

## Shutesbury Conservation Commission

Minutes – 04/28/2022

Approved – 6/2/2022

*Virtual Meeting*

**Meeting Start:** 7:00pm

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

**Commissioners Absent:** None

**Other present:** Janice Stone, Don Wakoluk, Joseph Salvador, Mark Rivers, Elizabeth Fernandez O'Brien, Sharon Weizenbaum, Carlos Fontes, Frank McGinn, and all other unidentified individuals.

**Consider 4/14/22 Minutes:**

DeFant: Due to a technical difficulty, Land Use Clerk was unable to get the zoom recording until later and therefore hasn't finished the draft. These minutes will be revisited at the next meeting on May 12<sup>th</sup>, 2022.

**Site Visit Follow-Up:**

**114 Montague Road/Pollock BPA for deck/outbuilding project** – SCC decided there was no jurisdictional wetlands on the property, SCC will sign building permit.

**Lake Drive/stormwater issues joint meeting with LWA and LWAC** – DeFant: Haven't been able to finish writing up site visit form and want to finish before further discussion and sending it LWA and LWAC. Kahan: Good to discuss more, the sediment input issue seems to be within SCC responsibilities but unsure if the SCC has any other authority regarding the other components of this matter – a lot of grey area. Will be revisited at a further time.

**120 Cushman Road/Dill driveway repaving project** – DeFant: Property across from Atkins Reservoir and has a steep sloped driveway. The current driveway is paved with asphalt and the end of driveway is about 100 ft from Bank of Atkins Reservoir but needed machinery and some soil disturbance to complete repaving would be in the buffer zone. Willson suggested the homeowner to submit an RDA. Homeowner also wanted to dig a storm swale to connect runoff water to the storm drain present on her property but advised SCC would not permit it due to it being in the right of way and considered road maintenance; the town would have to submit an RDA – allowing SCC to require erosion control. David: Is landowner going to contact the Highway Department? DeFant: Emailed DPW to inform them because homeowner has not yet submitted RDA. SCC agrees to RDA recommendation.

**Schoolhouse Road/McLean Forest Cutting Plan/DCR** – David: Willson and I attended the site visit with Andrew Rawcliffe (DCR Forester) where he showed us the trees and the changes in the plan which describe his reasoning for them– selective cut with small number of trees. Most of the trees they are removing have disease and will also clear the area to allow more sunlight through – promoting new growth of hardwood trees. Amended plan meets the requirements that was needed. Talked to Leslie Cerier about the changes and agreed the changes were a

compromise. Talked to Andrew Rawcliff to resolve the issue of receiving approved forest cutting plans late (not allowing time for SCC to comment) and Rawcliff explained it is the responsibility of the applicant to send SCC a copy of the proposed plan sent to DCR for review. Rawcliff stated that in terms of SCC receiving the approved plans, he would send SCC a note via email about plans that were approved and heading to SCC. The forest cut will not occur until the end of August.

**Kestrel Trust Waiver Request for Ames Pond NOI:**

DeFant: Received a request from the SWCA, the environmental firm doing the permitting for the Kestrel Land Trust Ames Pond NOI, asking about waiving the abutter notification requirement for the Ames Pond Project – it is a small parcel proposing minimal amount of work. Kestrel has the right to ask as stated by state and Bylaw Regulations. DeFant expressed concern about SCC setting a precedent. Kahan: best practice is to notify abutters, what was the rationale for not requiring the notification? DeFant answers that it is due to the site being large. Kahan: should have the abutters notified – standard practice and would allow input. Stone: Kestrel may be saying they were only doing work to the dam but she saw that the other part of the proposal was to add/change parking on or along the road – impacting the neighborhood in terms of traffic affecting increased recreational use and abutter parking.

Frank McGinn: Lives across from Kestrel project location and he would like to be notified.

SCC agrees not to waive the abutter notification for the Kestrel Project.

**Approve Revised TPR Proposal for Stockman Associates-Montague/Carver ANRAD:**

DeFant: Stockman going on a site visit with TRC on May 5<sup>th</sup>, SCC is unable to attend.

