

Shutesbury Planning Board

Minutes – July 14, 2025

Approved – August 11, 2025

Virtual Meeting

Board Members Present: Nathan Murphy (Chair), Ashleigh Pyecroft, Steve Bressler, Keith Hastie, Tom Siefert (Associate Member), Deacon Bonnar, Jeff Weston, Michael DeChiara

Board Members Absent: None

Other Staff Present: None

Others Present: Allison Gage

Call to Order: 7:01pm

The meeting is being recorded.

Election of Chair

Motion to name Murphy as Chair of the Planning Board: DeChiara; second: Weston. Vote: DeChiara - Aye; Hastie - Aye; Weston - Aye; Pyecroft - Aye; Murphy - Abstain; Bonnar - Aye. Motion approved unanimously with one abstention (Murphy).

Murphy intends to put the election of the Chair, in the future, on the agenda for the meeting immediately after Town election rather than at the start of the fiscal year.

Public Comment

There are no public comments.

Landowner Education and Guidance

There are no land owners seeking education or guidance.

Review and Vote on Minutes for 06/17/2025, 05/12/2025, 11/25/2024, 11/04/2024, 08/05/2024, 06/10/2024

Motion to approve the minutes of 6/17/25: DeChiara; second: Weston. Discussion: Hastie notes that the last meeting minutes in the Google Folder of draft minutes was for 6/9/25, not 6/17. Pyecroft recalls that the meeting on 6/17 was a brief joint meeting with the Select Board for Siefert's appointment. Murphy asks DeChiara to withdraw his motion and Weston withdraws his second. Each withdraws their motion and second.

Motion to approve the minutes of 5/12/25: DeChaira; second: Hastie. Discussion: Pyecroft notes that someone from the public is named only as "George" with no last name and Murphy observes that the minutes were made from the Zoom recording and members of the public are under no obligation to identify themselves. DeChiara notes that the Land Use Clerk incorporated a number of revisions that he sent and he describes the revisions. Vote to approve as amended: DeChiara -

Aye; Hastie - Aye; Weston - Aye; Pyecroft - Aye; Murphy - Abstain; Bonnar - Aye. Motion approved unanimously with one abstention (Murphy).

Motion to approve the minutes of 11/25/24: DeChiara; second: Hastie. Discussion: Pyecroft asks whether she should abstain if she was not in attendance and DeChiara advises abstaining. Murphy notes that it is not required but it is customary practice to abstain. Vote: DeChiara - Aye; Hastie - Aye; Weston - Aye; Pyecroft - Abstain; Murphy - Abstain; Bonnar - Aye. Motion approved unanimously with two abstentions (Pyecroft and Murphy).

Motion to approve the minutes of 11/4/24: DeChiara; second: Hastie. Discussion: DeChiara notes that he made some revisions to the opening section on Accessory Dwelling Units. Vote: DeChiara - Aye; Hastie - Aye; Weston - Aye; Pyecroft - Aye; Murphy - Abstain; Bonnar - Aye. Motion approved unanimously with one abstention (Murphy).

Motion to approve the minutes of 8/5/24: DeChiara; second: Hastie. Vote: DeChiara - Aye; Hastie - Abstain; Weston - Aye; Pyecroft - Aye; Murphy - Abstain; Bonnar - Aye. Motion approved unanimously with two abstentions (Hastie and Murphy).

Motion to approve the minutes of 6/10/24: DeChiara; second: Hastie. Vote: DeChiara - Aye; Hastie - Aye; Weston - Aye; Pyecroft - Aye; Murphy - Abstain; Bonnar - Aye. Motion approved unanimously with one abstention (Murphy).

Allison Gage, Clean Energy Siting & Permitting Regional Coordinator for Western Region

Murphy recognizes Allison Gage, Clean Energy Siting and Permitting Regional Coordinator for the Western Region, who introduces herself and her background. She explains her role working for the State as the regional coordinator for clean energy siting and permitting. She is seeking feedback and comment from towns as the State works to develop its regulations. She reviews the kind of projects those regulations would govern and their timeline. Tonight she is specifically looking for feedback on the municipal permitting process and the twelve-month review timeline for towns. She asks about how Shutesbury would handle a permit.

