is up for the contractor and their engineer to determine. DeFant understands and

recommend they show on the site plan that the outfall is not to be perched. Styckiewicz agrees and recalls the plan is to use an approach which, when installed, will be at the same elevation as the pipe. DeFant understands and informs Styckiewicz that a new site plan is needed for the public hearing/approved of the Amended OOC. Styckiewicz agrees. SCC has no further comments or questions. **Motion: David moves to determine that the requested Amendments to the OOC for the Locks Pond Road Culvert are minor in nature and do not require a new NOI. Harrington seconds. Vote: David – Aye, DeFant – Aye, and Harrington – Aye. The motion carries.**

#### **Review Draft Minutes**

**6/22/2023** – SCC has reviewed the draft minutes for 6/22/2023; no comments or questions. **Motion: David moves to approve the 6/22/2023 minutes, Harrington seconds. Vote: David – Aye, DeFant – Aye, and Harrington – Aye. The motion carries.**

#### **Town request for a Memorandum of Understanding regarding mowing on Lot O-32**

During last meeting, SCC and Jaques (Library Building Committee) discussed a proposed Memorandum of Understanding (MOU) regarding mowing on Lot O-32. The request from the Town was for permission to mow BVW-1 and the inner 25' of the Buffer Zone to the BVW-1 in November and to mow the outer sections of the Buffer Zone earlier than that. The intent is to maintain the BVW-1 as meadow habitat.

DeFant states that ordinarily SCC wouldn't approve mowing BVW without a NOI because it is considered an alteration of a Resource Area under the Wetlands Protection Act (WPA) and the Shutesbury Wetland Protection Bylaw. Why does the BVW need to be mowed at this point? Antonellis: BVW-1 is to be mowed to maintain the meadow; preventing woody growth and the spread of invasive species. In the future, the mowing would be part of the ongoing management in the Library Project NOI. The meadow has been historically mowed until the Enforcement Order was issued in 2022. Since the mowing stopped, woody growth and the spread of invasive species has been observed. The NOI isn't planned to be submitted until after fall so the agreement would only allow for the maintenance for this fall. Antonellis: we could leave the mowing of the BVW out of the proposal. The library construction zone will need to get within 25 feet of the BVW. DeFant: delaying mowing for one season of woody growth would not make a substantive difference; mowing that happens outside of the Buffer Zone is outside of SCC jurisdiction so permission in those areas is unnecessary. The SCC has discussed wanting to maintain the inner 50' Buffer Zone as a No-Disturb zone as much as possible; her preference would be to wait unless absolutely necessary since there is no NOI before the SCC at present. SCC would require an NOI if another landowner wanted to mow a wet meadow. Since there will be an NOI for this site, the SCC can review the whole management plan at that point. David: don't feel we have enough information.

DeFant drafted a letter to the Town with proposed authorization. DeFant summarizes that the letter states that SCC allows the Town to remove any desired shrubs and/or trees within the outer 50' of the AURA with no time-of-year restriction. Mowing for the inner 50' would be allowed once in November or later; spot treatment such as hand-pulling for invasive species within or outside of the BVWs would be allowed as well. Jaques had proposed marking areas of invasives for the SCC to review and then planning for spot treatment. David and Harrington agree to the proposed authorization as described.

Antonellis: concerned that that this authorization will result in more work and invasive removal might not happen. DeFant and David are confused because Jacques had proposed only spot treatment in the BVW. Harrington and DeFant share they would volunteer to help with invasive plant removals. Antonellis would prefer to mow more to keep it under control but is willing to conduct work as authorized by SCC (hand removal or weed whacking); Town may not get to all areas of concern for invasive species.

Sullivan (Highway Department): agrees mowing because area doesn't look good; who is going to stake out areas on Lot O-32 and elsewhere in Town to determine what can't be mowed? Flags are not enough when working with a brush hog; need someone out there. As a horticulturist, he shares that mowing

during frozen conditions could damage the crowns of the plants within this area; he supports mowing before the ground is frozen.

DeFant: Town stated they would stake a 25' Buffer Zone area; SCC is proposing that, instead of 25', it would be a 50' area for mowing. Once a permit is before SCC, then a more in-depth long-term maintenance plan can be proposed which will make the process clearer in the future. In terms of other Town-owned properties, if there are wetlands, SCC could conduct a site visit to provide clarity where the wetland boundaries are; don't know all of the areas where Town mows; know there are wetlands at the Fire Station; not sure about Town Hall property; don't know the plan for mowing around the dam; SCC open to a joint site visit to look at areas. Sullivan is agreeable. DeFant: for right-of-way, maybe just having a joint meeting to look at some maps would be helpful to identify areas where less mowing would be desirable; want to work collaboratively; understand that Town must maintain right-of-way for safety and the power lines; SCC doesn't want to interfere with that. Sullivan agrees. Torres points out that this discussion should be postponed until a new Highway Superintendent is hired and the Town can develop a maintenance NOI for road work. SCC supports the idea of the Town developing a highway maintenance NOI.

