

Shutesbury Board of Selectmen Meeting Minutes June 17, 2014

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

Members Absent: None.

Remote participation: None.

Staff present: Town Administrator Rebecca Torres, Administrative Secretary Leslie Bracebridge.

Others present: Al Werner, Paul Lyons and Geoffrey Rogers.

Press present: None.

Chairman Puleo opened the meeting at 7:01 P.M. at the Shutesbury Town Hall, lower level meeting room.

Appointments

1. **Board of Health/Select Board election of a Board of Health (BOH) member** to fill the position vacated due to sudden death of former Chairman William “Bill” Elliott. Board of Health members present: Catherine Hilton, Arleen Read, and Kenneth Rotondi: In accordance with MGL Ch. S , a **motion was made and seconded to nominate Al Werner to the Board of Health for a term to expire with the next town election: Springer – aye, Stein – aye, Puleo – aye, Hilton – aye, Read – aye, and Rotondi – aye.**
2. **Water Resources Committee (WRC) – Wells:**
 - Water Resources Committee members Paul Lyons and Al Werner met with the Select Board to discuss the locations of the wells proposed and funded at the May 3, 2014 Annual Town Meeting.
 - Paul: The WRC wants to move forward quickly with installation of the monitoring wells.
 - They have been working with Town Administrator Becky Torres to locate the wells along the Shutesbury ridgeline. Three will be on town properties:
 - i. Lot O-68 on Pelham Hill Road, Lot O-32 on Leverett Road and one on the Town Common.
 1. The Highway Department will be helpful in clearing saplings for a driveway access to the well site for Lot O-68.
 2. The Planning Board is interested in the results of the town center sites.
 3. For the best data collection, the town common well will be located in the north east corner. Selectmen suggest a shrub or small fence both for aesthetics and to keep people from playing on or tampering with the town common well.
 - ii. One well is proposed to be located on property owned by the Shutesbury Athletic Club (SAC). Paul and Al Werner asked if there should be some kind of permanent easement written for putting a \$5,000 to \$6,000 town-owned well on private property? Becky advises a “gentleman’s agreement” is fine. Paul and Al Werner were headed to the Club, to discuss the terms with the SAC Board of Directors.
 - Paul and Al Werner’s questions included:
 - i. Would the Select Board need to sign off on the well-drilling contract?
 - ii. What permits are needed and would the Selectmen need to sign off on any permits?
 - iii. Should Town Counsel be consulted on any liability issues?
 - iv. In a worst case scenario, if something were to go wrong, would the town take responsibility?
 - The wells will be sitting passively recording water levels and will be sealed, capped and locked.
 - i. All wells will be 100 feet deep, or deeper if the pricing allows.
 - ii. Planning Board member Jeff Lacy has advised the WRC on setback considerations: No structure should be closer than 20 feet to a property line.
 - iii. Paul and Al Werner will be going to the Board of Health for input on permitting requirements.
 - iv. The wells will rise up about 2 feet above the ground, much like a fire hydrant.

- v. Though the wells could be used for water supply, for the next 10 to 15 years, they will be used only to monitor ground water so as not to interfere with results of the studies.
- vi. The WRC is looking for Select Board approval of the well locations, especially the one on the town common. While the town common location is more desirable, due to elevation, a well could alternatively be located behind town hall.
- vii. April feels this is a very forward thinking plan and it should have Select Board blessings.
- viii. Al Werner states that the advantage of a well on Lot O-32 is that if we test the water and it is good, then the town can use it for other things in the future.
- ix. Any need for a town owned water supply on Lot O-32 would supersede the need for a test well. Paul said that the test well would be tucked toward the western edge.

Selectmen unanimously voted to approve the 3 wells on town property and endorsed a 4th well on Shutesbury Athletic Club property.

