

Shutesbury Select Board Meeting Minutes
September 6, 2016 Shutesbury Town Hall

Select Board members present: Mike Vinskey/Chair, Michael DeChiara, and Melissa Makepeace-O'Neil

Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary

Guests: Michael Hootstein, Rita Farrell, Martha Favre, Fire Chief Walter Tibbetts, Mike Miller, and Penny Jaques/Conservation Commission.

Vinskey calls the meeting to order at 6:32pm.

Agenda Review completed and future agenda items for 9.20.16 reviewed.

Public Comment Period: Hootstein appreciates the school system including Union 28, Shutesbury Elementary School, and the Regional system; two Regional School Committee members and one former member have been threatened with lawsuits and he has read the federal lawsuit against individual Planning Board members. Torres: the Select Board can only talk about the federal lawsuit in executive session. Hootstein notes the need to be able to voice his concern; when you have individuals from any board being sued, they are entitled to immediate legal representation; a Town Administrator is not a decision maker – the Select Board makes decisions; it is important to take a step back – our schools are the wealth of our community – we need to come together to create an open dialog so that the least among us can voice our fears. Hootstein continues by noting the difficulty in selling property; does not see how we can disagree about supporting our volunteer board members; notes the need to respect the Open Meeting Law and the need to continue to build the legacy that keeps us all together. Hootstein wants to ensure monies paid to the Regional School system are not going somewhere else, i.e. the Pelham School.

Discussion Topics:

1. Fire Chief Walter Tibbetts' Review: Vinskey explains that the Select Board is meeting with department heads on, at least, an annual basis to review their relationships with the Board – what is working and what can be improved. Tibbetts: sometimes there is a disconnect with the Select Board, i.e. sending emails and not receiving a timely response though has noted an improved response time in the past few months. Tibbetts: in the past, communication had to run through Torres; there is less of a burden on the Town Administrator to be able to communicate directly to the Select Board. Vinskey: how much information does the Select Board need to know about Fire Department activities, i.e. new Personnel Action Forms (PAFs)? Tibbetts: we are always looking for additional volunteers; we never come close to running out of stipend funds. Vinskey: does the Select Board need to know about the status of equipment needs/maintenance? Tibbetts: it depends upon what you want to know; in the past, we had a liaison from the Select Board; I have an open door policy; acknowledges the Select

Board presence on the Emergency Management Team; will apprise the Select Board if they are micro-managing. Vinskey: how much should the general public know about Fire Department activity? Tibbetts: residents do find it helpful to know about the Department; sometimes folks stop in for tours; sometimes residents do not know the Department is not full time. Vinskey: the Select Board has been focusing on communication for the past year and a half; asks Tibbetts if the Fire Department is able to keep their webpage current. Tibbetts: we have received positive responses to our new Facebook and Twitter accounts; notes the need to keep information on social media platforms current – this is something that could be improved upon; Paul DeMarco and Mark Foster are resources for updating the Department’s page. Makepeace-O’Neil: has the Department put reports in the newsletter? Tibbetts: more information could be provided; we did more in the past. DeChiara: how prepared is the Town? Tibbetts: we are further along than some; there is a risk management balance for where to put time/money; there have been more frequent community awareness and preparedness activities of late, i.e. a recent ham operator volunteered to assist. Makepeace: does the Fire Department work well with the other departments? Tibbetts: yes, particularly Police and Highway; the new radio system is particularly helpful. Vinskey suggests working on communication – the goal is to get more information out to residents about what the Department provides for the town. The Select Board will see that Tibbetts receives responses and has his needs met as soon as possible. Tibbetts will provide the Select Board with intermittent reports on Department activities. DeChiara: needs for this fiscal year? Tibbetts: the Department’s wish list of capital items was completed; next fiscal year, there will be safety equipment to update - some of these updates were recommended by the insurance company. Tibbetts: the Department is rotating and replacing equipment based on the lifespans for safe use; the Department has done well with grants; Town support for equipment funding is appreciated.

