

**Shutesbury Board of Selectmen Meeting Minutes  
June 30, 2015**

Members present: Elaine Puleo/Chair, April Stein, and Mike Vinskey  
Staff present: Becky Torres/Town Administrator; L.A. Scott Administrative Secretary

Meeting called to order at Shutesbury Town Hall by Puleo/Chair at 6:30pm

Guests: Police Chief Tom Harding, Officer John Stewart; Michael DeChiara/Select Board member-elect; Jim Aaron, Deacon Bonnar, and Jeff Lacy/Planning Board; Attorney Michael Pill, Marnin Lebovitz/Lake Street Development Partners, Al Werner/Water Resources Committee, Alan Weiss/Cold Spring Environmental; Leslie Luchonok, Allen Hanson, William Wells, Don Wakoluk, Mark LeLacheur, Robert Kibler, Andrea Cummings, Genny Beemyn, Miriam DeFant, and Jon Thompson/residents.

Appointments:

**6:35pm Chief Harding:** Police Chief Harding introduces Officer John Stewart, part-time Warwick police officer who has applied for Shutesbury Police Department's part-time position. Stewart, who lives in Orange, states that he has been a part-time and on-call officer with Warwick for five years. Stewart explains that he has been orienting to Town roads with Chief Harding; is 2009 graduate from the Springfield Part-Time Police Academy and is maintaining upkeep on his certifications. Per Stewart, Warwick is a part-time force; his father was in the military so he has lived in various parts of the country, though, primarily grew-up in Phillipston. Puleo asks Stewart how many hours he will be available to work in Shutesbury. Stewart states that he is able to give more hours to Shutesbury than Warwick; if he is on call for Warwick and working in Shutesbury, the State Police will answer any Warwick calls; the Warwick Police Chief recommended him for this position. Vinskey asks if there is anything similar to Lake Wyola in Warwick. Stewart: Laurel Lake and related motor vehicle complaints as well as Mount Grace hikers. The Select Board welcomes Stewart. Harding: completion of Stewart's Personnel Action Form is pending the new contract. Torres will follow-up with Harding on Police Department PAFs. Motion to appoint, seconded, and no further discussion; all Board members vote in favor of hiring Stewart for the part-time Shutesbury Police Department position.

Puleo asks Harding if he has any further Fourth of July concerns. Harding: no one has approached him about doing a legal fireworks display.

**6:45pm Planning Board:** Torres: Planning Board did not post a meeting so although a quorum is here, the question is whether they can vote. Lacy states that he contacted Town Counsel, answer is pending. Torres: per Statute, a joint role call vote is required to appoint a candidate to the Planning Board; Town Counsel to arrive soon for guidance.

**6:55pm Receive Petition:** at 6:48pm, no one is available to present the petition.

Select Board Action Items:

1. Select Board members vote unanimously to approve the 4.21.15 Select Board meeting minutes as presented.

Select Board members vote unanimously to approve the 5.6.15 Select Board meeting minutes as presented.

Select Board members vote unanimously to approve the 5.19.15 Select Board meeting minutes as presented.

Select Board members vote unanimously to approve the 6.2.15 Select Board meeting minutes as presented.

Select Board members Puleo and Vinskey vote to approve the 6.9.15 Select Board meeting minutes as presented; Stein abstains as absent from this meeting.

Vinskey appreciates Scott for bringing current the meeting minutes she is responsible for. Scott will be learning how to post the minutes to the Select Board website. Torres is working with Bracebridge to bring remaining minutes current.

Topics:

1. Schedule Forest Cutting Plan site visit: Wakoluk/215 Leverett Road offers recent site photos taken by drone yesterday. Puleo explains plan for site visit with Service Forester to which Wakoluk will be invited. Stein suggests Tuesday, July 14<sup>th</sup>, 5pm as the date for the site walk. Torres: if more time is needed, the Select Board meeting could be delayed by one half hour. Meeting place will be the gate on the right just before the Fairfield home/281 Leverett Road. Stein: folks are used to logging, however, this cut was much heavier than any she has seen before; the DCR Service Forester came to a Select Board meeting to explain and plan for site visit. Wakoluk states the cut is all right. Torres: the Conservation Commission will be invited to join the walk. Luchonok/61 West Pelham Road affirms the need for the ConCom to be present.
2. Planning Board: At 7:00pm, Attorney Donna MacNicol/Town Counsel joins the meeting. Puleo: plan was for a joint vote with Planning Board on a candidate for the Planning Board; the Planning Board is present, however, their meeting was not posted. MacNicol: the Planning Board cannot vote tonight; separate votes can be taken; if there is more than one candidate, they can recommend and put forth names; at a future joint or separate meeting, vote takes place. Stein: in this case, there is only one candidate. MacNicol: then the Select Board votes and, at a separate meeting, the Planning Board votes. Jon Thompson/266 Pelham Hill Road is introduced as the candidate for the Planning Board position. Thompson states that he previously chaired the Planning Board and recently retired from serving on the Zoning Board of Appeals. Thompson states he is willing to serve on the Planning Board. Vinskey: vacancies on the Planning Board are normally elected positions; there is a vacancy, therefore the Planning Board is presenting a potential appointee. MacNicol: this would be a limited appointment until the next election; per text of the law, a position shall be filled for the unexpired term; the Select Board and Planning Board fill the unfilled position until the next election. MacNicol notes that, if at all possible, it is important to have a full board, especially with a special permit requiring a super majority and the amount of work needing to be done. Motion is made, and seconded to vote contingent upon the Planning Board voting to approve the candidate until the next election; all Select Board members vote in favor of appointing Jon Thompson to the Planning Board.

