

Shutesbury Board of Selectmen Tuesday November 13, 2012 Meeting Minutes

Members present: Chairwoman Elaine Puleo and members Al Springer and April Stein.

Also Present: Town Administrator Rebecca Torres, Administrative Secretary Leslie Bracebridge recording.

Chairman Puleo opened the meeting at 6:30 P.M. at the Shutesbury Town Hall

Appointments

Police Chief Harding:

- Fielded questions concerning the proposed rules and regulations for an auxiliary police force:
 - Belchertown's rules were used as a basis for Shutesbury's rules.
 - There is only one candidate left who is currently interested in becoming an auxiliary officer.
 - Why do they have to be a Citizen of the United States? Swear to allegiance to United States. Why do they have to be a resident? They will work in Shutesbury. What if they are in the military? They can be in the military.
 - To a request, a few examples of when an officer would not be working with or supervised by a member of the Police Department were given.
 - Minor editorial change.
 - Wording adjusted to prohibit use of any form of Internet social media messages or photos postings in #6, on Page 5.
 - The rules do not need to be run by Town Counsel. Town Counsel outlined the regulations that should be added to Police regulations.
- An auxiliary officer interview was set for 6:30 PM (Note: Moved to 7 PM on 11/16/12) at the Nov. 20 Select Board meeting with Chief Harding and Officer Soto.

Selectmen unanimously voted to approve the Shutesbury Police Department Auxiliary Police force regulations.

- Chief Harding will meet with Administrator Torres and Chairman Puleo on Nov. 16 at 7:30 AM.

Board of Assessors Tax Classification Hearing – with Administrative Assessor Kenneth Holmberg:

- Options available to the Select Board to shift the tax burden from residential to other classes:
 - Without any shift, the residential tax rate will be \$20.27/\$1,000 of value.
 - If shifted, the commercial rate could be a maximum shift of 150%. This would be only a very slight benefit to the residential class.
 - The Board of Assessors does not feel it is fair to penalize the commercial property owners when there is little benefit to the residential tax payers. Through Administrative Assessor Holmberg, the Board of Assessors sent their encouragement that the Board of Selectmen vote to accept a single tax rate.

Selectmen unanimously voted to authorize Chairman Puleo to sign the form for a single tax rate – “each class to maintain 100% of its full value tax share, a Residential Factor of 1.

- Another option for shifting the tax burden within the residential class is between residents and non-residents: The Board of Assessors does not recommend a resident/non-resident split because they do not want non-residents to sell their properties and move out of town.
 1. **Selectmen unanimously voted not to split the rate between resident and non-resident residential property owners.**
 2. **Selectmen unanimously voted to not adopt a small commercial shift.**
 3. **Shutesbury does not have an option for an Open Space shift.**
 4. **Selectmen were notified that there is \$23,327.01 in the excess levy capacity.**

At 7 PM the Selectmen unanimously voted to recess their meeting to attend the special town meeting and to reconvene as soon as the special town meeting is complete. They reconvened at 7:55 PM.

In the presence of Police Chief Harding and Fire Chief Tibbetts, Selectmen met with Shutesbury Athletic Club (SAC) President Paul Danielovich and SAC member Karen Traub:

- **Review of cause for a December hearing from the Massachusetts Alcoholic Beverage Control Commission (ABCC):** Reasons for the hearing appear to be:
 1. Serving alcohol to a minor
 - a. Chief Harding said C 138 S. 64 is suspension of license and may or may not be for serving alcohol to a minor.
 - b. Paul has not yet read the notice.
 - c. Does not understand where the complaint is from because only members are served and members must be 21 years old.
 - d. Wonders if this accusation could be resentment coming from someone who was “let go” from employment at the Club by a vote of the Board of Directors.
 - e. When asked, Chief Harding responded that usually if someone from the ABCC is sent out to test if an establishment is serving to under-age people, the establishment hears on the spot if there was a problem. This may be a complaint from another source.
 2. Non-payment of unemployment insurance:
 - a. Paul knows that back payments are being made for something, he’s not sure what. He will consult with SAC Treasurer Laurie Doubleday.
 - b. Suggests that a number of times in the past there have been concerns which in the end, the SAC has been in compliance with; in those cases it’s just been a matter of what one state department was telling or not telling another state department.
 - c. After conferring with the SAC Treasurer, Paul or someone from the Club will contact state officials to understand what the details of the complaints are.
 - d. If the hearing is from a private complaint, it could be for any number of reasons. If the complaint was made after September 22, when the SAC let an employee go. Subsequent to September 22, Paul received anonymous hate-mail at his home, then his wife received hate-mail and then town officials received an anonymous complaint about Club closing time. This mail could be due to the former employee being unhappy to be let go.
 3. Not related to the ABCC hearing, Paul denies the anonymous complaint sent to the Board of Selectmen, that the Club is open beyond authorized hours:
 - a. Paul shows the Select Board September security alarm reports and states that when the alarm time is after the closing time it is because it takes time for the bartender to clean-up and close up. There can easily be 45 minutes of close-up work following a busy night.
 - b. Selectmen request October and November closing alarm reports also.
 - c. To a question, Chief Harding suggests that the anonymous note may more likely be from someone in the neighborhood than as a result of the person being let go. The anonymous complaint reports music and noise in the bar at 2 AM and with people in the parking lot.
- Elaine requests that Paul report back to the Select Board of the December 6 ABCC hearing results.
- Selectmen will meet with members of the Club on November 20 to receive the license renewal application and again on December 18 for license renewal approval and to review the final draft of the Memorandum of Understanding:
 - Fire Chief Tibbetts cautions: A function cannot be where the draw is music. If those functions occur, than Chief Tibbetts must require that the SAC install a sprinkler system. Then the SAC would have either to install the sprinkler system, which would be cost prohibitive or go to the review board for a waiver. It is not likely that a waiver would be

- granted. The SAC “walks a very, very fine line” of allowable activity without a sprinkler system. When the Club advertises live music only, it crosses that line.
- Paul: The events that Chief Tibbetts refers to are private parties; not for the public, so they are allowed.
 - Police Chief Harding: 3 Saturday evenings in December list live music with no mention of the events being private parties. Paul: Didn’t write the list Chief Harding refers to.
 - Chief Tibbetts: The private party needs to be clearly stated in the events list and any advertising. He repeats that his “hands are tied” if the SAC crosses that line.
 - If events are advertised for a meal and afterward people just stay for music that is clearly associated with the meal; that is “OK.”
 - Music without a meal is one of many trigger points. Refers to the 2004 letter that is sent out annually with the renewal: Chief Tibbetts states that he went through a lot of trouble to get the designation for the absence of a sprinkler system. It’s up to the SAC to follow the meal rule, not for the Fire Chief to enforce.
 - Repeats: If the SAC violates the meal as the main event with music associated to the meal, than his “hands are tied.”
 - Other triggers have to do with lighting and access. To questions of why that is so:
 - Just drinking and music is considered to be very different from sitting down to a meal and then listening to music after: The former is considered to be a discotheque. The law was created in 2004 (following the Rhode Island discotheque fire.) The meal provides something else.
 - Controlled number of people: Such as a wedding by invitation is not wide open to unlimited members of the public.
 - Timing is important also. An event open to Club members which offers an early meal and then dancing at 9 PM, is still a “gray area that the Club is at the edge of all the time.”
 - Chief Tibbetts does not want to be the one to have to close the doors.
 - Selectmen will meet with SAC President Danielovich Nov. 20 concerning license renewal papers:
 - Building Inspector was at the Club 2 weeks ago. Chief Tibbetts has not yet received the permit first signed by the Building Inspector with the final signature from the Fire Chief following the Fire Chief’s inspection.
 - Administrative Secretary Leslie Bracebridge reports having reviewed the re-licensing papers with SAC Secretary Jennifer Donnelly:
 - Jennifer was waiting for the SAC Board of Directors to meet to decide upon possible expansion of the outdoor drinking area to be a part of the renewal process or a separate independent application.
 - The difference is that the renewal can go right through without the application, \$200 fee to the state, notice to abutters and newspaper notice that the expansion of drinking areas outside would require. Jennifer was leaning toward a simple license renewal with application for expansion to follow, if approved by the SAC Board of Directors.
 - An application for expansion for outside drinking was expected by Jennifer to follow shortly for the SAC to be ready for snow-mobile season.
 - Leslie needs a better understanding of the requirement for enclosure of any outside drinking area expansion: Is fencing required to keep under-aged people from entering the supervised drinking area? Paul feels that a fence is not needed along the woods of the field; a fence along the roadside would be adequate. He explained that enclosures may be necessary for more confined in-town establishments. He asked who would park down Wendell Road and walk through the woods in order to get a drink? Leslie

cannot find anything concerning enclosures on the ABCC website, and agrees with Paul's assessment that it is hard to work with or to get information from the ABCC.

