

Shutesbury Select Board Meeting Minutes  
October 6, 2015 Shutesbury Town Hall

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

Guests: Caylin Lee, Jesse Shore, Police Sergeant Wendy Masiuk, Dog Officer Nancy Long, Conservation Commissioner Barry Field, and Kestrel Trust Executive Director Kristin DeBoer

Dog Hearing – Locks Pond Road: At 6:20pm, Stein opens the meeting and administers the oath by asking Police Sgt. Wendy Masiuk, Caylin Lee and Jesse Shore if they each solemnly swear to tell the truth, the whole truth, and nothing but the truth during the dog hearing; Sgt. Masiuk, Lee and Shore each affirm the oath.

The Select Board asks Caylin Lee to explain the incident. Lee: on Sunday, September 20<sup>th</sup>, she was roller blading in front of her neighbor's house, wearing headphones, when the dog bit her in the leg and the dog only let go when she yelled at the dog. Lee reports that, at the time, her cell phone died so she went to another neighbor's house to call her mother who advised her to go back to the dog's owner to report the bite. Lee: when she told her, the owner cried that her dog would be taken and states that she thought this was going to happen because the dog is afraid of things on wheels. Lee states that she decided to go to the emergency room where she received a tetanus shot and was advised to rest for two days; she missed two days of work and needed to call out of work to attend this hearing. Lee: the owner is continuing to let her dogs out without leashes and dog tags; they come pretty close to the property line where her dog is tied up; owner lets her dogs out about three times/day. Stein asks Lee if she has talked with the dog owner. Lee states that she lives at 305 Locks Pond Road and dog owner, Shawna Smyth, lives at 309 Locks Pond Road. Sgt. Masiuk explains that the Shutesbury Police became involved via a text from Shelburne Control, Masiuk then contacted Lee who was en-route to the hospital; Masiuk states that she advised Lee to have photos taken of the bite. Masiuk explains that she was able to discern who the owner was, then, she contacted Chief Harding and Dog Officer Nancy Long. Vinskey asks what type of dog bit Lee. Lee: it is a German Shepherd named "Brute;" she (Smyth) has two Shepherds. Lee states that she knows it was Brute, the larger of the two, who bit her; the female is not a problem. Vinskey: you were heading down Locks Pond Road on roller blades? Lee: yes, on the road there is an area between the houses that is flat. Lee states that she was in front of her (Smyth's) house very briefly before being bit. Torres states that she spoke with Dog Officer Nancy Long who reported that the dog's shots are up to date; the Dog Officer has had no other incidences involving Smyth's dogs; although the owner is not present this evening, Long has talked to her twice. Lee: she (Smyth) offered to pay for the care she required; she is concerned because she (Smyth) said she knew this was going to happen. DeChiara asks Lee if she knows of any unreported incidents related to the dog. Lee: her neighbor reported being afraid to go out; she (Lee) has a boxer that she keeps tied. Stein: the Select Board will take the matter into consideration; there is a leash law in Shutesbury and

