

Shutesbury Conservation Commission  
Minutes – 02/10/22  
(Approved-3/24/22)  
*Virtual Meeting*

**Meeting Start:** 7:02pm

**Commissioners Present:** Miriam DeFant, Robin Harrington, Scott Kahan, Beth Willson, Carey Marshall (LUC)

**Commissioners Absent:** Mary David

**Others Present:** Penny Jaques, Liam Cregan, Joseph Salvador (NOI applicant), John Gorey and Celeste Ziemba (COC applicants), Janice Stone, Don Wakoluk

Chair's Call to Order at 7:02pm

Meeting is being recorded

**Consider 1/13/22 minutes:** DeFant; anyone have a chance to look over the minutes? Harrington confirms she has and points out one correction that on page 6 in the upper paragraph David is missing from the vote. **Motion: Harrington motions to approve the minutes under these conditions, DeFant seconds. Vote: DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson Aye.**

**South Brook Conservation Area Mapping update:** Jaques: is finalizing the CPA mapping project; sent out Liam Cregan's responses to questions to SCC; proposes a modest discussion with follow-up involving a smaller group if needed. Cregan: one very major wet area and that is the ATV/Snowmobiling woods road trail on the southern section which is next to the bridge crossing for South Brook. DeFant: you are recommending discontinuing this section of trail here that's mainly used for snowmobiling and the bridge. Cregan: area is consistently muddy and every has ATV tracks; recommends rerouting. DeFant: We had posted signage there that ATVs were not allowed but they are out there anyway; there are at least two wetlands crossing the trail; wondering how to treat this. Cregan: there are two small streams crossing this trail; recommends a small bridge, a bog bridge or steppingstones; one small bog bridge in this area exists but needs maintenance to prevent flooding; discusses a user-created trail that could be closed or improved to create a loop. DeFant: important to have a maintenance plan for this project like for example removing flagging tape; might want to have a maintenance party to take all those flags down. Cregan: agrees that annual maintenance plan is important; recommends reblazing the trail that way the public knows what is and isn't official, that would correspond to a trail map. Jaques: wondering about a different route in the south route in the conservation area that avoids wetlands issues. Stone: not sure because of stone groupings. Cregan: there are some options for rerouting but a lot could be fixed with bog bridging. DeFant: like to set up a site visit in the spring with the Commission to walk through the trails and combine it with some maintenance work. Marshall: suggests developing an area near the vernal pool that would create an educational space for the public to interact with to promote trail use while also highlighting the importance of vernal pools. Cregan: one example of that is at the Mount Warner Reservation in Hadley which is a Trustees of the Reservation property that has a trail with two vernal pools and an interactive sign that says what species breed in there and what species hunt for them. Harrington and Stone thank Liam for his work. Jaques: CPA project fund doesn't include signage; only a map; feels not ready to finalize the map; asks Cregan if okay on holding off on the last payment until Commission has made final decisions; he's been paid for two thirds of the project. Cregan:

agrees to hold off final payment until the Commission has finalized a final trail map; he has some PowerPoint documents he can share. DeFant: thank you again this is great work.

**Continuation of Public Hearing for 31 Lakeview Road/Salvador Notice of Intent (house demolition and reconstruction):** DeFant; Salvador and his engineer has asked to continue the public hearing to Thursday April 14<sup>th</sup> at 7:30 p.m. due to being unable to have the wetland scientist do the survey of the property until the snow melts. Ward Smith is doing the delineation. **Motion: DeFant moves to Continue Public Hearing for Salvador's NOI for 31 Lakeview Road to April 14<sup>th</sup> at 7:30pm, Harrington seconds. Vote: DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson Aye.**

**CPA Proposal for Conservation Land Acquisition on Pelham Hill Road:** DeFant: Jaques has submitted the proposal. Jaques: Kestrel Land Trust has signed a purchase agreement with the owner, Wendy Pearson. DeFant: it's a great proposal; the budgeting and financing is wonderful; it's a great 88% match. Jaques: one of the Kestrel Land Trust representatives, Bridget Likely, said projects like this are typically a 50/50 split, so we did well on that. DeFant: March 10<sup>th</sup> at 6:30 is the Public Hearing for all the CPC proposals but we meet that night at 7 pm; Commissioners can go for half an hour if they wish but Jaques will be there to present and answer any questions. DeFant thanks Jaques for her work on proposal.

**Annual Report Update:** DeFant: questions about the draft report. Jaques: has not had a chance to review the comments. DeFant: screenshares the annual report; made a couple of edits. One thing that is unclear is the number reckoning because of inconsistencies between the table of projects and the final tallies. Jaques: draft is based upon spreadsheet left by departing LUC in June, but the info has not been verified. DeFant: we can leave it as it is; don't think the Commission wants to go back and recalculate the tallies; want to make sure that for this fiscal year the activity log is up to date; DeFant will work with the Land Use Clerk on this. DeFant shares the typos she fixed and plans to double-check with Mary David on when she was appointed to Commission. DeFant thanks Jaques and Harrington for working on it.

