

Shutesbury Select Board Meeting Minutes  
March 15, 2016 Shutesbury Town Hall

Select Board members present: April Stein/Chair, Mike Vinskey, and Michael DeChiara  
Staff present: Becky Torres/Town Administrator and Linda Avis Scott/Administrative Secretary

Guests: Police Chief Tom Harding, Police Sgt. Wendy Masiuk, Attorney Donna MacNicol/Town Counsel, Alan Weiss/Cold Spring Environmental, Al Werner/Water Resources Committee, and Ralph Armstrong/Personnel Board

Stein calls the meeting to order at 7:33pm

Issue Not Anticipated by the Chair:

1. Shared Police Chief/Chief Harding: last fall, other towns looked at the shared chief role; strictly as cost saving measure, a shared chief is a benefit over the long term, it does not save costs in the short term; the Novak Consulting Group has done most of the research on shared chief arrangements; this would be regionalization or a shared chief arrangement between three towns: Sunderland, Leverett and Shutesbury. Torres: you do have to consider that sergeants do not want to see chief positions go away. DeChiara: the union's role? Harding: there will have to be parity; Sunderland and Shutesbury have different unions and Leverett has an association; with a shared chief or regionalization, a career impediment is placed in front of sergeants; regionalization is going to come at some point in the future. Harding: Franklin Regional Council Of Governments (FRCOG) has some grant funds for consulting; Williamsburg's study took three months – Williamsburg and Chesterfield have a shared chief; Novak Consulting Group has the expertise to collect statistics; it will take a long time to convince the community. Harding: the Sunderland chief is retiring; Leverett's chief has two years left on his contract. DeChiara: is it worth doing the research if we are not ready? Harding: call volume and contract/wages may change; the core (staffing) won't change; if we share a chief, who would cover the day shift; the total number of vehicles needed would decrease. Stein: what is our next step? Harding: Sunderland would like to hire their new chief before the end of the fiscal year; their Town Administrator has experience with a shared chief situation. Harding: my role is to bring the concept to the Select Board for consideration. DeChiara: with regionalization, a new entity is created; sharing a chief is like Union 28. MacNicol: pressure for regionalization is coming from the State; right now, regionalization is more critical for fire departments that do not have enough volunteers to operate. MacNicol: FRCOG has had enough foresight to do a study; it makes sense to look at this issue for both departments. Torres: we talked with Leverett and Sunderland four years ago about sharing fire department resources and decided not to move forward at that time. Masiuk: fire departments are able to operate with volunteers; police departments cannot. Vinskey suggests a letter of interest be sent to Leverett and Sunderland. Torres will draft the letter. Harding: once Sunderland fills their chief position, the opportunity is gone. At 7:54pm, Harding and Masiuk leave the meeting.

At 7:54 pm, DeChiara moves and Vinskey seconds the motion to go into Executive Session for Reason #3/salt issue and to resume Open Session: Vinskey: aye, DeChiara: aye, and Stein: aye.  
Open session is resumed at 9:09pm; Ralph Armstrong/Personnel Board joins the meeting.

**Discussion Topics:**

1. Executive Session Procedures: DeChiara: about a month ago, there was discussion about matters with the Town Administrator and MacNicol advised Stein that an executive session was needed relative to reason #1; if in the course of discussion, there are official complaints, what is the procedure? MacNicol: if there is going to be any kind of warning or reprimand you go into executive session; employees have a right to confidentiality and privacy. MacNicol emphasizes that the Open Meeting Law does not adequately address confidentiality and privacy; there is statute that requires privacy and confidentiality for employees; the continuum goes from evaluation to termination; as soon as it becomes a specific complaint rather than a performance evaluation, the privacy statute trumps Open Meeting Law because employees are guaranteed privacy and the public's right to know is policy. DeChiara: the continuum starts earlier; employee x is supposed to prepare packets for a certain date, if that doesn't happen, it effects Select Board function. MacNicol: you talk directly to the employee or, if it is a complaint, you go into executive session; you have a right to ask the employee to take a certain action; discussing whether an employee is meeting responsibilities is done in executive session; in open session it is fine to ask an employee to change the way a task is being done. MacNicol: it is not black and white; whenever you have any negative component to a discussion with an employee, you need to do so in executive session; you will want to err on the side of protecting the privacy of the employee. DeChiara: the Select Board is accountable to the voters; if town residents have issues and they bring them forward and they only have access to the positive (in open session), are we being accountable? MacNicol: the Select Board is elected to be the chief executive officers, part of which is the responsibility for managing personnel that is private and personal. DeChiara: how about roads? MacNicol: whether a road is maintained is not an employee discussion about the highway superintendent; if it turns out to be a complaint about an employee, you go into executive session. DeChiara: if the complaint is about how decisions are being made? MacNicol: if a citizen comes to a Select Board member with a letter complaining about an employee, you would explain to the citizen that the written complaint will be dealt with in executive session; the letter is not an attachment to the open session minutes. MacNicol: you may call an employee into executive session for misuse of town property; if a discussion may involve discipline or a charge against an employee, you go into executive session; if an employee feels their employee rights are challenged, the discussion is held in executive session.