unleashed dogs need to be on voice command. Torres: we need to see if Smyth will come to a meeting. DeChiara, referring to M.G.L. Chapter 140 Section 157, the Select Board needs to determine if the dog is a nuisance or a danger. Torres: Long went down to Smyth's twice over the weekend and did not see the dogs outside. Lee asks about the voice command requirement. Vinskey asks Sgt. Masiuk if she goes by the area every day. Masiuk: yes, every day; has seen her (Smyth) out with the dogs and has not noticed them loose. Vinskey: we have a good amount of information. DeChiara notes the need for a reasonable time frame for a determination about the dog's status, as Lee is afraid to go out. At 6:32pm, Dog Officer Nancy Long joins the meeting and is sworn in by Stein. Torres repeats Long's report that the dog's shots and license are up to date, Long visited the owner and did not find the dog loose; the Police Chief advised Lee not to talk with Smyth; Lee's lawyer has written Smyth a letter. Long: has not heard any complaints about the dog. DeChiara: in terms of the law, the Select Board needs to either determine the dog is a nuisance or a danger; there is precedence for restraining the dog on owner's property. Long: in general, she visits and advises the owner about the bylaw (Dog Licensing and Control Bylaw); when there is a bite, she moves ahead on the steps; perhaps a hearing is held and the dog has to stay in the yard. Long states that she did not hear anything about this dog prior to the current incident; the owner needs a reliable confinement area for the dog, i.e. an electric fence or a 10' x 10' kennel. Lee: she (Smyth) was not even outside to supervise her dog at the time of the incident. Long: the reasonable way to fix the situation is to ensure that the dog is restrained. DeChiara: is the next step to meet with the owner on 10.13.15? Long will call the dog owner and talk with her about what time would work for her to meet with the Select Board and herself. Long: the owner has received a \$25 fine and the dog is on quarantine, meaning it has to stay in the yard with the owner. Lee reports that the dog came into her yard the other day and was also in the road. Long states that she will call Smyth this evening; the fine increases for a second offence and there is a charge for boarding if the dog is picked up. Stein asks if the quarantine will be extended? Long: the dog is up to date on rabies so it is not transmitting disease. Lee: what if she doesn't restrain the dog? Long advises Lee to call the Police Department. Sgt. Masiuk: the Police will evaluate the situation and, if warranted, call the Dog Officer. Lee asks if there was a police report? Sgt. Masiuk: the dog incident report was given to the Town Administrator. Lee requests Torres to provide her with a copy of the dog incident report. DeChiara advises Lee that if the dog is out, she should call the police who will provide documentation. Lee states the bite got worse and offers to show a photo. Long: the bite photos are a civil matter. Torres: Select Board jurisdiction is related to the dog. DeChiara: Lee will be informed when the meeting with owner has been scheduled. At 6:46pm, the dog hearing is closed and Masiuk, Lee, Shore, and Long leave the meeting.

Agenda Review: DeChiara requests a Web Committee item about a "town volunteer" web page be added to the agenda.

Kristen DeBoer/Kestrel Trust – New Cows Conservation Restriction: DeChiara states that the next time the Select Board is scheduled for an agenda item that he doesn't know of well in advance, he will move to a table the item. DeChiara states that the Select Board should have been informed about this item, in advance, because other parties received

advance notice and that he does not feel prepared for this item. Stein: this is an important topic and she would have wanted to know sooner.

DeBoer's presentation: the Kestrel Land Trust has been working with Cowls on conservation options for their land with the goal of increasing wildlife and forest connectivity. The colors, on the distributed maps, demonstrate the ecological values of the West Quabbin Woodlands Project (WQW) property based upon the UMass "priority system analysis," other analyses look at land value as related to water conservation and MA Department of Fish and Game (DFG) Biomass mapping. Ultimately, Kestrel is the facilitator and DFG will be the Conservation Restriction (CR) holder of this working forested land on which the owner will be able to continue forestry, however, there can be no development. The US Forest Legacy Program grant is a competitive Federal and State funded program. The 2011 Forest Legacy grant for the Paul C. Jones Working Forest CR helped create the largest CR in the Commonwealth. Cowls is looking for a way to build on this conservation success by looking at the parcels they still own. At this preliminary stage, the parcels outlined in red on the map would be the maximum extent of the parcels included in the new CR. Kestrel Trust is looking for a letter of support for conservation forestry in Shutesbury.