3. Receive Petition: The Select Board receives the Warrant Article petition filed 6.22.15 with the Shutesbury Town Clerk: “To see if the Town will vote to enact a temporary solar moratorium that, notwithstanding any other provision in the Town of Shutesbury Zoning Bylaw to the contrary, no special or building permit may be issued for the construction of any Large Scale, Non-Residential Solar Photovoltaic System until such time as the Town has approved a Solar Zoning Bylaw. The purpose of this temporary moratorium is to allow sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.” Miriam DeFant/74 Pratt Corner Road submits a document titled “ Statement Regarding Warrant Article Petition” dated 6.30.15 to the Select Board. DeFant states that this statement is asking two things: it is advising the Select Board to evaluate a solar zoning bylaw by engaging in fact finding and evaluating whether a solar zoning bylaw is appropriate, the signers believe a bylaw is appropriate based upon precedent in other communities, and they are requesting the Select Board and Planning Board to enact a temporary moratorium to be issued immediately for the next nine months to be consistent with the zoning bylaw. DeFant states that they want this to be a thoughtful process. Puleo clarifies that the petitioners are asking the Town to vote at town meeting. DeFant: statement clarifies what they are asking for which is a temporary suspension of any approval of a special permit until a bylaw is enacted. MacNicol: enacting a moratorium is not within the power of Select Board or Planning Board; the special permit statutes requirements state that they cannot cause a delay in procedure until town meeting. DeFant: Provision A states that the Planning Board may deny a special permit if its adverse effects outweigh the benefits; they feel that developing a solar bylaw better serves the Town. MacNicol: this is an argument for the Public Hearing; one can request a denial, however, cannot delay process. MacNicol: the Select Board has fourteen days to forward the petition to the Planning Board; the petition has sufficient signatures; once received the Planning Board will then take up the issue of a solar bylaw and, per their agenda, the group can present their reasons. MacNicol: if the Planning Board drafts a moratorium, they will hold two public hearings prior to Annual Town Meeting. DeFant: their intent was not that a moratorium would be voted upon at Town Meeting; their intent was for the Planning Board to enact the moratorium. MacNicol explains that this cannot be done because a moratorium must be done via a zoning bylaw and has to go through that process; your argument about not wanting the special permit to be issued must be done during the Planning Board public hearing. MacNicol: right now, the petition has to go to the Planning Board as written. Lacy/Planning Board asks if the petition is a proper warrant article. MacNicol: it is not a proper warrant article, however, case law gives some leeway; this article asks for a moratorium until a solar bylaw is presented; better language is needed. MacNicol: a solar bylaw could be put on the warrant and if voted in, the moratorium article would be passed over. MacNicol: the Planning Board does not have to recommend a moratorium; statute says the petition goes to the Planning Board for review. DeFant states that she thought the warrant article was asking for a solar bylaw. Puleo: the warrant article asks for a