**Update from Leverett and Pelham Conservation Commissions regarding development of a shared Conservation Agent position:** DeFant: Conservation Commission has been approached by two different Conservation Commissions from the Leverett and Pelham because during the time we were looking for a Land Use Clerk, they were looking for Conservation Agents; they have been unable to fill those positions and are working on a plan to develop an intermunicipal agreement with a shared professional position. Shutesbury has been asked if it wants to be a part of this. DeFant: Jaques and I have had conversations with the Town Administrator, but she believes it's not a viable proposal. DeFant looked at a feasibility study that was conducted with a different Conservation Commission which look at different models for how communities can share conservation agents; can share that report. Both Commissions have agreed to pay at a professional level with possible benefits to encourage more applicants. Commission has been asked to go meet with Pelham and Leverett Commissions to discuss either details; is this something we would want to do or we can ask Penny if she would attend on our behalf? The other Commissions are looking for a new approach because recruitment has been difficult with the current job market condition; can't find professionals for a part-time position with no benefits; want to create a position with more hours and a professional-level salary at \$25/hour. Stone: that is a reasonable rate for an experienced Agent. DeFant: Pelham Conservation Commission meets on the same Thursday every month as the SCC; DeFant asked Jaques to attend and gather information unless they can change their meeting time. Kahan: would like more information about the types of work and skill sets for such a position. DeFant: notes this

discussion would not affect the current Land Use Clerk position; an agent is able to work independently to do site visits, draft orders, can consult with DEP on behalf of the Commission, can consult with Commission on wetland regulations, usually a person with a master's degree with technical expertise; like what Emily Stockman does for the Commission. Kahan: is there a case to be made that we would be able to save money because we contract with Emily Stockman right now; for the same amount of money could we get more projects done? DeFant; we don't pay Emily Stockman directly; the ANRAD applicants pay her for her work as a Third-Party Reviewer for a specific project, which is allowed per state law. If we had a NOI for a large project, we still would have a Third-Party Reviewer to do our due diligence, even if we had an Agent. Willson: I think it would be great to have someone with these skills that can do GIS and do work such as Liam did for us with the trail mapping; would want someone who understands how to do delineations; between three towns there would be enough work for a full-time position. Jaques: if we do this, I think the Land Use Clerk would only need to 4-6 hours a week from the SCC; Commission needs someone with a solid understanding of the Wetlands Protection Act; how to process the paperwork; the Agent could set up all of the jurisdictional work before the meetings. DeFant: DEP is not able to provide the same level of support that it did in the past due to staffing changes; Mark Stinson (former DEP Circuit Rider) and David Cameron (also formerly of DEP) are starting a consultation business; the Commission could speak with them about what they can offer. Jaques: FRCOG might be able to provide funding for a shared position; the issue with the proposal for three towns is that Pelham is not in Franklin County. DeFant spoke with Peggy Sloan, Director of Natural Resources Planning at FRCOG; she said there is a model on how to do this on a county level; she suggested that 2 or more Franklin County town could apply for a DLTA planning grant that through FRCOG and do a feasibility study, but the due date for that has come and gone. DeFant raised this idea with the Town Administrator who was not interested in pursuing it. DeFant: the Select Board would need to pursue this. DeFant will share the feasibility study and let the Commission know if the Pelham CC wants to meet.

#### **8 Lake Drive/Gorey Certificate of Compliance Request:**

Applicants constructed a retaining wall. Harrington and Willson inspected the site and saw no problems. Site is revegetated. Wakoluk was on the Commission at the time of the original NOI and noted the discharge pipe from the Artesian well on the site that drains into the lake. DeFant screen-shares a draft Certificate of Compliance for review. Commission agrees to allow DeFant to sign digitally.

**Motion: Harrington moves to approve the COC for the 2008 Lake Drive Order of Conditions. Willson seconds. DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson-Aye.** The 2016 project was an addition under a deck. **Motion: Harrington moves to approve the COC for the 2016 8 Lake Drive Order of Conditions, Willson seconds. DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson-Aye.** Documents will be mailed tomorrow and emailed. Applicant must record with the Franklin County Registry of Deed and return slip to the SCC. Applicant wishes to pick the documents up at Town Hall on Friday.

