

Shutesbury Planning Board Meeting Minutes
January 4, 2016 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jon Thompson, Ralph Armstrong, Jim Aaron, Steve Bressler, Jeff Lacy, and Linda Rotondi
Staff present: Linda Avis Scott/Administrative Secretary

Guests: Attorney Donna MacNicol/Town Counsel, Jean Christy/Tighe & Bond, Mickey Marcus and Kevin McCaffery/New England Environmental (NEE), Marnin Lebovits/Lake Street Development, Attorney Michael Pill/representing Lake Street Development Partners, Gail Fleischaker and Penny Jaques/Conservation Commission (SCC), Mike Vinskey/391 West Pelham Road, Miriam DeFant and Robert Kibler/74 Pratt Corner Road, Genny Beemyn/113 West Pelham Road, Roger Tincknell/78 Pratt Corner Road, Andrea Cummings/69 Pratt Corner Road, and Lucy Gertz/56 Pratt Corner Road.

Bonnar calls the meeting to order at 7:07pm.

Continue Public Hearing for Wheelock Solar Project Special Permit Application

Mickey Marcus/NEE: also present Marnin/applicant and McCaffery/NEE civil engineer and Attorney Pill representing the applicant.

Presentation by Marcus: the plans have been modified based on comments and suggestions of the Planning Board and neighbors; requests hearing be closed this evening though acknowledges that this decision will be made at the end of the evening; NEE has received Christy's 1.4.16 review. All outstanding information that is within the purview of Planning Board can be conditioned. Acknowledges conflict between Cows/property owner and neighbors and states his intention to organize and be the mediator for a face-face meeting between the parties to work out access issues. Access from Pratt Corner Road is 300 plus feet from existing driveways; project keeps storm water on site and discharges at the same or lower rate than pre-development. About 21 acres is to be clear-cut with an additional 10 acres of shade management; area below array becomes a meadow via a wildflower/meadow seed mix. The location of the array has been modified so that the entire project now has no work within 100' of wetlands; MassDEP advises that there is no regulatory jurisdiction if work is greater than 100' away from a resource area; additional erosion control will be installed where the project is closest to wetlands; logging roads have been eliminated; will work with Cows to develop blazed walking trails. Regarding Christy's comments, (#1) we have complied with zoning setbacks and grades; (#2a) has a report of what the site will look like from as far as a 2 mile circumference; it is difficult to say that the site could not be seen; site is 1,000 feet from Pratt Corner Road; according to the map, there are areas where it is not visible and some where it may be visible; suggests, if it is visible, there be a condition requiring the installation of evergreen screening and/or the addition of black or green vinyl slats to the chain link fence to further screen the project. Regarding the cleaning of the modules (#2b), maintenance is only done once/month and suggests a condition such that if the panels are washed, it will be done only with water; they are sometimes washed due to excessive dust. Regarding comment #3, stone lined swales were removed and grass lined swales added as per SCC comment; the plan now includes using a combination of stone

