

Shutesbury Conservation Commission

Minutes – 8/30/2023

Approved – (12/14/23)

Virtual Meeting

Meeting Start: 6:00 p.m.

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

Other Staff: Carey Marshall (Land Use Clerk)

Other present: Rebecca Torres (Town Administrator), Matthew Styckiewicz (Engineer), Tom Seifert, Melissa Makepeace-O’Neil, Mike Stotz, Penny Jaques, Elizabeth Fernandez-O’Brien, Rita Ferrall (SelectBoard Chair), Janice Stone, Joseph Salvador, Leslie Bridgebrace, Mary Lou Conca, and all other unidentified individuals.

Chair’s Call to Order at 6:00 p.m.

Meeting is being recorded.

Public Hearing for Amended Order of Conditions and Permit Extension Requests for Locks Pond Culvert Replacement, Town of Shutesbury, DEP File # 286-0279

DeFant: During t last meeting, SCC reviewed the request for changes to the permit as described by Styckiewicz and determined the request was minor enough to not require a new NOI. The proper abutter notification and legal notice process was completed in order open the public hearing. Styckiewicz, engineer from Nitsch Engineering: The Town’s first request is to extend the time-of -ear restrictions because the original order set the restrictions from August to September; September 1 is tomorrow and no construction has taken place. They are requesting to extend the time-of-year restrictions to allow for the project to be complete by the end of this year. The second request is to update the control of water plan as submitted to SCC for approval. The new plan meets the existing OOC requirements. The third request for an extension of the overall permit because the existing permit expires on November 12, 2023. They are requesting a standard extension of three years to allow for the completion of the project and for a period of monitoring and maintenance. DeFant explains that procedure the SCC will follow is to review the time-of-year restrictions and the water control plan first, close the public hearing, and then approve the permit. Once the permit is approved, SCC will discuss and vote on the permit extension. Styckiewicz understands and agrees.

DeFant points out that the old and new control of water plan do not address the approach to salvaging fish or other wildlife if stranded in the dewatering system. Styckiewicz confirms this. He contacted the engineer asking for his thoughts on the matter but has not received a response. Since this was a required in the in previous OOC, he doesn’t believe it would be an issue because it is a matter that the contractor would have had to have a plan for. DeFant shares she has drafted language to describe the process they would be looking for; will be reviewed when looking over OOC. She shared this language with Styckiewicz and the contractor via email so they were aware of what may be conditioned. Styckiewicz confirms he has read and agrees with language; notes that he also agrees that it will be checked when arriving and departing the site. DeFant notes that new water control plan is to increase the capacity from 19 cubic ft per second to 40 cubic ft per second. She asks if there are any provisions for events where it is over 40 cubic ft over second as it have been observed a few times this year. Styckiewicz states that the provision will be the same as the last permit plan, where they will have a pump on site so in emergency the pump would be engaged to alleviate the flow temporarily; the pump capacity is an additional 10 cubic ft per second. DeFant asks if the larger auxiliary pump they discussed will be on site. Styckiewicz states that it will not be on site. Since they have been measuring, they haven’t observed a flow rate of 50 cubic ft per second; Torres reported 24 cubic ft per second as the latest reading.

Willson asks for a quick summary of the changes made to the control of water plan. Styckiewicz summarizes that typical anticipated flow is around 8 cubic feet per second, so the original control of water plan was designed with the capacity for up to 20 cubic ft per second. 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 over plan (gravity-fed bypass system) but with a single 48-inch diameter pipe instead of two 18-inch diameter pipes; new capacity will be 40 cubic ft per second and the footprint will remain the same. DeFant notes that since the pipe will be buried for a period of time, asks how the grade above the surface will be stabilized. Styckiewicz answers that it will be backfilled, but during the few weeks that it is in place, there won't be anything top of it. The slope will be kept at a construction standard of 2:1 maximum slope. DeFant asks what the source material will be. Styckiewicz confirms that it will be same material that is being excavated. The embankment is being excavated and stockpiled on site then the bypass with the same material placed on top of it to create an embankment for the contractor to work and install the culvert.

DeFant: The new proposed control of water plan discussed piping road drains, but she didn't see that on the designs. Styckiewicz states that there aren't any road drains in this project, except for one swale; this may be a standard detail placed by the contractor. DeFant also notes that there was mention of a flood contingency plan and asks if one exists, could it be provided to the Commission. Styckiewicz answers that he was not aware of this notation and didn't receive a copy from the contractor if one exists. He will follow up with the contractor and will send a copy to SCC if he receives one.

DeFant shares that the original OOC was never recorded and states that this Amended OOC will need to be recorded before any work begins. For the time-of-year restrictions, she is amenable but has concerns for the in-water work and bypass water continuing past November 1, because that is when the winter drawdown will begin; the Town is constrained by needing to complete the drawdown in a limited time. She asks if having the in-water work and bypass work completed by November 1 is feasible. Styckiewicz answers that it is likely, but he can't provide a guarantee. It is currently scheduled for in-water work to be completed by November 16 and the bypass work complete by mid-October. DeFant asks if he has had any correspondence with the Dam Keeper, Howard Kinder. Styckiewicz has not had any contact with Kinder in regard to this matter, but if the bypass is in place past November 1, then coordination with Howard would need to occur. Since the drawdown would occur over a period of a month, it would be a slow opening of the sluiceway. Now that the bypass has a capacity of 40 cubic ft per second, he doesn't anticipate the drawdown process to overload the bypass system. If there were weather events, they would work to coordinate with Kinder's drawdown schedule. After the first few days of the drawdown, lake level will be below the spillway and all the water will be coming from the sluiceway, which has the same capacity as the proposed control of water plan. DeFant wants to clarify that if they need to plan with Kinder to adjust the drawdown for the bypass, then they would also need to coordinate and communicate with SCC. Styckiewicz agrees.