**Update on Highway Department/DEP communication about wetlands permitting and road repairs:** A letter was sent to the Highway Department, Select Board, and Town Administrator regarding a recent complaint made by a resident to MassDEP about stormwater management on Montague Road. This letter requested that the Town move forward with a bundled road maintenance NOI, emphasizing that the Commission wishes to help the town. Discussion took place about meeting with the Highway Department to review the Montague location. DeFant: the

2014 MOU is currently in place so it should be operational; the Commission can wait to discuss a Notice of Intent, but SCC needs communication about road repairs near resource areas, so we are not doing this after the fact. DeFant proposes that the SCC create updated GIS maps of road areas with protected resource areas nearby. A map was previously provided by the SCC to the Highway Department, but it was based on DEP overlays which are not accurate. Willson has expertise with ArcGIS mapping and is willing to assist and train Commissioners in how to use smartphones to document wetland resource areas for mapping using the ESRI Field Maps app. Kahan also has GIS mapping experience. The Commission tentatively plans to meet in March on a weekend to survey sensitive areas for uploading into a digital map. DeFant will contact the Town Administrator to inform her of the Commissions plans. Wakoluk: the Town will appreciate mapping culverts because nobody knows where they area. The Commission discussed focusing on dirt roads. DeFant: would prefer to include the Commission in any discussions, still waiting for response to some questions. Kahan: seems like the Town should be leaning in on this issue to safeguard the wetlands. Kahan expressed an interest in participating in discussions to move the process forward; notes that the Select Board should be involved. DeFant: the SCC doesn't want to make discussion about enforcement but the SCC role is regulatory, not advisory; for the NOI, it is the Town Hall's responsibility to develop an NOI application; the SCC can help, but regulatory boundary needs to be maintained; the SCC is not responsible for developing an application that it must then review; the Town is the applicant and needs to demonstrate how it is protecting wetlands values; the Town can hire its own consultant to write the NOI as many towns do. Stone: agrees; the Town should take it seriously also because DEP is now involved. DeFant suggests focusing for now on a meeting to review the Montague Road site and to provide updated maps. Kahan: it would be good to lay it out with a timeline for responding. Stone: good to have communication in writing. DeFant: Town has been working on climate resiliency and stormwater issues; talking about developing an advisory committee; would be good to include the SCC in those discussions.

### **Project Updates:**

27 January Hills Road Enforcement Order- Had a deadline due but the wetland scientist wants to wait until spring to do the delineation and asked to the commission to extend her deadline.

Approved by general agreement.

2 Wyola Drive- A NOI is pending for a dredging project to restore a boat dock to remove silt build-up, Chapter 91 application and an NOI.

26 Lake Drive – Has an OOC that was issued in the Fall of 2020 to rebuild a house. Willson and DeFant inspected the site in the fall due to viewing erosion controls in need of repair. The applicants objected to the site visit because they were not notified ahead of time. Willson: if there is an open permit, the permit conditions include that the SCC can inspect the property to determine if conditions are being followed. The OOC indicate the owners are to submit an infiltration trench plan for final approval and documentation of planting in the vegetated buffer by the lake, both of which has not yet been provided. DeFant sent an email to the applicants and has not received a response. DeFant asks permission from the Commission to send them a letter and the Commission agrees. DeFant suggests asking for another site visit in March.

35 South Laurel Drive- Had an irrigation system, under an RDA, with a pipe that DEP indicated had to be replaced, a design was needed but has not received yet.

### **Other unanticipated business:**

Next meeting is Montague/Carver ANRAD Public Hearing. DeFant is attempting to get legal opinion from Town Counsel about issues raised at the last meeting by abutters.

Kahan: like to follow up on the discussion about minor exempt activities, the resources on the website do not have all of the exemptions from the WPA. DeFant: the website is being revised; seems like there are some different points of view; propose take a year to collect data on types of site visits and projects, how many instances there are of minor activities, and whether the review process resulted in some guidance or not; Linda Scott shared that doing site visits is a great opportunity to educate the public on what we do and what wetlands are, so that even if we don't have jurisdiction, we are forming relationships. DeFant: most of the time the SCC is never contacted about minor activities; a few categories the SCC does hear about; good to collect information for the activity log. Kahan would like further clarification about how the Bylaw treats activities in the buffer zone. DeFant: seems like the SCC has historically used the Bylaw jurisdiction to consult and educate residents with minor projects as opposed to requiring RDAs, though some RDAs have been required. Wakoluk: country drainage cuts that the DPW does have always been considered by the DPW to be an exempt activity, but it is not exempt under the Bylaw; suggests the SCC review how it is interpreting the Bylaw and make sure that OOCs cite both WPA and the Bylaw per advice from Mark Stinson.

**Motion: Willson to adjourn the meeting, Harrington seconds. DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson-Aye.**

**Next Meeting:** March 10, 2022 @ 7:00pm

**Meeting Closing:** 9:02 p.m.

**Documents used:**

- Agenda
- 2008 and 2016 Draft 8 Lake Drive Certificates of Compliance
- South Brook Conservation Area Trail Maps and report from Liam Cregan
- Draft Shutesbury Annual Report FY2021
- 1/19/22 Email to Town Administrator, Highway Department, DEP, and Select Board regarding road maintenance issues
- 2/9/22 Email from the Town Administrator regarding road maintenance issues
- 2014 Conservation Commission/Highway Department Memorandum of Understanding