and grass; all are infiltration; wherever there is a chance of higher velocity, stone is used; grass swales are underlain with a turf liner to reduce scouring. McCaffery: there is a stone lined conveyance along the access road; there maybe short stone lined stretches at the outfalls of the grass swales. Christy: concern is with cutting into the soil in order to create swales; suggests diverting with a berm to decrease erosion. Lacy: cutting in (to create swales) can actually increase erosion. McCaffery: the goal is to reset the topsoil. Marcus: Tighe & Bond's suggestion is perfectly acceptable; there could be a condition regarding swale construction preferences. Lacy: above ground swales versus digging into the soil is preferred. Marcus, regarding comment #4: the basins are located where the water wants to go; capacity will be lost if they are moved further from the wetlands; at the three areas closest to the wetlands, the erosion control is doubled; DEP Stormwater Standards do not apply; (#6) the fence is to be raised up 6" to accommodate small wildlife; mowing will be done once/year; NEE has not proposed any additional wildlife features. Marcus suggests adding a condition re: mowing once/year and that vegetation to be seeded will grow no higher than 3 feet. Marcus submits 12.15.15 letter from Guilford Mooring/Public Works Superintendent Town of Amherst regarding review of revised plans: Mooring "sees no potential impacts to the Amherst watershed." Marcus: investment tax credit that was scheduled to expire in 2016 has been extended for five years. Marcus: (#5) site is mostly flat with some 15-20% slopes; the access road will be built, the staging area will be constructed, and erosion control will be installed around the whole site to establish boundaries; the contractors will work in small areas in a slow fashion through the site; a set of permanent conditions can be created. Bressler: asked at the last meeting, if NEE could avoid putting arrays on the slopes, was this considered? Marcus: yes, however decided against doing so; on the slopes, the contractors will spread the racks farther apart; it does not seem feasible to avoid the sloped area. Bressler: it makes sense to him to avoid the slopes - refers to yellow band/15-20% slopes running through the array (Sheet 2.2 Slope Analysis). Marcus: according to the developer and the installer, they could not make Bressler's idea work; will ensure slope is stable. Lacy: avoiding the yellow/orange areas with slopes above 15% and up to 25%, brought up at the last meeting, makes sense for two reasons: not digging up this area will prevent it from becoming more prone to runoff and would create a filter strip to attenuate a lot of the up-gradient runoff. Pill: is this necessary in order to address problems the Planning Board has raised or is there another way to address the drainage issues? Lacy: has concerns on the east side as well - it seems that the project is being compressed between the wetlands - project could be elongated into other areas of site. Pill: if this were necessary to address concerns the Board has raised, it would have been done; recommends Marcus suggest other ways to address concerns. Marcus: we have sited away from wetlands, refers to an 18 megawatt project in Warren has greater slopes than this project; most landfill projects have greater slopes; the wires run panel to panel above ground then underground at the end of the rows to invertors. McCaffery: even if there is a gap, panels will still have to be connected; the wires drop incrementally into the ground; if a gap in the panels were carved out, there would be a gap in the underground wiring. Bressler: why can't the panels be connected above ground? Marcus: it is not preferred, however, wires could be laid on the ground in a conduit. Christy: regarding the steeper slopes and tree removal on the slopes, there is no tree removal on a landfill/golf course site; it is the pulling out of the tree stumps that will cause greater soil disturbance on the slopes; could the panels be