DeFant shares the drafted Lot O-32 Mowing Letter to the town for SCC to review via screenshare; she reads aloud the letter – minor edits were made. SCC as no comments, questions, or concerns. **Motion: David moves to approve the mowing letter as reviewed, Harrington seconds. Vote: David – Aye, DeFant – Aye, and Harrington – Aye. The motion carries.**

#### **Lot O-32 BVW Restoration Initial Report**

SCC has received the Lot O-32 BVW Restoration Initial Report. *Discussion is tabled*

#### **Top of the Lake Conservation Area public opening and planning**

Jaques had sent a letter to SCC regarding planning for the upcoming public opening of the Top of the Lake Conservation Area but is unfortunately not in attendance. *Matter will be discussed at their next regular meeting on September 14<sup>th</sup>, 2023.*

#### **Bylaw Regulations Review and Public Hearing Planning**

DeFant shares that the Select Board has approved SCC's use for Special Counsel to conduct a legal review for the draft Bylaw Regulations; they were approved for 5 hours. SCC received a signed engagement letter from the Select Board which DeFant as sent to Attorney Beth Goodman. Goodman should have the review completed within the next two weeks. Once the review is completed, SCC will invite Goodman to a meeting. DeFant recommends scheduling the next public hearing on September 20 or 28. SCC agrees to tentatively schedule the public hearing for the bylaw regulations for September 20, 2023. DeFant shares that the 5 hours of allocated time with Goodman may not be sufficient to complete project and have her also attend a public hearing. SCC needs to discuss the matter of paying for Goodman extra time to attend a public hearing if it isn't covered under the 5 hours. SCC could use funds from the Bylaw fee account but would need to make that request to the Select Board as it also requires their approval. David recommends that is a discussion for when the whole SCC is present. Discussion tabled.

#### **Update on requested actions regarding Town Violation Notice**

SCC received a letter from Torres regards updates to the Violation Notice. SCC has not reviewed the letter. *Discussion has been tabled to next regular meeting.*

#### **74 Pratt Corner Road Driveway resurfacing**

DeFant shares that she has submitted an RDA to resurface her driveway with a traprock surface and construct a rain garden within a BWV Buffer Zone on her property; site visit needs to be scheduled. Since she is Chair and this is her property, she is recused; SCC will need to recommend a temporary Chair to run the public meeting for this project. SCC recommends that Beth Willson act Chair for the public meeting for DeFant's RDA application.

### Site Visits

**88 Shore Drive** – No Resource Areas identified; BPA approved.

**135 Montague Road/Richter** – No Resource Areas identified; BPA approved.

### Site Visit Scheduling

**74 Pratt Corner Rd/DeFant/Kibler** – TBD

**64 Lake Drive** – SCC awaiting updated site plan

**140 Leonard Road** – proposed work is for tree removal and driveway resurfacing. The landowner got a professional wetland delineation completed; driveway is in Buffer Zone. SCC will recommend RDA for proposed driveway work. Unclear if all of trees are in the Buffer Zone.

**57-59 Shore Drive** – SCC awaiting updated site plan

**70 Cooleyville Road/Kiely** – SCC awaiting updated site plan

**West Quabbin Woodlands Conservation Area** – TBD

### Chair Updates

**Potential Wetland Violation** – SCC received an email from a resident with concerns about a neighbor possibly filling wetlands; email contained photos and videos showing Pelham Highway Department trucks; resident stated he had seen these trucks bring in fill this summer and the previous summer. DeFant and Willson drove by but weren't able to observe anything from the road. The resident who emailed SCC stated he is willing to allow SCC onto his property to view his concerns. David, DeFant, and Harrington agree to meet at the resident's property for 2:30 p.m. tomorrow, Friday August 24. DeFant has contacted Mark Stinson (MassDEP) about this matter. Property is within Outstanding Resource Waters and has a large MassDEP-mapped BVW. Stone as the Pelham Conservation Agent would like to attend site visit. SCC agrees. DeFant stated that abutter reported he had contacted Torres regarding this matter last year but did not hear back. Torres stated she recently found an unopened email from him last year. She had a phone conversation with a female in the past year regarding the matter and directed her to contact SCC. SCC was never contacted.

**Motion to Adjourn: David moves to adjourn, Harrington seconds. Vote: David – Aye, DeFant – Aye, and Harrington – Aye. *The motion carries.***

**Meeting Close:** 7:12 p.m.

**Next Meeting:** September 14, 2023

### Documents Used

- Agenda
- Draft minutes for 6/22/23
- Lot O-32 BVW Restoration Initial Monitoring Report
- Top of the Lake Conservation Area email from Open Space Committee Chair
- Locks Pond Road Culvert Project Amended OOC Request
- Lot O-32 Mowing Request letter from Town
- Email communications regarding approval of Special Counsel for Bylaw Regulations legal review
- Draft Mowing Letter for Lot O-32
- RDA for 74 Pratt Corner Road
- Email from abutter about possible wetland violation

*Respectfully submitted by Carey Marshall, Land Use Clerk, 11/18/23*