2. Paving the Fire Station Lot: Vinskey, referring to Tibbetts’ 8.29.16 letter: there is some concern that the office space in Town hall does not meet the needs of the Police Department and there is a possibility the Police could be accommodated in the Fire Department facility – how will the paving affect this? Tibbetts: delaying the paving project would be a safety issue - the height difference between the bay and the driveway is problematic as well as the accumulation of dirt/dust within the station; it would not make sense to pave if building expansion would occur within 1-2 years. Vinskey: what are the next steps? Torres: funding would come from either town meeting or, if okay with Hunting, Chapter 90 funds; acknowledges Tibbetts’ goal to have the paving done before winter therefore seeking funding during the fall special town meeting may be appropriate; recommends seeking guidance from the FinCom. Tibbetts: will there be wetland issues? Jaques recommends filing a Request for Determination of Applicability; it is noted that paving would decrease the amount of runoff into the wetland. Tibbetts: Hunting used last year’s black top pricing, therefore the material’s price will be closer to \$18,500; labor costs may increase; both he and Hunting have confidence in McLaughlin Paving.

3. Conservation Commission Appointment: Jaques: for many years, the Commission has had four rather than five members; Mike Miller is an environmental chemist, new to Shutesbury, and interested in joining the Commission; he has attended several meetings and site visits. Miller explains that he works remotely as an environmental chemist specializing in the remediation of hazardous waste and the cleanup of contaminated water. Vinskey moves and DeChiara seconds the motion to appoint Michael Miller to the Conservation Commission; motion passes unanimously. The Select Board appreciates Miller's willingness to serve on the Commission. Miller speaks of his gratitude for the opportunity to volunteer.

4. Pratt Corner Road Right of Way Easements: DeChiara appreciates that Torres went to FRCOG to gather information and states that he wants to reframe the issue; understands that in 1812, Shutesbury asked the County to take responsibility for the road. DeChiara: subsequent to the 8.9.16 Select Board meeting, an email from Michael Pill requesting documentation was received on 8.26.16; per Torres, most of the roads in town are easements – Pratt Corner Road may have been a fee taking. DeChiara notes the necessity of knowing the status of each road in town and suggests asking FRCOG to do the work necessary to establish, in 2016, the status of each road. Torres: if the Town wanted to make a change to Pratt Corner Road, the Town would need to lobby the FRCOG Council, the body responsible for determining whether the change could be made. DeChiara: it will not cost the town anything to ask FRCOG. Vinskey: if FRCOG is uncertain how to answer the question, who will do so? Torres: FRCOG is responsible for deciding whether to change the status of a County road; the primary documents were referred to at the 8.9.16 meeting. DeChiara: whether Pratt Corner Road is a "fee taking" needs to be verified and the Town should know if there are other roads in this category. Vinskey: why don't we wait until there is a need to change the status of the road? DeChiara: there are situations where we would want to know, and if timing is an issue, a funding opportunity could be missed if we need to wait for a FRCOG decision. Vinskey: the emphasis is on Pratt Corner Road – notes his discomfort in singling out one road. Torres: the project will take Town Administrator (TA) time therefore it is not free and FRCOG may not take on the project without funding. DeChiara wants Torres to ask Bob Dean/FRCOG about who controls our roads. Makepeace: does Hunting have some of this information? Torres: yes, he has some. Vinskey: the Town maintains the roads; it does not seem necessary to have the boundaries clarified; this is about what side of the Pratt Corner Road boundary line the trees are on. DeChiara: that is where the issue started; at this point, he wants to know whether the County or the Town owns the road - it would be important to know who owns the road; cites Pill's need for documentation. Torres: Pratt Corner Road is documented as a County road on our list of roads. DeChiara: FRCOG could document, on their letterhead, that Pratt Corner Road is County road. Vinskey: this is not a priority and not a task the TA needs to spend time doing; DeChiara could take on the task. DeChiara will contact Bob Dean/FRCOG about the ownership of Pratt Corner and other of the Town roads.

5. Guidelines on Information Request Update: Torres: this was originally a public records request, however, the requester clarified it is now part of a federal lawsuit; Mosher/Town Clerk communicated to the requester that the record request will need to be made by himself or an attorney; there is a fee for a public record request; the town will not provide records to the individual involved in the lawsuit; production of documents would come via an attorney, i.e. Town Counsel. Torres: a further update on this topic will be provided during executive session.