Vinskey: what is the purpose of letter? DeBoer: the letter demonstrates support for program; strong support helps the case; Kestrel has already received letters from Amherst Department of Public Works and others. DeBoer: the preliminary grant application was submitted in mid-September and was unanimously supported; the next step, is to apply to the regional panel, then to the US Forest Service where the application is ranked and an application has to be in the top ten to be funded. DeBoer: the easement agreement is yet to be negotiated. DeChiara: on a recent site visit to part of Paul C. Jones Working Forest, the observed area was significantly logged and there were concerns about wetland damage caused by the logging; what is the benefit of a CR if the land can still be logged and what is written in the grant about logging? DeBoer: there are multiple pages in the grant application about logging; the CR requires an additional layer of approval by the Department of Conservation and Recreation (DCR) and DFG beyond the usual Forest Cutting Plan (FCP); logging is always impactful. DeChiara: sometimes easements are negotiated. DeBoer: this US Forest Service agreement encourages highly sustainable forestry. Field/Conservation Commission: how will this CR interface with the usual FCP? DeBoer: the MA Forest Legacy program website will have information about the interface; the CR landowner is not exempt from forestry laws. Vinskey: who owns the land? DeBoer: Cowls will continue to own their land; the CR purchases all the rights except the right to do forestry. Vinskey: will taxes be paid on the land? DeBoer: the tax rate should not change from its current Chapter 61 status. Vinskey: the amount of revenue to the Town remains the same? DeBoer: yes. DeChiara: can the owners have both CR and Chapter 61 tax statuses? DeBoer: it is up to the Assessors Office which tax benefit the owner receives. DeBoer, when asked about the "proposed exclusion," explains this is the site of the proposed solar project which preceded the grant application. Vinskey: why does the Town have to get involved if the agreement is with the landowner? DeBoer: town involvement is not a requirement; she is here to inform the Select Board about the proposal and is not asking the Select Board to support the landowner; the Board is being asked to support the grant application and the use of funds; the point of the support is for public funding of the project. DeBoer: Kestrel does the

legwork to find funding; the core parcels for the CR in Shutesbury are about 2,000 acres. DeChiara: who identified the parcels? DeBoer: identification was a dialog between the landowner and the conserver based on values related to ecological interests, landowner interests and potential funding, i.e. is there enough ecological value in each of these parcels for them to be included. Field: have you met with Leverett? DeBoer: yes, she met with them on the same matter last night regarding the parcels in their town. DeChiara: two Select Board members are abutters to this project; the exclusion seems to be an odd thing; who suggests exclusions? DeBoer: the exclusion, noted by the purple dot on the map, preceded this negotiation so it has been off the table. Vinskey: Shutesbury's finances, funded by property taxes, are tight; we are going to have to give up some of the land to generate revenue; this project is taking a lot of the potential development land out of the mix; recognizes that we cannot tell a private landowner what they can do. Stein: this CR preserves something of value; there is still developable land in Town. Vinskey: houses are generally "negative revenue" because property taxes do not cover the cost of education; over 55 housing may be better. DeChiara: all housing loses revenue. Vinskey: therefore the need for commercial development. DeChiara: is this easement in perpetuity? DeBoer: CRs are in perpetuity, though can be overturned by a 2/3 majority of the Statehouse; MA has the strongest system for maintaining CRs; when the State is the holder of the CR, she believes Select Board sign off is skipped. DeBoer states that she would be happy to receive a Select Board letter of support by November 1st. Field invites DeBoer to attend the next SCC meeting. DeChiara states that due to local dynamics he is conflicted; the exclusion is in the middle of proposed CR area. DeBoer: land trusts are committed to voluntary conservation, the motive is less important than the outcome, which is preservation; officially, Kestrel is not taking a position on the solar exclusion. DeChiara: the town is not a party to any of this; is there a way of adding a parcel to the mix; is there a way of conveying a parcel owned by Cowls if the Town wanted to preserve a particular parcel? DeBoer: parcel choice is up to the landowners and the funders. Stein appreciates DeBoer's presentation. DeBoer: the fastest grant cycle is 12-months; the Paul C. Jones Working Forest grant application took four years; rankings come out in January. Stein: the Select Board will consider DeBoer's request and will vote on the matter in early November. At 7:43pm, Field and DeBoer leave the meeting.

