

Shutesbury Planning Board Meeting Minutes
May 14, 2018 Shutesbury Town Hall

Planning Board members present: Deacon Bonnar/Chair, Jim Aaron, Jeff Lacy, Linda Rotondi, Robert Raymond and Michael DeChiara

Planning Board member absent: Steve Bressler

Staff present: Linda Avis Scott/Land Use Clerk

Guests: Russ Mizula and Penny Jaques/Conservation Commission; Becky Torres/Town Administrator and Kevin Sullivan/Lodestar

Bonnar calls the meeting to order at 7:30pm.

Discussion Topics:

1. Welcome Newly Elected Member: Bonnar acknowledges Michael DeChiara as the newly elected Planning Board member. Bonnar notes that as an abutter, DeChiara must recuse himself from discussions relative to the Wheelock solar project. Lacy: DeChiara may participate as an individual, seated in the audience, not as a Planning Board member. DeChiara states that he will not speak on the topic of the Wheelock solar project until he consults with Town Counsel. Lacy refers to emails containing opinion sent by DeChiara to a quorum of the Planning Board. Lacy reported his concern about this action to Susie Mosher/Town Clerk and Attorney Donna MacNicol/Town Counsel. DeChiara states his emails to the Planning Board were factual and that he understands Open Meeting Law regarding email. DeChiara asks how Bonnar, as chair, communicates with members of the Board. Bonnar explains that he limits email communication with Board members and conducts the majority of his communication during open meetings.
2. Public Comment: none offered.
3. Wheelock Solar Project Update: Kevin Sullivan/Wheelock site manager - Lodestar: the solar equipment is completely wired and the end of the project is nearing; a site visit was conducted earlier 5.14.18 with members of the Planning Board; labor will now focus on the “mop-up”/cleanup stage that will take about 8-10 days after which site work will commence. Sullivan: it is physically impossible to view the solar field from Reed Road, where Cote’s property branches off from Cows’, therefore, as per SWCA’s review, Operating Condition #1 has been met and there is no need for colored fencing. Per Sullivan, the sediment will be removed from the bottom of the detention basin then it will be seeded and the area netted; detention basin #2 and that whole quadrant is dry; the month of June will be spent preparing for and seeding; a specialized machine will inject seeds into the ground through the wood chips; the goal is a vegetated site and the ultimate effect is to create a wildflower meadow which will take about three years to establish. Russ Mizula/Conservation Commission asks for more detail about the seeder. Sullivan explains how the machine will deposit seed through the mulch; photos of the machine will be provided. Sullivan continues: it is expected that

birds will deposit invasive species and poison ivy is expected to migrate in; the mulch is comprised of coarse, ground up roots; there is leaf litter beneath the mulch; the importance of green growth is emphasized. Sullivan refers to the seed mix data on the site plan set "Wheelock Tract Solar Development Site/Civil Drawings" 2.11.17 revision - Site Detail Sheets 5.0 & 5.1. Penny Jaques/Conservation Commission reads Operating Condition #11 in to the record: "The applicant will ensure that initial wildflower plantings installed after construction are stabilized and established sufficiently by any necessary replacement of plants, reseeding, or application of soil amendments for as many growing seasons as necessary to cover at least 90 percent of the ground surface with either the plants initially installed, native plants that filled in, or a combination." Jaques states her concern about the difficulty establishing a wildflower meadow in forest soil conditions. Sullivan: the goal is to establish root growth; observing the site and how surface coverage is taking place needs to be done over time. Lacy: most of the forest soil is intact under the root mulch; the hope is that this soil will germinate seeds. Sullivan: our goal is a stable site without erosion; if erosion occurs, we will need to confer with the Planning Board and perhaps the Conservation Commission. Lacy: the goal is for habitat to develop. Sullivan: there can be issues with animals; the fence is 6-8 inches off the ground so there is access for animals. Lacy requests Sullivan report on the proposed backup battery storage and the status of the eastern detention area. Jaques reads Operation Condition #10 into the record: "After the completion of construction and site stabilization, the drainage ditched constructed on either side of the access drive between Pratt Corner Road and the first drainage basin shall be top-dressed with a mixture of wood chips and forest soils from the site. Thereafter, the ditches shall be allowed to re-vegetate from ambient seed sources. No mowing or cutting is permitted except tree cutting and trimming necessary to maintain serviceability of the access driveway." Jaques recommends this area be seeded promptly. Sullivan states that the plan is to seed the drainage ditches as per the Storm Water Pollution Prevention Plan (SWPPP) and to replace forest soils on the shoulder swales. Lacy refers to #10: the expectation is that shoulder growth will be more forest than field. Sullivan: there is no velocity on the shoulders so netting is not needed; the detention basins will be netted. Aaron: is there concern about weed tree invasion? Sullivan: weed tree invasion can occur, however, mechanical maintenance will minimize this; it will be interesting to see what grows; after the landscaping is completed, there will be one person on site to synchronize the power generation. Mizula: who will the Planning Board contact if there is a problem? Sullivan: once the "green" comes in, the detention basins will no longer be needed; no topographical changes were made to the site; Lodestar is leasing the land from Cows; Maximum Solar will be on site at least once per month to inspect the site - during these inspections, every line gets walked and checked and mowing and weed whacking are done; we expect to be diligent in our inspections. Sullivan: contact information for the relevant parties will be posted on the first series of poles as required by statute; Cinda Jones is requesting a gate at the entrance; we expect to also install a gate at the juncture of Reed Road and the Cote property. Lacy requests an attractive gate at the entrance because this