driven without removing the stumps? Pill: as Christy just suggested, there is a solution. Bressler: if you leave the slope alone, no additional engineering is needed. Pill: the peer reviewers concerns can be addressed without changing the array and by using best practices. Marcus: based on Christy's comment, suggests the surveyor stake out the sloped area, the trees cut, then confer with the Planning Board to see if the racks can be installed without pulling up the stumps. Lacy: once the Planning Board makes a decision, they relinquish their authority on the site; the Planning Board will want to give the project the best chance of success. Marcus suggests there be a condition that the trees not be stumped on the slopes greater than 15%. MacNicol notes the need for conditions to be clear because when you relinquish authority and there are problems, another board will have to come in. Pill: why not say that project has to be done to the satisfaction of the peer reviewer? MacNicol: we can word conditions in a certain way. Pill: use language "to the stated standard" then the peer reviewer goes out to inspect. MacNicol: if we get to that point, we can design the language to ensure Planning Board authority is not given to another board. DeFant: it seems that Tighe & Bond is being given an expanded scope: to review all the engineering calculations. Christy: Tighe & Bond's role has been to review the plans in detail; she would need to look into an expanded scope. Kibler: best practices are a standard with a small "s"; at one point, there was a plan to grade the slope. Marcus: there was never a plan to change the slope. DeFant: the design says the slopes will be graded to 15%. Lacy: we could take the problem off the table by taking the 15% slopes out of the project. Lacy asks if 53G could be used for post decision project review. MacNicol: you have to be careful about the project you approve; the consultant could talk about slight tweaks however deciding whether trees are to be removed is a significant matter. Pill: the solution is to be developed by the project applicant; the project design has addressed concerns; if the peer reviewer has recommended a way to address the concern, the project designer and peer reviewer need to confer beforehand. MacNicol: the Planning Board does not relinquish authority to the peer reviewer. Kibler: the proposal is to grade to 15% - is it going to be graded or not? Bressler, referring to #5c: the Planning Board is not yet satisfied. DeFant: Marcus described micro-grading which is different from the grading described in the plan, - which is correct? Marcus: any slopes greater than 15% within the array will be staked, the trees removed, and the contractor will decide if installation can be done without stumping or if there needs to be a gap in this area. Lacy: the main part of the site is suitable; the other issue is the drainage from the north downward (Lacy points to the trenching within slopes and the runoff directed towards the wetland); there are swales and basins running on slopes; why couldn't the project be pulled away from the steeper sloped areas and the panels relocated in adjacent areas. Kibler: the spacing on the north slope will have to be greater than that of the lesser slopes and the flat ground, how far can the arrays be spaced before capacity is lost? Marcus: the installers decide how arrays are spaced. Lacy: would the drainage system do its job if moved? McCaffery: the drainage systems are designed to work; is listening to concerns: did not include any grades that he did not think would work; all of the plan is within the standards of practice; is not concerned about slopes. DeFant: are the MassDEP Stormwater Standards (SWS) relative to basin slope ratio being met? McCaffery: the typical ratio is 3:1. Christy: of concern is the small bit that is right up against the wetland; it is hard to create this basin without disturbing the wetland; would like to see that the 3:1 slope is not going to need more protection from the velocity of the swale going into the

basin; would like to see the basin pulled away more. Lacy: if machinery drives in the buffer zone during construction, is there jurisdiction? Jaques: if the site is surveyed, marked and silt fenced, it must be ensured these boundaries are clear enough to keep work out of buffer. Lacy: how can we be sure contractors will stay away from the buffer zone? Pill: driving in the buffer is working in the buffer; this is an issue that has to be addressed; construction has to be done without driving in the buffer or we are back to needing an Order of Conditions (OOC). MacNicol: it is hard to see how the buffer zone will be avoided. McCaffery: applicant will agree to a survey, staking and to work away from erosion control. Pill asks Christy if this can be done. Christy: yes; contractors need to be made aware. DeFant cites regulation regarding the need for a 15' graded access to maintain the weir. McCaffery: maintenance will be done when weir is dry. DeFant: in addition to the basin, there needs to be an additional 15' graded area. McCaffery: this is a Wetland Protection Act (WPA) regulation and there is no WPA jurisdiction. Pill: the regulation has not been triggered. Lacy: the project may be out of SCC jurisdiction however the Planning Board has jurisdiction and we may say it won't work. Kibler: in general, NEE says they are complying with the SWS; the water table has to be less than 2' from the bottom of the basin; they did not complete the tests. Marcus: we are doing our best to design a good project that is buildable; all the input helped shape the project; we have put in all the needed protocols; someone could be hired to review the site at particular points during construction; suggests a pre-construction meeting; there is enough safety in the plan design sequencing. Marcus: whenever you do a project of greater than 10 acres, weekly reports with photos and inspections after rain events of more than 1/4" are required; the Board could request copies of these reports. Lacy: on the north end of site, there is a swale taking water clockwise into the basin and the ditching for this basin is mostly in the steeply sloping areas; this is inviting problems as there is a wetland nearby; would be more comfortable with a raised structure or moving it so that it does not cross the slope in two areas; another area with steep slopes will be opened up to convey flow which is oblique – could consider a raised structure and an armored swale; does not want to write conditions for all of these things, wants the project to be modified. DeFant presents testimony, dated 1.4.16, respectfully submitted by herself, Genny Beemyn, Roger Tincknell, Lucy Gertz, Robert Kibler, Michael Suter, Andrea Cummings, and Julie Stepanek. DeFant reads testimony into the record. Lacy asks NEE for a recap of soils testing. McCaffery: east slope test was dry; the lower site, on map, did hit groundwater at about 5-5/12 feet below grade - soils are sandy, water is not standing; recommends area they could not reach with equipment be retested when able to access; this area could be observed during construction. DeFant: what about in the spring? McCaffery: does not see an issue due to the sandy soils in the area; looked for the seasonally high water table; did find water at the same layer of soil in both areas. Lacy asks Christy if she had sufficient time to review the soil testing. Christy states that she asked for soil testing to confirm the NRCS data - this is the method recommended by DEP Western Region Office (WERO) - that is the case and the reason that calculations did not change; is not as concerned about the basin at the NW where they could not get equipment in, soils/groundwater can be confirmed during construction – this is the way the process works – if a change to the basin needs to be made, Board would notified. Fleischaker: although out of SCC jurisdiction, if the stormwater system fails, it will be in SCC jurisdiction therefore urges as much surety as possible. Lacy: has asked before, how