#### Discussion Topics:

1. Knotweed Program Status: Torres reports that she and Scott are working on the Request for Determination of Applicability (RDA) Conservation Commission permit application; treatment will be done after the first frost; proposed treatment site is in front of Town owned Lot O32 Leverett Road.
2. All Boards Meeting Agenda: Stein is hoping all town boards and committees are represented and it will be an opportunity to demonstrate the Select Board's goal for transparency; she would like to know how committees are getting information out to the public. DeChiara suggests starting the meeting by identifying Select Board priorities for supporting the work of the town and solicit participation about best practices. Stein: Bulky Waste Day was a great time to listen to people. DeChiara: how are people making themselves accessible? Stein: have people thought about recruiting the next generation? DeChiara: if you are more accessible, you are more approachable; how we feed back information, i.e.

posting minutes, demonstrates accessibility. Stein recommends having a more interactive meeting by modeling what we want and getting people to think a little differently. Vinskey: how will we start the meeting? Stein: open the meeting by sharing that this is, globally, what your Select Board is thinking about and in addition, asking those present what they are working on. Stein will facilitate, minutes will be taken, and butcher paper will be used to help people see the bulleted list of notes. The primary topics will be: How are we listening? How are we accountable? How are we communicating out? The butcher paper notes will subsequently be transcribed into minutes to be shared with committees. DeChiara suggests considering the interconnectivity between committees. Stein: this will not be a lengthy meeting. Vinskey agrees to a two-hour limit. DeChiara: there will be a presentation of Web Committee recommendations. Stein affirms Torres's idea of a spring volunteer/staff picnic. Torres asks DeChiara to elaborate on the Web Committee presentation. DeChiara: each committee will have an email address that connects to a person; if there is something else that comes out of the Committee about increasing the ease of posting, he will report about that as well. DeChiara will draft the All Boards Meeting agenda which be sent out in advance of the meeting.

3. Highway Department Project Update: Torres: Hunting/Highway Superintendent has been talking with Clark Excavating about doing the work on "Task Hill." Vinskey states that he has some concern about abutter notification for this project. Torres: there is Personnel Action Form (PAF) for new hire Douglas Smith, who started on Monday, in tonight's packet; Steve Sullivan was injured in a crosswalk accident and Hunting is hoping he will be back to work next week; one has to be out for three days before Workman's Compensation coverage starts. Vinskey: has the crack sealing started? Torres: crack sealing will begin next week. Vinskey: what about snow removal staff? Torres: Hunting has one resident from Leverett Road and Tibbetts will be the back up. Vinskey: Hunting may need another secondary person.

Other Road Related Matters:

1. Torres reports that she is working with a Shore Drive resident and Republic/trash hauler; the resident says the hauler's truck broke a culvert on Shore Drive last spring though Republic's records say the breakdown occurred in December.
2. Torres: the annual private road plowing letter is being sent out; the letter, which includes Hunting's condition survey of the roads and the relevant Town bylaw, explains that if recommended repairs are not made, the road will not be plowed; all residents on the private roads are responsible for repairs.
3. Torres: two drainage ditches were cleaned out near the base of Groves' driveway on Pearson's side of Pelham Hill Road. Hunting talked with Pearson about a proposal for repairing the area of broken pavement that puddles near her residence on Baker Road. At this time, Pearson spoke about culvert concerns related to the Conservation Restriction (CR) area on Pelham Hill Road. Subsequently, Pearson called Town Hall to express her upset about the newly created drainage ditches; Hunting has a record of these drainage ditches being installed in 2004; no new culverts were dug. Torres: Pearson has been

working with SCC on the water (wetland) situation related to the CR; Kestrel Trust and SCC (co-holders of the CR) worked on plan to install fencing to keep the horses out of the wetland. Culvert problems are a recurring issue with residents. In this situation, the culverts were in place when Pearson's purchased the property; Hunting was performing routine maintenance in cleaning out the drainage ditches. Vinskey: will the area with the puddle get fixed? Torres: the situation is still in process.

