

Shutesbury Conservation Commission Meeting Minutes
April 9, 2020 Virtual Meeting

At 7:01pm, Commissioner Penny Jaques calls the virtual meeting to order. The meeting is being recorded as per the virtual meeting guidelines.

Roll call attendance: Penny Jaques, Robin Harrington, and Liam Cregan/Commissioners; Linda Avis Scott/Land Use Clerk. Commissioner Russ Mizula is absent.

Scott reads the following statement into the record: “Following the Governor’s restrictions on public meetings, this meeting of the Conservation Commission is being held virtually using zoom.com for remote participation only. The public may access it following the instructions in this meeting’s agenda posted on the Town website.”

Jaques moves and Cregan seconds a motion to approve the 3.26.20 meeting minutes. Roll call vote: Jaques: aye, Harrington: aye, and Cregan: aye; the 3.26.20 minutes are approved as presented.

Updates:

- Lake Lowering Memorandum of Understanding: Per his 3.27.20 email, Mark Rivers/Lake Wyola Advisory Committee has the valve settings from Gate and Dam Keeper Howard Kinder and plans to incorporate them into the document to be subsequently forwarded to the Commission.
- Sumner Mountain Conservation Restriction: Per Scott, Charley Eiseman is available and willing to conduct the annual monitoring visit and has coordinated a date/time with property owner Chuck DiMare who is planning to attend the visit. The tentative date, pending rescinding of the Governor’s State of Emergency, is 5.5.20 at 9:30am with a rain date of 5.7.20.
- Shutesbury Highway Department Annual Project List: Given Mizula’s absence, Scott will contact Highway Superintendent Tim Hunting to request the Department’s annual list of proposed projects.
- Forest Cutting Plan/DCR-DWSP Quabbin Region: Jaques notes that the proposed plan is, in part, a whole tree cut and the name of the harvester remains pending. Cregan notes that the cut site appears to be a hilltop. No SCC action at this time.
- 104 Lake Drive/Thompson: Per Scott, Bob Thompson called to report that due to the current situation, his project is on hold until the fall or next spring; in the interim, he is filling holes and seeding areas where trees were removed and is avoiding work near the lake. No SCC action at this time.
- 375 Locks Pond Road/Bernard: Per Scott, the RDA application is in process; Terry Bernard understands that based on the new legislation, the Commission may not be able to proceed with their application during the State of Emergency.

Chapter 53 Section 17 of the Acts of 2020:

Scott reads from the KP Law “Updated Responses to Frequently Asked Questions Arising in the Land Use Context, in Light of the COVID-19 Virus Outbreak April 3, 2020”: “A hearing on a pending permit application which has been opened by a permit granting authority before March

10, 2020, shall be automatically tolled and continued to the first hearing date of the permit granting authority following the termination of the State of Emergency (provided said meeting must be within 45 days of the termination of the State of Emergency) or to a date otherwise prescribed by law, whichever is later.” Jaques confirms that the legislation gives the Commission the ability to pause the open ANRAD (Abbreviated Notice for Resource Area Delineation) public hearings. Scott, per information received during the 4.8.20 virtual MSMCP (Mass. Society of Municipal Conservation Professionals) meeting: at this time, it seems the Commission may evaluate on a case by case basis because the legislation allows permit granting authorities to hold virtual public meetings and public hearings; SCC can decide to continue the ANRAD public hearings and public meetings for RDAs (Request for Determination of Applicability) until after the State of Emergency is terminated.

Jaques: the Commission can continue the public hearings pending receipt of all required information; TRC has additional field work to do on both the Baker Road and Carver Road sites where some of the wetland boundaries will be expanded. Jaques reports that during the Carver Road field visit a nearby abutter, William Czerwonka, expressed concern about the wetlands in the area. Recognizing concerns about holding a public hearing where the public needs virtual access, Jaques recommends the Commission continue the ANRAD public hearings until after the State of Emergency is terminated. Harrington states concern about public access to virtual public hearings. Cregan: generally, it will be wise to postpone until the public can attend in person. Scott cites the 4.9.20 email from Maria Firstenberg/TRC: “With the recent order regarding remote public meetings and relaxed deadlines, we’re curious how you would like to proceed with upcoming public meetings. We understand there are a variety of challenges associated with holding remote meetings. Based on the above (field visit) schedule, I think it may make the most sense to continue the Baker and Montague meetings to the 5/14 date slots (currently reserved for the Pratt sites) and move the two Pratt sites to a following meeting date.” Commissioners agree to stay with two ANRAD public hearings per meeting. Harrington and Cregan state affirmative support for Jaques’ recommendation the Commission not hold any virtual public hearings that have broad public appeal. It is noted that the Commission may consider holding a RDA public meeting, i.e. 375 Locks Pond Road, a site visited before the State of Emergency. Scott reports that a Baker Road ANRAD abutter inquiry from Ashleigh Pyecroft was received and responded to.

Cregan will attend the Pratt Corner West site visit; per Scott, Mizula is unable to attend the Pratt Corner East site visit. Jaques: once Stockman and TRC review TRC’s initial delineations in the field, Stockman will issue initial peer review reports to the Commission which will be forwarded to TRC; TRC will then conduct field visits to redo flagging per Stockman’s report; once TRC completes this step, Stockman and TRC will revisit the site to review TRC’s work; after this second visit, Stockman will issue a final report for each site.

Scott suggests that during the State of Emergency, identifying a Commission chairperson may be helpful. Jaques states her willingness to serve as the chairperson during the State of Emergency. Cregan moves and Harrington seconds a motion to appoint Penny Jaques as the Shutesbury Conservation Commission Chair. Roll call vote: Jaques: aye, Cregan: aye, and Harrington: aye; the motion carries.

57 Shore Drive/West: Per Scott, follow-up from the owner and FCCIP remains pending; per their website, FCCIP is conducting only emergency inspections.

Scott reports receipt of an email from former Commissioner Jennifer Wallace offering to assist the Commission in some way. Scott suggests that when regular office hours resume, Wallace may be of assistance in implementing the new filing “by road” system.

Shutesbury General Wetlands Protection Bylaw & Regulations: Commissioners agree to review Shutesbury’s local bylaw in preparation for a discussion during the 4.23.20 meeting. Jaques notes that some of the wetland resource areas within the four ANRAD parcels fall under the jurisdiction of the local bylaw, i.e. vernal pools and small isolated wetlands.

Noting that the ANRAD public hearings are an important time to educate members of the public who are concerned and have questions, Scott is requested to inform Maria Firstenberg/TRC that the Commission has decided not to conduct virtual ANRAD public hearings and will plan to continue the continuations scheduled for 4.23.20 to 5.14.20.

At 7:47pm, Jaques moves and Cregan seconds a motion to adjourn the meeting. Roll call vote: Harrington: aye, Cregan: aye, and Jaques: aye; the motion carries.

Respectfully submitted,
Linda Avis Scott
Land Use Clerk