3. Massachusetts Federal Surplus Property Application: Guest Speaker Geoffrey Rogers:

- Town resident and former 20 year surplus property coordinator for the Hampshire County Council of Governments Geoff Rogers has done a number of applications and research for federal surplus:
 - i. Geoff gave Selectmen a matrix of surplus and excess property programs available for towns.
 - ii. Though towns can freeze an item and then change its mind, it's considered "bad form." It is preferred that the town go look at an item of interest before the town freezes it.
 - iii. To the question of a sample municipal process:
 - 1. Chief Tibbetts suggests: Decide if it's a capital purchase or not:
 - a. If it fits into the department budget, and the department head would not normally go through Finance Committee, Select Board or town meeting approval, why couldn't the department head get it without further process?
 - b. Elaine concurs: Someone could say to the screener, "I want a cabinet like that, if you see one for under \$25 go get it."
 - c. Becky: Capital items are typically greater than \$5,000; sometimes lower if it's a one-time thing.
 - d. Geoff: Some towns active in surplus purchasing have passed a line for buying surplus with approval by Select Board.
 - e. Becky: Storage is a big concern.
 - iv. Walter requests assistance on the application concerning designation of the town representative to the Federal/State surplus purchasing agent: Who?
 - v. Geoff: Most towns put fire chief, highway superintendent, someone from the select board, and the buildings and parks department. Other towns come up with a list of things needed and one person searches. Searching is time-consuming. It's like fishing.
 - vi. To a request for samples of materials available Geoff and Walter list anything and everything from jewelry and artwork, photographic and electronic equipment to compressors, tools, furniture, shuttle parts, box of Swiss army knives, boats, and part numbers without pictures.
 - vii. The biggest thing in Geoff's career was a crane turned in by the U.S. Navy that was only used to lift masts for the USS Constitution before it became surplus. It went to Northampton and from Northampton to Harold's garage.
 - viii. Walter: The question is who will be able to screen?
 - ix. Becky: Questioned if screening could be open to anyone?
 - x. Geoff: Screening/Viewing: anyone can go to the website. Only the state purchaser Paul Guerino can "push the button." Paul would like to have only one or 2 people contact him.
 - xi. Walter: Paul recommends doing a screen print of the desired item and Email it to him.
 - xii. April: Suggests making a decision and re-visiting it in 6 months.

- xiii. Gary Hirschfield asked from a Capital Planning Committee perspective: How can you commit to a big purchase before you get approval?
- xiv. April added, "You can't bypass the process."
- xv. Becky: Summarizes the process of approval where the Capital Planning Committee is advisory, and notes that funding can be then approved by the Finance Committee, if the reserve is used.
- xvi. How could we prepare for a quick turn-around?
- xvii. Could there be advance conversation with the Capital Planning Committee and the Finance Committee and money would then be ear-marked?
- xviii. Gary: It would be unfortunate if the turn-around couldn't happen in time.
- xix. Walter the cost is 3% of the value of an item when it was new.
- xx. Over his 20 years, Geoff got 35 vehicles for Northampton.
- xxi. Becky: Reminded everyone that Northampton would have mechanics on staff to repair government surplus vehicles. We are not asking departments to be mechanics as well.
- xxii. The problem is how to know that an item is what is wanted, and its condition.
- xxiii. Elaine: Travel expense money could come out of a department's operating budget.
- xxiv. Gary: Suggests that travel expenses could also come out of the purchase price.
- xxv. Walter: Obviously, we wouldn't look for large items far away.
- xxvi. Geoff: The other option for town hall furniture is state surplus. There's a lot of nice stuff available from the courthouse, and there's no application involved.
- xxvii. Discussion returns to who should be on the local list of purchasers for the purpose of the application:
 1. Elaine suggests putting Geoff on the list of people who "fish" because Geoff has knowledge of how the system works, and the relationship.
 2. Becky recommends major department heads: These are the people with budgets to make commitments, and Becky, as procurement officer. If it gets unwieldy we can change it.
 3. Elaine: Fire Chief Walter Tibbetts, Highway Superintendent Timothy "Tim" Hunting, Selectman Mike Vinskey, Town Administrator Becky Torres, and the school Principal.
 4. Becky: Put all the department heads on the list; if it becomes unwieldy, we can change it. She asks if the Library Director should be added.
 5. Whoever s taking possession of an item has to be on the list.
 6. April: The one concern is that we don't want to turn into a town of "clutterers."
 - To Walter's concern that if people freeze items and don't pick them up, it will work against us, Elaine responded that once everybody's name is on the list, we will set-up a meeting on how to use the system. If someone doesn't follow the guidelines that person is removed from the list.
 - Bill Wells reminds us of the concept that lots of names on the list gives the town a higher status in the program.
 - Becky was asked to write something up with guidelines.
 - Geoff reminds us that after 18 months in the town's ownership the item belongs to the town. Walter: Except for firearms and Humvees - they have to be checked every year and remain the property of the federal government.
 - April thanks Walter and Bill for their work.
 - Geoff offers to serve as Walter's informal consultant.