4. Select Board/Department Head Communication: DeChiara: this summer, the Select Board received feedback from Harding, Hunting, and Tibbetts; Hunting maintains a daily log of Highway Dept. work, Harding requested more specifics on what the Board is looking for; there was no particular push back. DeChiara: because we are the Select Board, we should have some knowledge of what is going on, especially given the flow chart (Shutesbury Organization Chart); he would like a monthly update from department heads to help inform the Select Board; the goal is to find an easy way for department heads to convey information. Vinskey: we are looking for basic information, i.e. when will the Highway Dept. cut roadside brush back or when will the Town lawns be mowed; the Board needs a "heads up" about what is going on. Stein states that she does not want to be in the position of micromanaging. DeChiara: these are paid positions and we are the body of accountability. Stein: how do dept. heads communicate with the Town Administrator? Torres: usually, it's day-to-day communication to make sure work is getting done and the public is being responded to. Vinskey: not via a staff meeting? Torres: our town staff is spread through town, we don't have weekly staff meetings; department heads usually come to her with a purpose. Vinskey: if dept. heads consider that all is going well, they may not report. Torres: there is overlap about what needs to get done. Torres states her concern about requiring more work and notes that Hunting's crew was short one person all summer. Torres: what sort of information would the Board like to have? DeChiara: a half page or more about what is important to the department head. Torres: what would you need to have provided that you don't already know? Vinskey cites an example: why didn't we pave any roads this year? Torres: in the spring, Hunting reported that the department was taking a year off from major paving though two smaller paving jobs were completed on Highpoint and Farrar Drives. Torres: the FinCom, for example, is already collects a lot of information and Capital Planning requires a report on repair histories; she is concerned that asking for a half a page will not give DeChiara the information he is looking for. DeChiara: it will take time for folks to know what to report; information can be gained from minutes or from in-person reports, however, department heads do not generate minutes. Torres: reading minutes and going to meetings helps Select Board members be informed; suggests creating a template for what is wanted. Vinskey: what are the potential projects/issues that a department has been and will be working on in the next weeks, i.e. dog issues, injured staff, and equipment failures. DeChiara notes need for information from the Treasurer, Accountant, and Tax Collector. Torres: the FinCom has a handle on receipts and the Tax Collector reviews her process in *Our Town* newsletter

articles. Torres: in the past, issues would come up during the All Boards meeting which is a time to find out what is going on; suggests starting to meet with the various sectors, i.e. the financial team, Tibbetts, Harding, and Hunting; serving on the FinCom gave her a good start for finding out what departments are working on. DeChiara suggests having a rotation for different people to come and talk to the Select Board about what is going on in their departments; now, if something arises, we hear about it. Torres: there are a mixture of responses to the All Boards meeting; it can provide an opportunity for learning about what is going on; we are getting to a place where we can resume department head meetings; reports do not provide for a back and forth. Vinskey: I am hearing two things - we already have what we need and that we may get more information than we need. Torres: the department heads are sharing information; the question is, how to capture this information for the Select Board. Vinskey offers to experiment by meeting with Hunting, Tibbetts and Harding on a weekly basis for one month then reporting back to the Board on what he finds. Torres: former Select Board member Al Springer used this method; states her concern about consuming department head time and wants to be sure the information requirements are the same across the board. Stein: isn't this what Torres is already doing? Torres: she is not asking the same questions Vinskey will ask. DeChiara: if Torres is talking to the department heads, she could write up a one page Town Administrator summary; the Select Board, thinking about the town, needs some level of knowledge. Torres suggests that if DeChiara wants to know more about what is going on, he consider being a liaison to a committee that he is not familiar with, Vinskey could check in with department heads with his questions, and she could write a Town Administrator (TA) report. DeChiara wants to consider the questions to be asked and notes his need to be responsible. Stein: our professional staff members know what they are doing; she likes the idea of a monthly TA report and suggests the Select Board try this system and re-evaluate in a few months noting that Vinskey's interviews will be helpful. Torres will complete her first TA report for the end of October. All Board members agree to the plan for Torres' reports and Vinskey's department head check-ins. Torres requests a frank critique for the first round.