Bonnar reviews the Wheelock process and explains that it was lengthy and complex. The entire review process took about three years, particularly because the town did not have sufficient guidance in the Zoning Bylaw for solar projects.

Gage asks if Wheelock also went through the Conservation Commission and Bonnar explains that it did because of the need for wetlands delineations. DeChiara reviews the history of how the requirement of wetland delineations were incorporated into the Zoning Bylaw for solar projects. Gage notes that often solar developers fail to comply adequately with wetlands delineations requirements and so the State regulations may require developers to have those delineations done in advance of the twelve-month review process starting.

Bonnar notes that it would be helpful if the Planning Board were not the authority making decisions about the history of Native American land use on a site. Gage asks if the Historical

Commission issues a permit or has a process for that phase of the review. Bonnar answers that it ended up on the Planning Board and he wishes it had not.

Murphy explains that Wheelock had been a Special Permit application and that during the review of that application the issue of Native American history on the parcel came up. DeChiara adds that there had been a claim of a sacred burial ground, which would be protected under State and Federal law; however, it was difficult to validate that because the landowner did not allow indigenous representatives on the land. The Board thus had to decide if they would follow the non-indigenous archaeologist's determination, because he was allowed on the land.

Pyecroft notes that in the new solar provisions in the Zoning Bylaw there is a process for managing claims of a history of Native American land use, including requiring archaeological review. She is curious to learn about what parts of the Town's Zoning Bylaw will be honored by the State regulations and which will need to be changed.

Hastie recalls that the issue of evidence of Native American use on the Wheelock site had been raised by a member of the public from another town and since then the Historical Commission has created a guide to known features of Native American sites in Shutesbury. He notes that the Planning Board is also better able now to manage those claims given the Bylaw's process.

DeChiara agrees but notes that not all of the sites are publicly known for preservation purposes. He notes that the Historical Commission did develop a recommended procedure and that part of the challenge is keeping the location of Native American sites confidential. He also notes that part of the challenge is making sure representatives from all the local tribes are notified in time and are able to inspect the site to identify concerns. The concern is that landowners can be encouraged to let representatives on the land but they cannot be required to do so. He notes that there is more awareness about this following the Northampton rotary project.

Bonnar would like to see clarity from the State about how to handle this issue and Pyecroft notes that the State should anticipate it happening during this process.

Pyecroft brings up the challenges faced by all-volunteer boards that meet only once or twice a month. She suggests that the State find ways to help small towns with the resources they need to adequately complete an Abbreviated Notice of Resource Area Delineation (ANRAD) for complex projects and keep them on the required timeline. Gage agrees and notes that ANRADS would have to happen before the application can be submitted, otherwise the twelve-month timeline would be impossible. She notes that it can often take eighteen months to complete an ANRAD and if a town does not approve a project within the required twelve months it would be constructively approved, which seems to violate the good faith effort of the town to review the project in a full and responsible manner.

Murphy asks if the regulations are already written in such a way that the process must be done within twelve months, because a developer could put in an ANRAD at the same time and use that eighteen month process to run out the clock.

DeChiara notes that this is being done because the State thinks that towns are taking too long to review projects but he adds that having committees working concurrently does not necessarily make things clearer or simpler. He also notes that previously parties could both mutually agree to extend deadlines if needed but that the current law does not allow that. Gage explains that the option for a mutually agreed upon continuance will likely be included in the regulations. Hastie agrees that having some mechanism to stop the clock would be necessary for exigencies such as hiring an archaeologist to research and write a report or for a consultant to resolve wetlands issues or even get to the site during the appropriate season.

Gage asks whether Shutesbury currently has Special Permits go through the Planning Board before projects go before the Conservation Commission or if both boards review concurrently, or if it depends on the project.

Pyecroft notes that typically ANRADS are done before an application goes before the Planning Board. DeChiara thinks that it goes project by project because some of the smaller projects, like the recent one for Mark Wightman, did not require an ANRAD. Murphy recalls that Peter Gees sought a Special Permit first before bringing his project to the Conservation Commission and the Planning Board simply put in a condition in the permit that any work within a resource area would need to be approved by the Commission. He notes that the Zoning Bylaw does require projects comply also with the Wetlands Protection Bylaw and that violations of the Wetlands Bylaw would thus be tantamount to a violation of the Special Permit. There is thus no specific sequence but there is a requirement of compliance. DeChiara notes that in terms of solar projects in the Zoning Bylaw, they would be required to complete the ANRAD and follow the same requirements in terms of proximity to wetlands as is required in the Wetlands Bylaw.