is the part of the project the public will see. Sullivan will request an attractive gate such as those used by Cows and DCR. Bonnar asks how the company will inspect the site if there is a “biblical” rainstorm. Sullivan: storm responses are triggered and the site would certainly need to be inspected. Sullivan: backup battery storage is being requested by National Grid that will consist of two 8’x40’ garden sheds/cargo containers of ~700-1,000 square feet to be located internally on the project site; the calculation is that the site will generate enough power for ~900 homes; the lithium battery capacity will comprise 1/3 of the grid power and will help create a “micro grid” system - day time power generation plus night time coverage via battery storage; this is an intelligent way to develop and utilize a system; storage is the future of solar and this will be a test case for National Grid. Sullivan: if the power goes down, this system will allow power to get back into the system sooner; every solar field has a “knock box” for emergency access and there are fire suppression units in the site. Sullivan: the State no longer recognizes the site as impervious and wants the water to flow naturally therefore stone dissipaters/check dams are being proposed to return water flow to the way it was before disturbance; we are requesting civil engineer Kevin McCaffery/SWCA to design the area that is located beyond the panels. Lacy: there is natural topography and soils in this area; surface features and natural vegetation would be better than stone dissipaters. Sullivan: there are no panels and no erosion or rutting in this area that is a big sandy knoll. Jaques: the goal is to ensure there is no erosion into the wetland. Sullivan: that is why the goal is to redirect the water using stone features. Bonnar: this area, observed earlier today, looks undisturbed. Sullivan: we would like the civil engineer to design what is “modern” to keep the forest healthy. Jaques requests an opportunity to walk this area. A site visit will be planned for some time during the week of 5.21.18. In advance of the 6.11.18 Planning Board meeting, the plan is for McCaffery do a rendering of a potential water management system for the eastern section of the site. Sullivan will also provide a square footage rendering and photos of battery storage system examples. Lacy recommends Sullivan have Lodestar’s lawyers make an argument as to why the proposed amendments do not trip Section 9.3-3 of the *Shutesbury Zoning Bylaw*. As per Mizula’s request, Sullivan will provide an aerial photo of the site.

4. Planning Board Minutes: Aaron moves and Lacy seconds a motion to approve the 4.9.18 meeting minutes; Bonnar, Lacy, Rotondi, Raymond and Aaron affirm the motion; DeChiara abstains; the 4.9.18 meeting minutes are approved as presented by a majority of members.
5. Lot O32 Planning Grant: DeChiara provides excerpts from the 1.23.18, 2.6.18, and 4.3.18 Select Board meeting minutes and explains that his rationale for sharing this documentation is to demonstrate the process and communication regarding the first Planning Grant. DeChiara: it was in the best interest of the town that the Select Board decided not to accept the contract from the State and to wait to reconsider the topic of a planning grant for Lot O32 until July 2019. DeChiara notes that despite their difference of opinion on various topics, he and fellow

Select Board member Melissa Makepeace-O'Neil agreed on this decision. DeChiara continues: the 2.6.18 minutes show that the Planning Board and the former Master Plan Working Group were aware of this decision; the Planning Board was invited to have input. DeChiara states that the Planning Board changed the order of their 4.9.18 agenda therefore he left before the Lot O32 topic was addressed. Bonnar explains that the order was changed to accommodate Kevin Sullivan/Lodestar site manager who was present to provide an update on the Wheelock solar project site. DeChiara: the Select Board appointed the MPWG; the current grant application is not due until 5.25.18 so there was time to have a discussion with the Select Board. Bonnar asks DeChiara to conclude. DeChiara moves the Planning Board rescind support for the grant and ask the Town Administrator to contact EOEEA to withdraw the application. Raymond appreciates learning the rationale for the Select Board's decision to decline the grant; recommends that, given that the Planning Board submitted the grant, members of the Board have a conversation with the Select Board. Lacy: the MPWG was deliberately composed of diverse people, funds were used for a consultant, the visioning process was conducted civilly and a community vision was developed; the Select Board asked the MPWG to continue its work to develop some areas of focus – fiscal, low hanging fruit and, the primary one, a landscape design study for Lot O32 located in the town center; a number of potential projects were identified in the visioning project; what/how many of the projects could be configured on this lot would be a perfect project for the Conway School of Landscape Design; concomitantly, the EOEEA grant became available; at the same time, DeChiara was talking with Conway about another project; we received the grant and Conway would have been conducting the project now; for some reason, the Select Board pulled back the reins. Lacy states that he heard no controversy about the Lot O32 planning project. DeChiara: this is about town committee protocol and intercommunication between boards; for the Planning Board to submit an incomplete grant proposal to EOEEA without Select Board approval is bad form; the Select Board specifically declined the original project grant; this grant application requires a letter from the chief executive officer and we had time to talk about this. Lacy: it was bad form for the Select Board to step back from accepting the original grant; the current deadline of 5.11.18 was delayed to 5.25.18. Raymond acknowledges the tension surrounding the topic and that DeChiara's motion has not been seconded therefore suggests the Planning Board move on. Lacy moves the Planning Board, in sub-quorum, attend the 5.15.18 Select Board meeting to talk about the grant application and request an endorsement from the Select Board. Raymond seconds the motion. Lacy: the submitted portion of the grant is a placeholder. Lacy, Raymond, Bonnar, and Rotondi support the motion on the table; Aaron abstains and DeChiara opposes; per Bonnar, a majority of the Board is in support therefore the motion passes. Raymond confirms that the purpose of attending the 5.15.18 Select Board meeting is to ask the Select Board to make the grant application legal. Raymond asks the Board to request an opinion from Town Counsel as to whether there is any problem with what the Planning Board did. Bonnar recommends there be no further discussion on the topic at this time.