6. Response to Hootstein Letter: Vinskey acknowledges time constraints for this agenda item and asks Hootstein for clarity on what he is requesting of the Select Board. Hootstein referring to his 8.23.16 letter to the Select Board and Shutesbury School Committee: some members of the Regional School Committee realized that Geryk's/former Superintendent contract was "no good"; there was a matter of pure racism – what is important is that there are legal issues, however, the solution is political. Hootstein states he has filed two Open Meeting Law complaints against the Regional School Committee; our Regional agreement has been breached – if the Town does not enforce the Regional agreement, it will fall apart; acknowledges the presence of Steve Sullivan as the Shutesbury School Committee representative to the Regional School Committee and asks the Select Board to empower Sullivan. Hootstein regarding roads: affirms finding out whom owns the roads. DeChiara asks Hootstein about Union 26. Hootstein: on tonight's Regional School Committee agenda was a reading of Union 26 agreement - this item was removed because the Regional Schools have nothing to do with Union 26. DeChiara: the Superintendent is shared by the Region and, as well, Amherst and Pelham as Union 26; it may make sense for the four town Select Boards and the Regional School Committee to meet to consider how the payout to Geryk will affect the budget – we have a piece of the Superintendent's costs as a part of the region and as a town – if the matter started in Pelham, do we share equally in the costs –an official channel for seeking the answer is needed. Vinskey: is it worth spending time and effort when we know we are going to pay. DeChiara: the School Committee does not need Select Board permission to seek guidance from Town Counsel; there is a need for clear information. Vinskey does not see the efficacy of getting the towns together; perhaps the Select Board could write a letter via the School Committee. Makepeace: could the acting Superintendent be asked for the information? Hootstein passes out a document packet and rescinds the idea of having legal counsel for Sullivan. Hootstein states that his needs have been met via this Select Board discussion; if Geryk never had a valid contract, she may be sued as an individual; the Select Board is the only body protecting the Town legally. DeChiara, referring to page 2 of Sean Mangano/Regional Schools Finance Director's 8.17.16 memo (included in Hootstein's packet): in terms of real dollars, Shutesbury's costs will be via the Region's costs. Hootstein: the Select Board needs to stand up for elected officials. Vinskey: the Select Board will review Hootstein's documents; asks Makepeace and DeChiara about next steps. DeChiara, as a past representative to the Regional School Committee, will reach out to Sullivan. The Select Board will continue the topic during their 9.13.16 meeting.

7. FY17 Select Board Goals: DeChiara's document "Select Board 2016-2017 Priorities" is reviewed and edited to add a second bullet under "Community Engagement" and add "Process and report out findings via *Our Town* and the Town website".
8. All Boards Meeting Agenda: DeChiara: last year, the Select Board's goals were used as the basis for the All Boards meeting. Vinskey: this fall, the goals will be the focus of the All Chairs discussion. Torres confirms department heads are to be included. The All Chairs meeting is planned for 10.25.16: Select Board meeting to begin at 6:30pm followed by the All Chairs and Department Heads meeting from 7-9:00pm. Vinskey suggests an individualized invitation. Further work on the 10.25.16 agenda will occur during the 9.20.16 meeting.

At 8:26pm, Vinskey moves to suspend the Select Board meeting for a Municipal Lighting Plant meeting; DeChiara seconds the motion that is unanimously approved. Open session resumes at 8:47pm.

9. Select Board/Finance Committee Meeting Topics: Vinskey: the goal of this agenda item is to identify Select Board topics of interest for the 9.13.16 meeting with the FinCom, i.e. the amount money in free cash and stabilization – how much is required in each of these accounts – if we have reached our goal, do we need to tax residents as much. DeChiara: what information does the FinCom use to determine the amounts in these funds and what are the plans for these funds. Vinskey: does the Capital Planning Committee determines the amount needed in these accounts? Walton is the FinCom representative to Capital Planning. DeChiara acknowledges the systemization of a joint meeting at the beginning of the budget season. Vinskey: per Pam Parmakian/Franklin County Housing, 32% of Shutesbury residents are eligible for the housing rehabilitation program – this fact increased his awareness about residents struggling to make ends meet; the housing market in Shutesbury is not moving – Shutesbury is not as attractive a place to live as it once was. DeChiara: in some regards, there is no real answer. Makepeace: the age of the population needs to be taken into account; aging residents do not sell until they can no longer maintain themselves in their homes. DeChiara: what keeps the Town vital without increasing the suffering of some? Vinskey is interested in the data on housing sales. Vinskey asks what the source is for demographic data? DeChiara asks for an assessment from FinCom as to where the Town is financially. Torres: free cash certification will occur in about two weeks. Vinskey: what are FinCom's ideas about long-term expenses? Makepeace-O'Neil: is it possible to not go the full 2.5%? Torres: the conversation could be about what it would take to not do a full 2.5% increase. DeChiara recommends having an open discussion; suggests asking what the appropriate FinCom-Select Board engagement is between 9.13.16 and town meeting. Torres suggests asking the FinCom to review their annual process. Vinskey: sources for data for determining costs/expenses, where are we financially, what would be the costs of not doing a 2.5% levy and where does the Select Board fit in relative to the budget process. Vinskey will draft language for Torres to send to the FinCom.