will we get from forest soils to soils that will support a wildflower meadow and what will be done with the stump holes? Marcus: we are not going to strip the topsoil; seed mix will be put down; multiple seedings will be needed to achieve 90% coverage. Lacy: what happens with stump holes? Marcus: backfilled with material around it; no material will be brought in. Jaques states that she is skeptical about growing on a woodland soil. Kibler notes the challenge to growing on a hemlock heavy site; asks if a traffic study has been done as is assuming stumps will be trucked off site. Marcus: all stumps will have to be removed from the site; the smaller brush and treetops will be chipped and used as mulch during construction. Lacy: if the stump holes are filled with nearby soils, there will be less soil to work with and the area will have been compacted by driving; will the pH be adjusted with additives, liming? Marcus: once the rows are in place, ATVs smooth out the rutting, scarify the area and hydro-seed under the panels; usually, hand seeding is subsequently done. Fleischaker: are the trees to be stump or cut at ground level? Marcus: the plan is to remove the stumps. DeFant: is there a plan to truck out large boulders and what about runoff onto Pratt Corner Road and, if there is discharge, where will it go? McCaffery: the overall geometry (of the access road) will be like Reed Road. Pill suggests avoiding cross-questioning and having questions directed through the Board. Bonnar: Board wishes to allow folks to contribute. Cummings asks about #4a, referring to culverts. Christy: these are proposed culverts. McCaffery: the diameters were reviewed and then increased for the access road culverts. DeFant asks Christie to comment on runoff onto Pratt Corner Road. McCaffery: based on soils, the water will go into the ground. Christy: runoff from the access road will go into roadside swales; based on HydroCad, there is a proposed reduction in flow onto Pratt Corner Road; the numbers make sense to her; the change to flow onto Pratt Corner is minimal; the changes to groundwater are not substantial in the large picture. Lacy: could you be satisfied site-wide and have a localized problem? Lacy: the access road will be "trg" (trap rock gravel) that is not permeable. Christy: from what she can see, the water is heading west. Kibler: there are no drainage swales on the access road side of Pratt Corner Road; there could be a concentration of flow that would be easily accommodated by putting in swales to the left or right. Lacy: has there been any consultation with the Shutesbury Highway Department (SHD)? Marcus: no. Lacy: a curb cut permit will be needed. Marcus: the crowned driveway allows runoff to go off either side of road so there will be no additional drainage onto Pratt Corner. Lacy: the Planning Board agreed that putting in logging roads is not necessary; we are interested in blazing a trail around the array site to join the original trail in order to preserve access for walkers, hikers, skiers; if the trail is only blazed, there will be no SCC jurisdiction. Jaques: the only concern is that snowmobiles may create a larger trail. Armstrong asks Lacy: is it a concern that this trail would go into area of 15% grade? Lacy: the blazed trail will go across grade. Armstrong: there would be mechanical action on the ground. Lacy: access is not guaranteed. Pill: would trail be under SCC jurisdiction - recommends public access not be conditioned. DeFant: her take away is that there are those who feel the plan needs to be designed differently and that there needs to be some finality to the design prior to the close of the public hearing. Lacy: there are some things that lend themselves to conditioning, such as, hydro-seeding and washing the panels; vastly prefers plan revisions to conditioning. Jaques agrees - it is the applicant's responsibility to design a plan with minimal conditions. Pill withdraws request to close the public hearing tonight and requests to