DeFant share her concern about granting a 3-year extension as the permit is 3 years old and the wetland delineation was done in 2019; the project site is now adjacent to a mapped NHESP site. Torres states that Styckiewicz had discussed with her a plan for monitoring for 2 years so she is hoping they a two-year extension could be a compromise. DeFant states that the Town could continue monitoring without the permit. The Town could wait two years before applying for a COC. She believes the one-year extension would be sufficient since the work is schedule to start next week. Styckiewicz agrees that work should be completed this year and worst case scenario is that they complete the work next year during the time-of-year restrictions. He clarifies that the reasoning for the 3-year extension request is because, when constructing a natural stream bed, after some time has passed, it can sometimes build up sediment or scour in undesired areas, monitoring is to make sure the culvert bed isn't exposed and to replace the riprap to create a more natural pattern if needed; the extension would allow for the Town to correct these

events without having to submit for a new permit. Willson understands Styckiewicz and would be comfortable with a two-year extension. Harrington agrees with the two-year extension as well. SCC has no further questions or comments. There is no public comments.

Motion: Willson moves to close the Public Hearing for the Locks Pond Road Culvert Replacement Amended OOC Request, Harrington seconds. Vote: DeFant – Aye, Harrington – Aye, Kahan – Aye, and Willson – Aye. *The motion carries.*

Mary David joins late at 6:40 p.m.

DeFant shares the drafted amended OOC for SCC to review via screenshare. DeFant states that some boiler plate conditions have been added to the permit in order to be consistent with the other recent permits; minor edits were made. SCC agrees to allow in-water work to continue until November 16. DeFant shares that SCC, in the original permit, the SCC was supposed to review and approve the choice of stone for the culvert stream channel, but it did not receive any such information. Styckiewicz states that the contractor submitted that the riprap to be used. DeFant clarifies she meant the stone substrate for the thalweg. Styckiewicz explains that in order to place the culvert they need to remove a small depth of the stream bed which would then be used at the substrate. Based on this discussion, SCC agrees to remove special condition number 48.

Motion: Harrington moves to approve the Locks Pond Rd Culvert Replacement Amended OOC as reviewed, Willson seconds. Vote: David – Aye, DeFant – Aye, Harrington – Aye, Kahan – Aye, and Willson – Aye. *The motion carries.*

Motion: Willson moves to approve the Locks Pond Rd Culvert Replacement Amended OOC Extension Permit for two years, David seconds. Vote: David – Aye, DeFant – Aye, Harrington – Aye, Kahan – Aye, and Willson – Aye. *The motion carries.*

SCC grants DeFant permission to sign for then digitally

Bylaw Regulation Public Hearing Planning

SCC received the legal review of the draft Bylaw Regulations from Attorney Beth Goodman. DeFant had a brief phone conversation with her and have revised the draft based on comments. Overall, Goodman stated she believes the draft had good, legally viable regulations and did not have any major concerns with the viability or enforceability of the Town Bylaw. The new version has been sent to SCC and posted on the webpage. Goodman has agreed to come to their next meeting to have a short discussion about the Regulations and her review; no public comments will be taken. DeFant proposed that the SCC schedule the public hearing for Wednesday September 20; SCC agrees. SCC agrees to invite Patrick Garner to the public hearing as well. DeFant will contact Garner for a proposal for SCC to review and vote on at their next meeting. Goodman was able to complete the review quickly, thus she has more time available for the public hearing. In a case where Goodman believes she may not have enough time, DeFant suggest that SCC use funds out of their Bylaw fee account to pay for Goodman. SCC agrees and gives DeFant permission to proceed in making that request to the Select Board if needed.

Update on 576 West Pelham Road report of possible violation

At the last meeting, SCC discussed the two reports from abutters observing their neighbor bringing in truckloads of fill onto their property with the concern it was possibly coming from the Pelham Highway Department. DeFant, Harrington, and Janice Stone conducted a site visit where they observed from the abutter's property an area where a large amount of fill appeared to have been added near a wetland; the landowner is an employee of the Pelham Highway Department. The abutter reports about a dozen truckloads over a two-year period. DeFant spoke with the Pelham Highway Department Superintendent

who confirmed this has been occurring, but he wasn't sure about the quantity of material. The landowner did not consent to a site visit until he had reviewed with his attorney. MassDEP conducted site visit from the road and the abutter property last week and asked for site access. MassDEP has agreed to take over the situation as it is complex. SCC agrees to this. DeFant asked if SCC may join the site visit once planned; SCC agrees to have DeFant attend. SCC will ask MassDEP for any updates.

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

Meeting Close: 6:59 p.m.

Next Meeting: September 14, 2023, at 7:00 p.m.

Documents Used

- Agenda
- Locks Pond Road Culvert Replacement NOI and original OOC
- Amended OOC Locks Pond Road Culvert Replacement Request
- Draft Amended OOC for Locks Pond Road Culvert Replacement

Respectfully submitted by Carey Marshall, Land Use Clerk, 11/17/23