10. Town Administrator Updates:

- A. Knotweed: the proposal for herbicide treatment of patches on Leverett Road, Pelham Hill Road, and around Town Hall from BayState Forestry has been received; the budget is menu driven – volunteers could assist to reduce costs; an injection process will be used around Town Hall; a second round will be done on Pelham Hill (first round done in 2014) and a first round on Leverett Road near Lots O31 and O32; treatment must be done before frost; goal is to have an educational forum especially for abutters to town hall; the other sites will require a wetland permit and 100’ abutters will be notified. Torres recommends moving forward with the second treatment on Pelham Hill and then putting together a forum and treatment plan for Town Hall next year. Torres: funds to cover the treatment costs may come from the Select Board account.
- B. Painting: Town Hall is finished; there have been problems proceeding with the power washing at the Fire Department. Vinskey appreciates the painting work that has been done.
- C. Barking Dog: DeChiara received an email from Ron Meck this morning reporting a barking incident at 323 Locks Pond Road/Saleem. Nancy Long/Dog Officer has been investigating the status of the dog; Torres emailed the Police Department and Long to look into the matter relative to Meck’s email. Vinskey: the process for making a complaint about a barking dog is to call the Police Department; this is the only way to track the status of the dog; Saleem is responsible for keeping the dog from barking; Meck’s responsibility is to contact the Police – Meck is not following protocol. DeChiara suggests the Select Board write a letter to Meck reinforcing the need to report barking to the Police; could he call a local number to make a report if it is after hours? Vinskey: there needs to be a third party to verify the report; the matter will not be resolved without accurate data. Makepeace: are calls to the State Police subsequently reported to the local police? Torres: most likely not - a barking dog is a low priority. DeChiara suggests Meck make a local call as well as calling the State Police. DeChiara: has there been contact with Lori Saleem, the dog’s owner? Torres: Long has been following up to ensure the dog has enough water; she is concerned about the condition of the water and food. DeChiara: is there a way for the Select Board to further assess the situation? Torres: no; Long is following-up and figuring out how to handle the situation. The Board agrees to inform Meck that they have discussed the matter, the Dog Officer is assessing the situation, and that prior to his recent email, the Board concluded the dog had not been barking and encourage Meck to report dog-barking episodes to the Police. Torres: with cause, the Select Board can hold a dog hearing. Vinskey will draft a response to Meck.
- D. Solar Bylaw Update: Torres affirms the Select Board is aware of the State Attorney General’s extension of the 90-day review period by 30 days to 9.20.16 because, per Town Counsel, the detailed Native American references may go beyond the authority of the Planning Board.

Future Agenda Items:

9.13.16: meet with FinCom

9.20.16: Email addresses for all committees, tasking the Water Resources Committee with septic issues at Lake Wyola, term limits for committee members, Montague Road communication, Community Compact briefing from Torres, and All Chairs meeting agenda. DeChiara suggests holding off on the topic “timing for Native American meeting” for one month given the federal lawsuit. Vinskey reports receipt of a 8.30.16 email from Rolf Cachat inquiring about dates for upcoming Select Board meetings and his follow-up explanation regarding the Board’s meeting schedule and the public comment period. Vinskey will follow-up with Cachat regarding the change in plan for the topic “timing for Native American meeting” to late October.