continue the public hearing to a date certain. MacNicol suggests the Planning Board provide NEE with a list of proposed changes. Pill: the applicant can offer to submit suggested conditions. Fleischaker: the conditions do not write the plan. Lacy requests the revisions be provided in a timely way in order to allow adequate review. Pill confirms the need for NEE to receive a list of requested changes. Marcus suggests NEE use the Tighe & Bond 1.4.16 letter and put recommended changes on the plan; there are a number of revisions to be added; recommendations for the sloped areas and comments about the berm need to be considered. DeFant asks their testimony be considered; doesn't want list created outside the public hearing. MacNicol: the Board needs to say what their concerns are. Armstrong: use Tighe & Bond's description to begin defining plan, some of the points in the public testimony and the Planning Board's stipulations. Lacy notes the Planning Board's concern about slope and the recommendations to take the array structure out of the sloped area and use above ground diversion instead of digging ditches, concern about the plan for bringing a mature forest into meadow and establishing trails. Armstrong: NEE needs to look at the drainage ditch close to the wetland and see if it can be reworked using a different geometry. Pill: concerned that a lay board may be asking for things regardless of whether they can be done. MacNicol: peer reviewer has noted these concerns. DeFant asks for consideration of runoff onto Pratt Corner Road. MacNicol suggests the SHD be asked for an assessment of this matter. The Planning Board agrees with this suggestion. DeFant asks that concerns about hydro-seeding be addressed. MacNicol: this would be a post installation condition. DeFant delivers "Testimony to Shutesbury Planning Board Regarding Wheelock Tract Proposal" dated 1.4.16 and submitted by Michael DeChiara and "Shutesbury Planning Board Meeting, January 5, 2016: Hearing regarding the Wheelock Tract Proposal" by Lucy Gertz (error in date of hearing by Gertz).

Marcus: NEE will need a minimum of three weeks to prepare revision; he will not be available on 2.8.16 however will have all necessary documentation prepared.

At 9:45pm, the Marnin Lebovits/Lake Street Development Partners, Marcus/NEE, Attorney Pill and the Planning Board agree to continue the public hearing to 2.8.16 at 8:00pm; the "Agreement to Continue" document is prepared and signed by Bonnar and Pill.

Bonnar: has obtained the addresses for Master Planning Working Group members; the Board needs to write a letter inviting them to a meeting and have them sworn in by the Town Clerk. Vinskey: Brad Spry is interested in becoming a member and Melissa Warwick is interested in participating pending when the meetings will be held. Thompson will poll the group to determine which dates work for the most people. Bonnar will call the members, congratulate them and obtain email addresses for the meeting poll.

Discussion of the proposed bylaw changes is carried over to a future meeting.

A motion is made to approve the 12.14.15 minutes as presented; the motion is seconded and the minutes are unanimously approved.

Documents and Other Items Used at the Meeting:

1. NEE "Overall Site Plan" dated 12.30.15
2. 12.15.15 letter from G. Mooring to Marcus/NEE
3. 1.4.16 Tighe & Bond Peer Review Services report
4. 1.4.16 Testimony by DeFant and others
5. 1.4.16 Testimony by Michael DeChiara
6. 1.5.16 Testimony by Lucy Gertz

A motion is made, seconded and approved to adjourn the meeting at 9:57pm.

Respectfully submitted,

Linda Avis Scott

Administrative Secretary