Siefert asks if the twelve month process would include the drafting of the community benefit agreement or if that would come after the review process. Gage answers that the agreements would only be attached to large projects, which would be going through the State's siting authority, and she believes they would be established during the prefilming process. They would not be part of the small projects she is discussing with the Board today.

DeChiara points out that there is a prefilming community engagement requirement, though, for small projects. Gage adds that there will be detailed requirements for applicants regarding community notice, the posting of information, how public comments are posted, and how applicants demonstrate that they are incorporating public comments into their projects.

Gage explains that the Green Communities Division is developing model bylaws for solar and for battery storage. The intent is that communities that adopt those model bylaws would not be found in violation of Chapter 40A, Section 3. Those drafts will not be available until July, however, and the new regulations are set to go into effect March 1. She explained that they are therefore trying to get the models out sooner so communities can adopt them before the regulations take effect. She asks if there are provisions in the Town's Zoning Bylaw that work well and that might be incorporated into the model bylaws.

Weston thinks that the State should provide a special provision for the towns bordering the Quabbin Reservoir to guard against lithium ion battery contamination entering the Quabbin. He

notes that such a protection already exists around unfiltered water sources in New York and he thinks it should be done in Massachusetts as well. Gage explains that the State can control where these facilities can be sited and so they are trying to include language in the regulations that would prohibit battery facilities being built in Zone 1, Zone 2, well head protection areas, or overlay districts designed to protect water quality. Weston thinks the eight Quabbin towns and the tributaries that feed the Quabbin should be specially identified for protection against battery sites because of the contamination risk to Boston's drinking water.

Pyecroft identifies several provisions in the Town's Bylaw that she thinks the Board would like to see enacted at the State level, including limiting sites to fifteen acres or less and not located in critical Biomap zones or critical natural landscapes. The Board would like a four-to-one land preservation ratio and that solar sites not be located on sloped land (these comments are only in context to the existing provisions of the Zoning Bylaw). She reiterates Weston's concerns about battery facilities putting water and forest resources at risk. DeChiara reviews the history of Shutesbury and Wendell's energy storage bylaws being rejected by the Attorney General and for that reason the language Weston is proposing about energy storage systems is not currently in the Zoning Bylaw.

Gage asks whether the land preservation provision requires the preserved land be on the same parcel as the solar facility being built. DeChiara indicates that it is written that way though the Board has had conversations about being flexible with that. He thinks that, for the purposes of the State's regulations, the goal should be to have it in some proximity to the developed land.

Hastie expresses mixed feelings about the four-to-one set aside being only for solar projects and he thinks it should be applied to any land-clearing development. He explains that if a parcel is not feasible for solar development because of the four-to-one requirement, that could have the effect of pushing other, non-solar development onto that parcel instead.

Gage explains that she does not yet know what will be in the model bylaw but the Department of Energy Resources is currently gathering information about best practices from across the country. Weston encourages the State to gather best practices information for protecting water resources from New York. Gage notes that the regulations would include language allowing communities to prohibit battery storage on water resources and put protective measures in place.

Pyecroft asks if it is expected that all towns will adopt the model bylaws fully or if compliant existing bylaws will still be allowed to stand. Gage answers that it would be the latter and that towns might have to only adopt some parts of the model to get up to full compliance rather than fully starting over.

Weston thanks Gage for listening to the Board.

Murphy asks what alternatives are being considered if a municipality keeps an existing bylaw that may not be compliant with Chapter 40A, Section 3. Gage answers that she does not know.

Murphy asks if there have been any legal challenges to the Attorney General's decision to cite Tracer Lane in overruling municipalities' standalone energy storage regulations. Gage is unaware if there have been any legal challenges to that decision.

Murphy thanks Gage for attending and listening to the Board. Pyecroft asks for the slideshow that Gage shared. Gage agrees and explains the information on the slides. She thanks the Board and will be in touch as the process continues over the year.