Administrative Actions:

1. Select Board Meeting Minutes: DeChiara moves and Vinskey seconds the motion to approve the 4.12.16 minutes as presented; Vinskey and DeChiara approve the motion; Makepeace-O’Neil abstains.
DeChiara moves and Makepeace-O’Neil seconds the motion to approve the 8.23.16 minutes as amended; the motion is unanimously approved.
2. Special Municipal Employees List Update: DeChiara moves to approve the following changes to the list of Special Municipal Employees: WiredWest Communications Cooperative Corporation Delegate and WiredWest Communications Cooperative Corporation Alternate Delegate; Makepeace-O’Neil seconds the motion that passes unanimously.
3. Dump Truck Contract Bid Award: Torres reports having several lengthy discussions with Hunting who has closely examined the bid details, done his research, and is considering a recommendation to go back out to bid. Torres: Hunting is not comfortable with the exceptions to his requirements; the Patriot bid meets all the specs however is \$10,000 higher than the \$97,000 bid; it will take 100 days for the truck to be built; Hunting wants to ensure the receipt of the best truck for the funds allocated. Torres: there is only one bid for the truck body; Hunting prefers a stainless steel dump body. If Hunting is prepared, this topic may be included on the 9.13.16 meeting agenda.
4. Chapter 90 Reimbursement and Requests: Torres: Projects need prior approval by District 2; the Chapter 90 Final Report is for paving West Pelham Road on 6.17.16. Makepeace-O’Neil moves and DeChiara seconds the motion to approve the Chapter 90 Final Report for paving 11,380 feet of West Pelham Road; motion is unanimously approved. Makepeace-O’Neil moves to approve the Chapter 90 Reimbursement Request for the West Pelham Road paving work completed on 6.17.16; DeChiara seconds the motion that is approved by the Select Board. Makepeace-O’Neil moves the Select Board accept the Chapter 90 Project Request for crack filling on Wendell, Locks Pond, and Pelham Hill Roads; DeChiara seconds the motion that is approved by the Board.
Vinskey states he is not prepared to sign the Chapter 90 Project Request for work on the paved section of Baker Road until he is assured the abutter is informed and agreeable to the proposal especially in regard to where the road runoff will go.

Vinskey will follow-up with Hunting and talk with abutter Jeff Lacy/7 Baker Road. All agree to re-consider this project request on 9.13.16.

5. Personnel Action Forms/Fire Department and Cemetery Grounds Keeper: Vinskey moves and DeChiara seconds the motion to appoint Matthew Dziedzic as Cemetery Grounds Keeper. Torres: Ray Cusson is retiring and will stay on as a Cemetery Commissioner; he will be available to fill in as grounds keeper as needed. Vinskey confirms Cusson will be paid for when he fills in as grounds keeper. The motion to appoint Dziedzic is approved. Vinskey moves and DeChiara seconds the motion to appoint Robert Vandergrift as a Fire Fighter; motion is unanimously passed.
6. Vendor Warrants totaling \$109,298.53 will be signed.
7. Payroll Warrants totaling \$90,332.00 will be signed.

At 10.13pm, Vinskey moves to go into executive session for reason #3/salt and not to return to open session, DeChiara seconds the motion. Vinskey: aye, DeChiara: aye, and Makepeace-O'Neil: aye.

Documents and Other Items Used at the Meeting:

1. Town of Shutesbury Personnel Services Contract: Chief, Fire Department
2. Town of Shutesbury Job Description: Fire Chief/Emergency Management Director
3. 8.29.16 Tibbetts' Letter "Information on Paving/Blacktopping the Fire Station Parking Lot"
4. 9.1.16 Jaques email "Request to appoint new member to Shutesbury Conservation Commission"
5. 8.26.16 Pill email: "Pratt Corner Road is an easement for public travel unless the road layout by town meeting or the adjudication by Franklin County Commissioners (or prior to 1827 the Court of General Sessions) explicitly states the land was taken in fee."
6. 8.25.16 Mosher/Town Clerk email: "public records request update"
7. 8.23.16 letter from Michael Hootstein
8. 9.6.16 packet of documents from Hootstein
9. 8.30.16 email from Rolf Cachat: "Re: When is the next Select Board meeting?"
10. Memo received 9.6.16 re: Special Municipal Employee list update
11. Chapter 90 Final Report: West Pelham Road
12. Chapter 90 Reimbursement Request: West Pelham Road
13. Chapter 90 Project Request: Wendell, Locks Pond, and Pelham Hill Roads
14. Chapter 90 Project Request: Locks Pond and Baker Roads
15. PAFs: Matthew Dziedzic and Robert Vandergrift

Respectfully submitted,
Linda Avis Scott
Administrative Secretary