Topics

1. Select Board review of Auxiliary Police Rules and Regulations:

- See discussion with Chief Harding above.

2. Union #28 Health Insurance Agreement between the 5 towns.

- Reference to Union 28 health insurance included in the wording provides for one check rather than 5 checks to be written.
- Becky will add the new wording tomorrow.
- Becky need to check with New Salem/Wendell and Leverett before the agreement is finalized.

3. Memorandum of Understanding (MOU) for the Shutesbury Athletic Club: See discussion with Chief Harding above.

4. FRTA Update:

- Meeting was cancelled so there was no report.

Select Board Action Items

1. Auxiliary Police Rules & Regulations: See vote in appointments above.

2. Tax Classification Hearing: See votes in Appointments above.

3. Community Development Survey review, vote:

- 1 change to the prepared survey was put forth by the Library Director:

Select Board unanimously voted to approve the Community Development Survey with the one change put forth by Library Director Mary Anne Antonellis.

4. Cultural Council Grant:

- Selectmen unanimously voted to sign the standard contract form for receipt of the Local Cultural grant funds.

5. Community Innovations Challenge (CIC) Grant: Elaine reported:

- The grant application is not completely prepared yet.
- The Regional School District Planning Committee (RSDPC) hasn't yet heard if they got the earlier grant funding from the Department of Elementary and Secondary Education (DESE):
 - i. The Committee hoped to hear from the DESE in October regarding award of funding which was intended for consultant research and must be used, if awarded, by April 2013.
- The CIC grant, still to be prepared, would be used, starting in April 2013:
 - i. The RSDPC will be asking for an extension to use the funds, if granted, through June of 2014.
 - ii. The funds will be used to continue the process if the committee votes to move forward.
 - iii. While written as if the committee is going ahead with regionalization, nothing will be done with the money if the board decides that it is not going ahead with regionalization.
 - iv. Funds will be used for such things as legal expenses, publicizing town forums, childcare, food, how we step forward the process of collective bargaining due to causing towns (including Shutesbury) to raise salary rates, and fees to construct a regional agreement.
 - v. If the extension of use of funds through June of 2014 is agreed to and if all the town meetings vote to go forward, the grant funds will help with implementation of changing things such as phone systems, bus routes, and all other incidentals associated with moving forward.
 - vi. The RSDPC will ask for \$150,000 for these purposes.
 - vii. The grant application is due on November 30.

- viii. The Amherst Public School District is the lead on this so Superintendent Maria Geryk will sign for the Amherst schools.
- ix. Each Select Board and each School Committee in each town is being asked to endorse this letter. The Shutesbury School Committee will be asked to sign on Thursday (11/15)
 - o The Shutesbury School Committee will hold a community forum regarding regionalization at the school on December 4 at 7 PM. (The Selectmen will meet at 6 PM at the elementary school on December 4 for their regular meeting and then join in the forum at 7 PM.)

Selectmen unanimously voted to approve local support for the Community Innovations Challenge grant to explore regionalization of the elementary school districts of Amherst, Pelham, Leverett and Shutesbury. (Secretarial note: RSDPC, used by Shutesbury Committee members is also known as RSDPB, with B standing for "Board" by the Amherst people who send out the meeting notices.)

- 6. Minutes of the October 23 Select Board meeting were approved as written. Minutes of the October 29 were approved as written by April and Al as Elaine did not attend the meeting.**
- 7. There were no payroll warrants to sign.**
- 8. There were no vendor warrants to sign.**

Actions not anticipated

- 1. Chairman Puleo signed additional FEMA papers for PW-385.**
- 2. Becky recently emailed the Select Board with initial positive reports following recent contaminated soil monitoring well tests done at the Fire Station:** O'Reilly Talbot and Okun's Professional Engineer and Associate John Henry reported to Becky that there was no gas odor in the rescue bay wells, which was the worst area. There was an odor in the well nearest the wetlands. There were no odors in the other inside well. The full report will come in next week.
- 3. With no objections from Chief Harding, Selectmen unanimously voted to approve the request of Michael A. Norton of Monson for Select Board permission for a bike race to travel through Shutesbury on Route 202 on April 27, 2013, as described in Mr. Norton's November 4 letter.**

The Select Board **adjourned at 8:53 P.M.**

Respectfully submitted,

Leslie Bracebridge
Administrative Secretary