**Motion: David moves to approve the proposal for Emily Stockman, DeFant seconds. Vote: David-Aye, DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson-Aye.**

**Discuss proposals for consultant for Bylaw Regulation revisions:**

SCC reviewed draft Consultant Agreement and draft Scope of Work. Kahan: Has Town Counsel, Donna MacNicol, reviewed this? Is that standard? DeFant: SCC has been signing proposals for Emily Stockman by ourselves, it is within our purview to hire consultants. Stone asks what was the decision from the Finance Committee for the additional funds for the consultant? DeFant: Finance Committee approved SCC request and the funds should be readily available. SCC has an extra \$2,500 in a Bylaw fees account if additional funds are needed. Out of the three consultants DeFant sought bids from, she believes that Patrick Garner and Scott Hoarsely have the best skill sets for develop regulatory language for SCC. SCC agrees. **Motion: David moves to approve the consulting agreement for Patrick Garner, Kahan seconds. Vote: David-Aye, DeFant-Aye, Harrington-Aye, Kahan-Aye, and Willson-Aye.**

**Updates:**

**LWAC meeting-** DeFant: Discussion of a beaver dam located upstream of Lake Wyola. In the past, there was an incident where the beaver dam broke causing a flood carrying a large amount of sediment – resulting in contamination. LWAC going for a site visit on Saturday, April 30<sup>th</sup> at

2:00pm to the beaver dam to record its location and structure – invites SCC commissioners to come but she is unable to attend.

**Cowls culverts investigation-** Cowls has communicated to the SCC that the new culverts were simply replacements for much older ones that are exempt from WPA regulations due to being so old. DeFant: Stockman gave recommendation for what Cowls should provide various forms of documentation, including old maps, to demonstrate they are exempt from needing permits. SCC agrees and will wait for Cowls' response.

**Locks Pond Culvert replacement-** Emailed Town Administrator, Becky Torres, about the revised construction schedule to approve and was told the construction will occur in August during the dry period. SCC will return to the matter once revised construction schedule submitted.

**27 January Hill Road Enforcement Order-** DeFant: Homeowner asked for an extension dateline to reduce improved driveway repairs. A revised repair plan will be provided.

**Highway Department Road maintenance coordination and permitting-** DeFant: had discussion with Rita Farrell, SB Chair, about next steps towards NOI and was advised not to do anything before Town Meeting – Town Hall is too busy. Kahan suggests writing a letter to Select Board asking to direct DPW with NOI process and setting a date of NOI submission. SCC agrees.

**Montague Road Mapping Project Public comment as time permits-** SCC will revisit project when time allows.

**Other unanticipated business:**

DeFant: The SCC asked to write a letter of support for the MVP grant application, made a draft letter. SCC reviewed a draft and approves of it. **Motion: David moves to approve letter of support for MVP grant application, Kahan seconds. Vote: David- Aye, DeFant-Aye, and Kahan-Aye. So, moves.**

**Self-Help Grant Archival Research:** Land Use Clerk Carey Marshall was looking for the original Self-help Grant applications for the South Brook Conservation Area/ Town Beach Conservation Area, as requested by the Chair. She called the state LAND Grant Program office to ask for documents. Received email from Vanessa Farny attaching application documents to both South Brook Conservation Area and Lake Wyola Dam (allowing water rights and acknowledgement that SCC is to advise/supervise the lake) – resulting in receiving an email from Melissa Cryan, DCS LAND Grants Manager, asking the status of the issue regarding the boat launch. The original application references SCC and that the property was going to be use for both conservation and recreation – did not state passive or active. Terms of the original grant are unavailable, but grantees are obligated to comply with current-day regulations per state law. State law regarding grants has not changed since the original application submitted which gives the authority to the state to give local town grants for acquisition of important development of natural resources. The regulations have changed over time. There is a perpetual requirement of

post-grant compliance, stating town must remain in compliance with the current regulations. DeFant recommends that the SCC revisit this issue with Town Counsel, Donna MacNicol, and Select Board.

**Motion to Adjourn: Moves to adjourn, seconds. Vote: David-Aye, DeFant-Aye, and Kahan-Aye**

**Meeting Close:** 8:40pm

**Next Meeting:** May 12<sup>th</sup>, 2022 @ 7 pm

**Documents Used:**

- Agenda
- Draft letter in support of Town MVP application
- Email request for waiver of abutter notification for Ames Pond NOI, Christin McDonough, SWCA Environmental Consultants, 4/27/22
- Emails from Melissa Cryan and Vanessa Farny, LAND Grant Program, Division of Conservation Services, 4/27/22 and 4/28/22
- 1965 Self-Help Grant Application for Acquisition of Town Beach Conservation Area
- 1966 Self-Help Grant Application for Acquisition of Lake Wyola Dam
- Montague Road ANRAD Resubmitted TPR Proposal, Stockman and Associates, 4/25/22
- Email from Emily Stockman, Stockman and Associates, outlining documents to establish date of culverts on ANRAD parcels; 4/27/22
- Draft Consulting Agreement between SCC and Patrick C. Garner Co., Inc.
- Patrick C. Garner CV
- Scott W. Horsley CV