moratorium until a solar bylaw is developed. MacNicol: the article compels the Selectmen to put it on the warrant. MacNicol states that she will review the statute and work with the Planning Board to figure out if this compels them to develop a solar bylaw. Lacy: the Planning Board will consider the petition, hold the Public Hearing and go to a town meeting vote within six months. Lacy notes that the petition asked for annual town meeting. Puleo states that she sees a petition for a warrant article for annual town meeting; the article asks the town to enact a temporary solar moratorium; that is all. MacNicol confirms that this is correct. Puleo: the petition makes reference to a solar bylaw; it only asks for the Planning Board to create a temporary moratorium for annual town meeting. MacNicol: states that she needs to review the timing in Chapter 40A Section 5. Lacy states that he believes there is a time frame by which they have to act. DeFant: the Planning Board has sixty-five days to hold a public hearing; if they are noticing a public hearing for a moratorium, they cannot issue special permit for projects until the public hearing moratorium process is concluded. MacNicol: the public hearing must be held within sixty-five days of receipt of the petition; there is a clear problem with timing because to hold a town meeting vote within six months of the public hearing vote, the date for the town meeting vote comes to sometime in March. DeFant: if the public hearing is continued, or another public hearing is held, the timing could be extended to May annual town meeting. MacNicol states that she will carefully review Section 5. Vinskey asks what the process will be for the project without a moratorium process. MacNicol: under the Zoning Bylaw, this is a special permit under the Planning Board; a special permit allows “uses;” these “uses” are allowed if they meet certain criteria; the Planning Board makes a discretionary decision on the special permit by super majority. MacNicol refers to Chapter 40A Section 6: the question is, if the project special permit is granted, would it be affected by the zoning bylaw moratorium if it is passed at annual town meeting. Puleo questions if there was a solar zoning bylaw to be voted at annual town meeting, and a special permit was previously granted, would that project have to comply with new bylaw. MacNicol: if a notice of a public hearing for moratorium is published, but the timing cannot get to annual town meeting, so a second public hearing is published and the first is moot, this question is, does the first affect the special permit. Stein: we have to move forward thoughtfully. Andrea Cummings/69 Pratt Corner Road: after sixty-five days, there has to be a public hearing for the moratorium request. Puleo: the Select Board has fourteen days to send the petition to the Planning Board; the Select Board received the petition tonight; once the Planning Board receives the petition, they have sixty-five days to hold the public hearing. Vinskey confirms that no other action is required by the Select Board. Torres: the Warrant Article Petition is placed in annual town meeting folder. Luchonok: the only decision the Select Board has to make is whether to send the petition to the Planning Board tonight or wait fourteen days. Lacy asks if once the hearing is done, a report is made, and the town is bound to vote, does the vote have to be in May. MacNicol: there could be a special town meeting; the petitioners control the timing in that they have asked for annual town meeting. Lacy asks if the vote could be taken up any later than annual town meeting. Torres: the Planning Board could ask the Select Board for a

special town meeting. Thompson: if received by the Planning Board on 7.14.15, sixty-five days will be 9.3.15. Stein recommends holding off on the decision to forward the petition to the Planning Board until Select Board member-elect DeChiara takes office. DeChiara asks if, as an abutter to the proposed solar project, he would have to recuse himself from the 7.14.15 decision about the petition. MacNicol: the petition decision is far enough removed from project that there is no need to recuse. Vinskey states that he will be more comfortable waiting until the next meeting in order to be better informed. MacNicol: looking at dates, 9.17.15 will be better timing, as 9.3.15 is Labor Day weekend. Stein restates the need to be careful and thoughtful. All Select Board members agree to table the matter to the 7.14.15 meeting when the Select Board will officially give the Warrant Article Petition to the Planning Board.

Torres: The Conservation Commission and Planning Board have asked for Town Counsel to be present for the public hearings related to the proposed solar project. Also, the Planning Board has asked for Scott to take the Planning Board minutes for meetings relative to the project. Plan to continue this matter later in the meeting.

At 7:45pm, a motion is made and seconded to go into Executive Session for Reason #3: Salt Issue on Leverett Road and to resume Open Session. Stein: aye, Vinskey: aye, and Puleo: aye.

The Select Board resumes Open Session at 9:16pm.

Topics (Continued):

4. New highway equipment Operator: Torres reports that per Hunting/Highway Department Superintendent, none of the applicants were good hires; he will need to re-advertise the position.
5. Shutesbury Select Board Email Accounts: Puleo: as of tonight, she will put an automatic message on her email account that she is no longer a Select Person and will refer folks to the general Select Board email address. Torres: the Web Committee will take down Puleo's address and put up DeChiara's. Torres: when an email goes to the general Select Board account, it also goes to each member and when an email goes to one member, it goes to all. Puleo: this was done to prevent use of private email accounts for Select Board business. DeChiara notes that it is important for senders to know that email sent to the Select Board email or one member goes to all. Vinskey: the whole body sees what information each is receiving. Puleo: for example, she sees what goes to Vinskey, but doesn't see what Vinskey says back; the purpose is to see what the community is thinking and what their concerns are. Vinskey: some folks may be more comfortable talking/writing to one board member over another; the new system has worked okay for him this past year; it could be better if it were more individualized. Stein states that she doesn't like that some emails do not go through and recommends revisiting a review of the system in six months. DeChiara asks if Shutesbury.org email gets posted to a URL. Torres: no.
6. MMA Opioid Survey: Torres reports that she gave to the survey to Chief Harding; most of Shutesbury's answers are "no;" she wonders if the Select Board has