2. Evaluations: MacNicol referring to the article “The Annual Performance Review is Insulting, Ineffective, and Outdated. Let It Die”: performance evaluations don’t serve a purpose and can cause problems; if people are not trained in how to do evaluations, they are too nice or too harsh and you end up with an evaluation document that isn’t meaningful. MacNicol: you are either aware of an employee’s functioning or not; you can’t do an evaluation if you don’t know the employee. Stein: there is no statute requiring evaluations; many towns are discontinuing evaluations because the forms are not meaningful. Vinskey: how do you determine if employees are doing a good job? MacNicol: if there is discipline in their file, i.e. as per the Code of Conduct. Stein: you see if there have been written or verbal warnings. MacNicol: problem employees should be brought to your attention. MacNicol: another way is to talk with their supervisors; employees have the right to be represented; what are you doing with these employees other than appointing or terminating them? DeChiara: we supervise the police and fire chiefs and highway department superintendent; how does one ensure, in the public realm, the taxpayer is getting what they pay for? MacNicol: in a small town, it is usually public knowledge, i.e. is the fire station clean, is the chief attending meetings and providing updates. Vinskey: is someone getting singled out? MacNicol: do you need to have a discussion to ask the highway department a question about truck maintenance rather than just asking the superintendent? MacNicol cites an example in which a Select Board member raises concern about Highway Department trucks being dirty, others Board members agree with that member checking out the concern; he reports back that there was no problem as the trucks were dirty due to work in muddy conditions; if there is a problem, you instruct the Superintendent that you want clean equipment; some Select Boards have liaisons to different departments; in a small town, you are going to know if there is a problem. Vinskey: if something occurs in an office setting that is part of a person’s job description and it is not getting done and causes an expense to correct? MacNicol suggests bringing the employee in to discuss the area of concern; if there is a good explanation for the situation, okay; if not, you may give a verbal warning. Vinskey: is it appropriate to bring this situation to the Select Board in open session? MacNicol: no, you will need to plan for an executive session. Vinskey: the first time the Select Board talks about the matter, the employee has to be present? MacNicol: you want to err on the side of the employee; if you have a discussion about an employee in open session and it warrants discipline you cannot give it and you have violated the right of privacy. MacNicol: laying out a plan of action is a form of discipline. DeChiara: requests more information from Armstrong and Stein as members of the Personnel Board. Armstrong: the Personnel Board is currently having a discussion about performance reviews; states he is against employee reviews. MacNicol: more and more Human Resource (HR) specialists are moving away from evaluations. DeChiara: as the body responsible for the town running well, we need a mechanism to ensure accountability is in place; it is unclear to me that there is such a mechanism in Shutesbury. MacNicol: that is the reason the liaison system came into being; the liaison’s job is to keep an eye on their particular department; the Fire Department Chief can discipline his staff; the Police Chief must come to

the Select Board regarding matters with his staff. Armstrong recommends staying away from evaluations; notes that the FinCom provides continual reports so the Select Board knows whether departments are over/under budget; what are your schedules for meeting with the Highway Superintendent, Fire Chief, and Police Chief; you have job descriptions so you know what they are supposed to be doing; you can set goals and you know their financial situations. MacNicol: you need to meet with department heads and need to develop your own internal guidelines for how you will work with personnel. DeChiara states that he likes having a cycle for meeting with people. MacNicol: if you task them with telling you how their department is running, you establish a rapport and let them know who to call if they have a problem with an employee or otherwise. Vinskey: this is not the first time we are hearing these suggestions; we don't get department head reports on a regular basis. MacNicol: emphasizes the importance of communication and having a general sense of how the town works; recommends a regular rotation of department heads coming to Select Board meetings. DeChiara: is goal setting a discussion? MacNicol: you could meet with each department head and ask them to bring their goals. Armstrong cautions about the use of goals and suggests using obvious goals, i.e. are we keeping the roads open. Torres: we could convert the evaluation form to be only about goal setting. Vinskey: we could meet with a department head about what they expect to do in the coming year, i.e. what are the needs of their department, is the job description accurate. Torres: the Personnel Board reviews the job descriptions. Armstrong emphasizes communication, dialog, and finding out what is challenging for employees. DeChiara: the whole point is serving the town.

Issue Not Anticipated by the Chair:

Payment in Lieu of Taxes (PILOT): MacNicol: the Planning Board voted to authorize Jeff Lacy to draft the special permit with conditions (for the Wheelock Parcel ground-mounted solar array project); we are getting close enough that it is time for the individual members of the Select Board to become educated about PILOTs; is it not time to invoke the Rule of Necessity. MacNicol: Attorney Michael Pill/representing the applicant has informed her that once the special permit is approved, the applicant will come to the Select Board for a PILOT, which is part of their operational costs. Torres: we will need information about their operational costs to work on the PILOT. MacNicol: we are close enough for each of you, individually, to begin to prepare for the discussion.

At 10:14pm, DeChiara moves and Vinskey seconds the motion to adjourn the meeting; motion passes unanimously.

Items and Other Documents Used in the Meeting:

1. 1.20.16 "MoneyBox" blog article: "The Annual Performance Review is Insulting, Ineffective, and Outdated. Let It Die"

Future Select Board Meetings:

March 22, 2016 6:30pm Shutesbury Town Hall

March 29, 2016 5:30-7:30pm Shutesbury Town Hall

April 5, 2016 6:30pm Shutesbury Town Hall

April 19, 2016 6:30pm Shutesbury Town Hall

Respectfully submitted,  
Linda Avis Scott  
Administrative Secretary