6. Town Meeting Follow-up: The amendment to Article 18 is reviewed. Lacy: the moratorium is intact with the amendment. DeChiara: Sanford Lewis and Don Wakoluk proposed an amendment that there be no moratorium on tier one or two small home-based cannabis businesses; there is no reason the Planning Board cannot work on zoning for all the tiers; as soon as possible, regular discussion on the topic needs to be on the Planning Board agenda; suggests the Planning Board participate in the development of the a new town cannabis business development committee. Lacy: the cannabis business application process is rigorous, the Cannabis Control Commission is hyper-vigilant about who is licensed; an outdoor site has to be fenced, lighted at night and have surveillance. DeChiara suggests the Planning Board have a full copy of the relevant regulations. Lacy: there is an expectation that communities use discretion in signing community host agreements. DeChiara: if the zoning amendments are ready, the special fall town meeting will be the time to have them considered. Lacy: the Board needs to confer with Town Counsel as to whether marijuana growing facility applicants will need a special permit, i.e. to address abutter concerns about lighting and security; once the Planning Board writes the bylaw, applications for facilities could be made subject to special permit pending town meeting approval. Torres reports that there have been inquiries about the potential for growing facilities in Shutesbury, when advised that Shutesbury does not have town water or sewer or available warehouse structures, they are no longer interested. Lacy: for the purposes of MGL Chapter 128 Section 1A, growing cannabis is considered agriculture however, per legislation, it is not eligible for an agricultural exemption. Lacy: if the bylaw is not ready, the Planning Board can request to extend the moratorium. Rotondi states she is in favor of the moratorium in order for the Planning Board to have control over marijuana growth in town; she is particularly interested in supporting organic growth. Rotondi wonders if there could be an opportunity for municipal growing, i.e. leasing town property. Bonnar reads the 5.9.18 email from Anthony Cheney “Cannabis Cultivation Facility” into the record. DeChiara: it seems as though folks are putting out feelers as other similar emails have been received. Raymond suggests inquirers seeking information about cannabis facilities be invited to attend a Planning Board meeting.

Lacy: the amendment proposing a reduction in driveway width was pulled from the warrant due to concerns expressed by Walter Tibbetts/Fire Chief-Emergency Management Director regarding the width required for emergency vehicle access; there may need to be a role for Tibbetts in planning for the development of driveways. DeChiara: this is a situation where the Planning Board did not confer with Tibbetts as a stakeholder; Tibbetts had to make his point during town meeting. Lacy: the Planning Board held a public hearing about the proposed zoning bylaw amendments. Bonnar notes the difficulty with plowing a driveway well enough for emergency vehicle access and that vegetation growth along the sides of a driveway may impair access. Tibbetts will be invited to a future Planning Board meeting to discuss driveway width and emergency vehicle access.

7. Unanticipated Business: None offered.

At 9:44pm, Raymond moves and Aaron seconds a motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. 5.12.18 email from DeChiara: "Unauthorized grant submission by Jeff"
2. "Wheelock Tract Solar Development Site/Civil Drawings" 2.11.17 revision - Site Detail Sheets 5.0 & 5.1
3. Relevant portions of the 6.7.16 Special Permit for Wheelock Solar Project
4. EOEEA grant "O-32: Master Plan Vision Implementation Study 4.8.18"
5. Excerpts of the 1.23.18, 2.6.18 and 4.3.18 Select Board meeting minutes prepared by DeChiara
6. Amendment to Article 18 "Exemption from Moratorium for Small and Home-Based Cannabis Businesses"
7. 5.9.18 email from Anthony Cheney: "Cannabis Cultivation Facility"

Respectfully submitted,
Linda Avis Scott
Land Use Clerk