Planning Board Designee for FRCOG

Murphy shares that he had been attending FRCOG's Franklin Regional Planning Board (FRPB) meetings and is now looking for another Planning Board member to serve as the Board's designee to FRPB.

DeChiara asks Gage what she knows about discussions to change the frequency of FRPB's meetings and its composition. Gage responds that she believes the old charter allowed for something like eighty members on the FRPB which created problems meeting quorum, so the redesign is going to shrink the size of the Board. She is not aware of changes to meeting frequency but the changes to the charter are to match what the FRPB was actually doing. Each town will still be invited to send a representative, just not so many people per town.

Murphy asks Gage if she is aware whether Select Boards make the choice for Planning Board designees and she answers that she assumes Planning Board choose their own designees.

Siefert notes that there are only six members listed on the website and Murphy notes that those individuals are only the executive committee of the FRPB.

DeChiara offers to share the duty of designee with anyone else who might be interested. Siefert asks how often FRPB meets and when. Gage answers that it is usually quarterly on Thursdays at 6pm, in hybrid format except for one in the summer that is in-person. Murphy notes that he thinks the Town can send two designees—one from the Select Board and one from the Planning Board. DeChiara will check with FRCOG about how many designees the Town gets and how they should be appointed. Murphy indicates that the Board can then make a decision on this at its next meeting.

Discussion of FY '26 Goals and Possible Bylaw Amendments

Murphy raises some topics that may be of interest for the Board to consider this year, including affordable housing, manufactured housing, and data centers. He starts with the issue of data centers because the Land Use Clerk recently received an inquiry from a New York consulting firm that advises companies on solar, energy storage, and data center siting. He explains he is not too concerned about the Town receiving a proposal for a data center because the price of energy in New England is among the highest in the country but that does not mean this is not worth considering including in the Zoning Bylaw. He notes the Land Use Clerk provided some initial research into the topic and DeChiara was interested in considering including a regulation for data centers in the Zoning Bylaw.

DeChiara shares his concerns about data centers using lots of electricity and water and producing lots of noise. He suggests this is in keeping with the general trend of moving industrial uses into rural areas. He offers to do some research on this for the Board and then the Board can decide it wants to act on that information. He compares the situation to when the Wheelock project was proposed and there was nothing in the Zoning Bylaw regulating solar facilities so the Board had to consider it under the category of light industrial. He thinks the Board should have information in advance so it can decide if there should be a specific category for this use.

Murphy notes that under light industry, a data center could be allowed by Special Permit in Roadside Residential and Forest Conservation zones but not in the Town Center or Lake Wyola zones. The Board can also regulate using the conditions for Special Permits under review criteria, but Murphy advises caution in relying too much on those because Special Permits are meant to allow for a specific use. He is concerned that relying too much on general review criteria thus might expose the Board's action to litigation. He notes that a data center project in Lowell, Massachusetts, required a great deal of on-site diesel power generation and that might be a real concern for Shutesbury. He suggests that batteries alone would be insufficient as a backup power source but they could be used for consistent energy to the electric equipment and people in town have concerns about energy storage systems. He describes large data center projects in the south that take up hundreds and hundreds of acres and he wonders if a project in this region would need to be on a smaller scale. He notes that such a facility could potentially bring revenue to the Town. He considers whether appropriate projects could be encouraged through zoning and then regulating those attributes of use that the Board would want to discourage. He notes that there is also nothing preventing the Board from prohibiting data centers outright.

Pyecroft agrees with the idea of DeChiara doing some research into this and sharing what he finds. She notes that as technology expands there will be more and more data center projects so it is good for the Board to be prepared. She wonders if there is a level of data center development that might be worth allowing in a protected way.

Murphy brings up the topic of manufactured housing, which is related to the discussion over the past year regarding accessory dwelling units. He reviews the history of manufactured housing and trailers and trailer parks. He notes that some of the traditional concerns about manufactured homes is that they are temporary and they do not appreciate in value. These concerns are not necessarily true anymore but these questions should be considered. He notes that manufactured housing is potentially a way to address concerns about home affordability and asks if the Board would like to pursue this topic this year.