Walter will prepare the application with the department head names that Becky gives him.

4. Selectmen met with Conservation Commission (CC) members Penelope "Penny" Jaques and Gail Fleischaker who presented a written request for town funding of the remaining balance accrued in the CC's recent legal challenge to the Department of Environmental Protection's (DEP) over-ruling of the CC's decisions regarding development of Lot F-105. Gail reports:
 - Successful settlement of the CC's appeal.

- The 2 drivers to challenge the action of were:
 1. To get protection of the lot, and
 2. A matter of principle to protect wetlands and resource areas, by avoiding the “dangerous precedent” of applicants going to DEP for approvals (when they do not get what they want from the local Commission). The settlement says the town has a say in the final say.
- The appeal allowed the CC to gain protection for the land. Mass DEP approved 3 of the CC’s conditions and the CC made 3 side conditions with the owner.
- The long-term issue of Mass DEP being allowed to approve a project that the Commission had denied would set a precedent that if an applicant’s proposal is denied, the applicant can go to DEP for their approval.
- The CC is very pleased with the outcome.
- Gail and Becky reviewed the different stages of fees and payments that occurred with consultations with the Board of Selectmen at their meetings during the legal process. And Gail’s repeated statements that if the Selectmen would authorize the CC to move forward in the legal process, all legal fees would be covered from the Friends of the Conservation Commission account.
- April summarized the Select Board’s stance: Throughout the process Selectmen were asking, “Where is this going?” We absolutely supported the first \$2500. The Selectmen were clear that this was as far as we were going.
- Gail: It’s a finished project now. None of us knew what we were getting into. It is the end of the fiscal year. Is there money that could be used to pay the remaining legal fees? Frankly, had we not prevailed in the appeal, we would not be asking for funding. We won a battle for the town.
- Al Springer: The timeline was short. You made it clear that the friends would pay for it. There was nothing said about going back to the town for funding.
- Becky: There was no requirement that it be funded by Gail. The account funded by the check was called the Friends of the Conservation Commission.
- April: Selectmen absolutely supported the idea of it. The symbolic action of the Selectmen was the first \$2500. We did not want this symbolic funding going any further. April reiterates Becky’s point that donations can still be made.
- Penny: Reported on the amount of effort members of the Commission put into the resolution, and how frustrating it was to be unsupported by DEP. The DEP office has changed their tone of philosophy: There’s a new order going on there. Particular people want to put their stamp on things. An individual in the state refused to talk with us. It should have been settled at the first meeting. It ended up costing a lot more money than anticipated. They have changed the way they deal with us.
- Gail: The CC should have been involved in every step along the way but we were not.
- Penny: It’s part of the distress about the whole situation. Our dealings with DEP were equally unsettling.
- Becky: The one requirement Town Accountant Gail Weiss made was that the account be funded to the amount of the bills as they came in, because the town can’t give any money back. Because of that the Selectmen were relying on it being OK to send invoices to Gail and Gail would pay the amount. Now we’re in a position, where there is a bill and no money in the account. We don’t have the funds and now we’re being asked to pay. Now we are committed to paying bills that we didn’t have funding for.
- Al: If we knew it was \$10,000 rather than the \$2500 we might not have moved forward.
- April had a sense that the CC was going to watch how much was being spent. That the CC had “a line in the sand financially.”