anything else to add. Vinskey notes that the goal of the survey is to help develop best practices; we don't really practice anything, so there is not much to offer. Torres: our officers have not been trained in the use of Narcan; asks if this is an issue that needs more conversation with Chief Harding. All Select Board members agree to the need for more conversation. Vinskey recommends Torres fill out the survey as it is due 7.2.15. Puleo notes the need to be aware of the Opioid situation and take advantage of assistance offered. Torres: we know from Harding that Shutesbury is not isolated from the issue. Torres will fill out the survey; continue to discuss matter at a future meeting.

7. Regionalization Efforts: Puleo: the Regional School Committee presented a proposal, however, did not seem to remember how the Committee worked in the past; during the meeting, she and DeChiara offered explanations for procedures. Puleo continues: the proposal, a set of loosely created amendments, was approved by a vote of five to four; two Pelham members voted it down along with two other people including Steve Sullivan, the Shutesbury representative. Torres: Trevor Baptiste/Committee Chair understood committee would take the proposal to their towns and then to legal counsel; the rest of the Committee wanted it to go directly to legal counsel now. DeChiara: the benefit of going to counsel is to get the language right; Sullivan made a motion to table the proposal but was not heard or acknowledged by the Committee. DeChiara questions who will be responsible for the proposal and is interested to see how it plays out. Puleo states her disappointment with the process. DeChiara is concerned about how counsel will interpret the document. Puleo: at this point, the Committee will bring the proposal to the towns in preparation for their annual town meetings. DeChiara: in Amherst, there will be a Town Election as the proposal changes their Town charter.
8. Dog Issues: Torres: the Dog Officer is involved in communicating with the owner of the dog. Torres, referring to the "Dog Officer Control Form," explains that this form is now being used when a fine is issued by the Police Department; the Police Department is receiving the first dog complaint calls then they contact the Dog Officer.

Select Board Action Items (Continued):

2. Police Union Contract: Torres reports that the final version is pending.
3. Vendor Warrants totaling: \$139,785.82 are signed.
4. Payroll Warrants totaling: \$64,956.83 are signed.
5. Personnel Action Forms are approved and signed.
6. All Select Board members agree to appoint Nancy Matthews to the Town Building Committee.
7. Appoint Two More At-Large members to the Regional Assessment Summer Study Committee: Torres: as of now, no further names for at-large members have been put forth; the names that have been put forth are FinCom members George Arvanitis and Eric Stocker, School Committee members Dan Hayes and Steve Sullivan and for At-Large member, Jeff Lacy. Vinskey notes the need for different perspectives on this Committee. Torres indicates her plan to attend the Committee meetings. All Select Board members agree to appoint Torres to the Regional Assessment Summer Study Committee.

8. Torres: Chief Tibbetts has asked Bracebridge to continue her work for the Emergency Management Team in a volunteer capacity. All Select Board members agree to appoint Leslie Bracebridge as the Volunteer Clerk to the Emergency Management Team.
9. All Select Board members agree to appoint Linda Rotondi to the Town Center Committee.

Issues not reasonable anticipated by the Chair of the Committee:

1. Master Plan Update Working Group: Torres lists volunteers thus far: Jeff Lacy, Mike Vinsky, Meryl Mandell, Nancy Dill and Gary Hirschfield. The Board notes that the work of the Assessment Study Committee is timelier.
2. Some conversation about the difficulty in posting meetings and agendas to website.
3. Torres: The Conservation Commission requests to have Town Counsel present for guidance at the Solar Farm Public Hearings; the Planning Board has made the same request for guidance. All members of the Select Board support these requests.

List of Documents and Other Exhibits used at the meeting:

1. 6.23.15 Dog Office Control Form
2. 6.22.15 Warrant Article Petition Form: Temporary Solar Moratorium
3. 6.30.15 Statement Regarding Warrant Article Petition
4. 6.18.15 MMA Opioid Crisis Survey
5. 6.23.15 email from Gail Huntress re: MBI Planning Assistance Grant
6. FY16 Salary spreadsheet
7. Town of Shutesbury Expense Report 7.1.14 to 6.23.15
8. *Daily Hampshire Gazette* Editorial 6.24.15

Next meeting: Tuesday, July 14, 2015 in the Shutesbury Town Hall Meeting Room  
Meeting adjourned at 10:00pm

Respectfully submitted,  
Linda Avis Scott  
Administrative Secretary