Pyecroft expresses interest in this and could do some research into what other towns are doing about manufactured housing.

Siefert asks if the topic for discussion is an alternative structure on a regular lot or if the concern is with mobile home parks or manufactured home parks as well. Murphy does not think the Board would be looking to change the Zoning Bylaw to allow for mobile home parks, only for changing the Bylaw to allow a manufactured house on a legal lot. Siefert explains that Wendell

has a Board of Health regulation to allow for one manufactured home park. Murphy says the Board could discuss that option as well.

DeChiara notes that mobile home parks will raise some controversy because it will require making a decision about where in town it would be allowed. He points out that having one manufactured home on a parcel would serve as an affordable home and he speculates on the history of why they have been prohibited in the past, including possible socioeconomic discrimination. He thinks it is worth having a discussion on the subject.

Murphy thinks that the prohibition was probably one of the many restrictions that was put into the Zoning Bylaw following the Subdivision Control Act. He will do some more research into the subject and he encourages other Board members to do so as well and to share what they find. He raises the possibility that at some point a consultant might be required to help on the subject. He thinks that allowing a single manufactured home on a parcel in alignment with existing dimensional requirements would not be a huge change, though allowing a manufactured home park or subdivision would be more of an issue.

Murphy brings up the idea of how the Board might develop a relationship with a consultant to assist the Board with reviewing applications for Special Permits. He notes that under State law and the Town's Zoning Bylaw, the consultant would be paid for by the applicant and would help the volunteers on the Board with their expertise. DeChiara recalls that for Wheelock the Board used a stormwater consultant, Tighe and Bond, and a UMass professor as an archaeological consultant. Murphy asks if anyone would be opposed to having the Land Use Clerk put together information about potential consultants who could help when applications are submitted.

DeChiara brings up the question of setting a thirty-day limit on renting accessory dwelling units. He notes the Board could wait and see if short-term rentals become an issue before deciding whether to act on it. Murphy is disinclined to address the topic but indicates that others on the Board who are interested in it could research it further. Pyecroft asks for a reminder about where it stands in the current Zoning Bylaw and Murphy answers that short-term rental is allowed. Murphy reads from the relevant section of the Bylaw and explains its meaning relevant to short-term rentals of rooms in a dwelling. He suggests that there is a difference between renting a room in a dwelling and renting an entire dwelling such as an accessory dwelling unit.

Pyecroft would like the Board to focus more on affordable housing and notes the example of Pelham's recent affordable housing project, though she notes that Pelham has Town water and sewer. She raises concerns about potential predatory development because the Town does not meet the 10% affordable housing stock. Murphy thinks that the lack of public water and sewer would make it extremely unlikely that there would be a predatory development in town. DeChiara notes the example of the property in Leverett that was under consideration for a large development but that is contingent on water being extended there from Amherst. Murphy notes the State-level efforts to extend Quabbin water to some of the towns around the reservoir, which could change this barrier, but it does not seem imminent.

Member Updates

Murphy congratulates Siefert on his appointment to the Lake Wyola Advisory Committee. Siefert notes the Committee will meet this coming Saturday.

Unanticipated Business

There is no unanticipated business.

Executive Session

Murphy designates DeChiara as acting chair for the remainder of the meeting.

DeChiara invites Siefert to join the Executive Session.

Motion to enter Executive Session for Reason No. 3, to discuss strategy with respect litigation if an open meeting may have a detrimental effect on the government's litigating position; litigation specific to Complaint received from Cowls regarding the Shutesbury Solar Bylaw; Board will not return to open session: DeChiara; second: Weston. Vote: DeChiara - Aye; Hastie - Aye; Weston - Aye; Pyecroft - Aye; Murphy - Abstain; Bressler - Aye; Bonnar - Aye. Motion approved unanimously with one abstention (Murphy).

The Board enters Executive Session at 8:45pm.

Adjournment

The meeting is adjourned from Executive Session.

Adjourned: 9:15pm

List of Documents Used:

- Draft minutes of 05/12/2025, 11/25/2024, 11/04/2024, 08/05/2024, 06/10/2024
- Slideshow presentation by Allison Gage, Clean Energy Siting and Permitting Regional Coordinator for the Western Region