- Gail: The negotiations had to move forward; there was no way to tell what kind of time the lawyers would need.
- Elaine: Was under the impression that the phone conversation was before May 31. So Elaine is curious about the extra \$5,000 in June.
- Gail agrees and has already asked. Gail figured June's invoice would be ½ of what May's was. Gail was surprised to see how high June's invoice was. The attorney has not gotten back to Gail.
- Becky offers to make a follow-up call to "Cheryl Dalton." Gail gratefully accepts the offer.
- April: That this was so open-ended was the Select Board's fear.
- Gail: There was no way to stop it.
- Al: Recollects asking at the time of the discussion to fund the account as the invoices come in, "What happens?" and Gail said: "You know where I live."
- Penny: Admits that she was not at the early meetings. She says, "It would be nice that you would have it in your hearts to help with the funding."
- Elaine: "That's why we did not want to go forward. We understood the problem; we empathized but we did not want to fund it."
- Al: "The \$2500 was to show Select Board support just so it wouldn't look really bad. If we pay this money now we're taking money from the tax-payers."
- Gail: "It's not unreasonable to ask for unspent funds."
- April: Thinks "the Select Board was quite clear that this was our final amount."

Topics

1. Soil Contamination at the Fire Station update:

- The town is still waiting on the O'Reilly, Talbot & Okun report.

2. Salt Legal Issue/Possible Executive Session:

- See minutes of tonight's 5:50 PM Executive Session meeting held at 63 Leverett RD.

Select Board Action Items

1. Well Locations:

2. Selectmen unanimously approved the executive session meeting minutes regarding salt as written for 6/3/14, Puleo – aye, Stein – aye, Springer – aye, 5/21/14, Puleo – aye, Stein – aye, Springer – aye, 5/6/14, Puleo – aye, Stein – aye, Springer - aye, and 4/16/14, Puleo – aye, Stein – aye, Springer - aye.
3. Selectmen unanimously approved open meeting minutes for May 21, 2014 as written.
4. Selectmen unanimously voted to approve executive session meeting minutes regarding CC as written for 5/21/14, Puleo – aye, Stein – aye, Springer – aye, 5/6/14, Puleo – aye, Stein – aye, Springer – aye, and 4/16/14, Puleo – aye, Stein – aye, Springer – aye
5. Because there was not a cover sheet, Selectmen unanimously voted to sign payroll warrants totaling \$114743.03 for payroll warrants.
6. Selectmen signed vendor warrants totaling \$88,926.14.

Topics the Chairman Could Not Reasonably Have Anticipated

1. Mark Hodgkins wants to film in Shutesbury. He is looking for an indoor space in case it rains. He can wait for a good day. For outdoor filming, Leslie will send a use of town property form to him.
2. A neighbor has reached out to Elaine asking for a dog hearing regarding a dog bite reported by Chief Harding at the June 3 meeting.
3. Becky will meet with the Planning Board regarding Montague Road resident Marcus Nolan's application to buy and sell second hand vehicles as a home business.
4. Some experiments have been done with knotweed.

List of Documents and Other Exhibits Used at the Meeting:

1. Copies of all minutes approved in topics numbers 2, 3, and 4 except the 6/3/14 open meeting.
2. Assessors Property Record Card for town owned Lot O-68, Proposed Well Monitoring Locations ridgeline map and aerial photos of the proposed locations all provided by Shutesbury Water Resources Committee Acting Chairman Paul Lyons.
3. Federal Surplus Property grid provided by guest speaker and resident Geoffrey Rogers.
4. Massachusetts Federal Surplus Property Program Information Bulletin provided by Fire Chief and Emergency Management Director Walter Tibbetts.
5. June 17, 2014 memo to Select Board, Finance Committee and Town Administrator.
6. Announcement from Town Moderator Penelope Kim regarding Susie Mosher's recent appointment to the Finance Committee to complete the term made vacant by Lori Tuominen's resignation, and the reappointments of Marie (Weezie) Houle, Gary Hirschfield and Eric Stocker to new 3-year terms.

The Select Board **adjourned at 9:15 P.M.**

Respectfully submitted,

Leslie Bracebridge
Administrative Secretary