5. Annual Personnel Review Process: Stein reports that the Personnel Board personnel review process has been postponed to the Committee's 10.22.15 meeting.

#### Administrative Actions:

1. All agree to approve the 9.15.15 Select Board meeting minutes with clarifying edits.
2. Payroll warrants for \$87,167.82 will be signed on Friday 10.9.15.
3. Vendor warrants for \$92,820.63 are signed.
4. Personnel Action Form: Stein asks for a motion to approve the PAF for Douglas Smith of 45 Stone Road Wendell to be hired as Equipment operator/truck driver

Grade 7, Step 1 for the Shutesbury Highway Department; motion is moved, seconded, and then approved by all members of the Board

Future agenda considerations:

DeChiara: Stein will report on the annual personnel review process on 11.4.15.

Stein: the Region's visioning meeting is scheduled for 11.7.15

DeChiara: a date needs to be set to work on the policy manual and suggests Vinskey share what he has been working on; also add an item about the Board's role with Celebrate Shutesbury.

Torres: the Assessors will come to a meeting to report on the re-cap; the Select Board has to signoff on the re-evaluations for the Town and we may need a special town meeting for the well money unless it is funded under capital stabilization or the FinCom agrees to cover the cost under reserves. DeChiara suggests an agenda item regarding follow-up with the Watkins. Torres: overlay monies from prior years can only be used with Assessor approval.

DeChiara: if able to be scheduled, dog incident follow-up will be on next week's agenda.

Vinskey asks if there is supposed to be a written complaint about the dog incident.

Torres: the verbal complaint came from both Lee and her mother as well as a written complaint via email. Vinskey, referring to Chapter 140 Section 157, notes that he does not know what Lee wants from her complaint. Torres: she is fearful that dog is in the yard unrestrained and wants some restraint on the dog. DeChiara, reading from Section 157, the hearing authority determines whether the dog is a nuisance or dangerous. Torres: even if the owner does not attend a meeting, the Select Board can still place an order for restraint; it is a requirement that Select Board hold a hearing if there is a complaint.

Vinskey states that he is still not clear about what Lee wants. Stein: the Select Board can address her need to feel safe. DeChiara: our role is public safety. Torres: because there

has been a bite, it is a safety issue; the Select Board can always request a hearing if it feels there is a dangerous situation. Vinskey: do abutters need to be notified? Torres: yes, they were. Vinskey: is a newspaper notice needed? Torres: no. DeChiara: regarding the abutters, do we need to re-notify the abutters to obtain other perspectives? Torres agrees to re-notify abutters. Vinskey: Lee was roller blading with headphones on ~ 2 feet away from the dog owner's property; requests confirmation that she was on the road. Stein and Torres: yes.

Vinskey will print the Celebrate Shutesbury thank-you letters.

DeChiara: if the Select Board decides to have a "volunteer classified" page, Torres will let the Web Committee know the committee/board vacancies.

Torres: materials relative to 9 Round Hill Roads were included in the packet to be informative; the matter is in the hands of the FCCIP Building Commissioner.

List of Documents and Other Items Used at the Meeting

1. M.G.L. Chapter 140, Section 157: nuisance or dangerous dogs; orders for remedial action; appeal; violation of order
2. Town of Shutesbury Dog Licensing and Control Bylaw – May 4, 2002
3. 9.16.15 “Forest Legacy grant application” email from Kristen DeBoer/Kestrel Trust
4. 9.24.15 “West Quabbin Woodlands Forest Legacy Proposal FY2017 Climate Resiliency” map
5. 9.11.15 “West Quabbin Woodlands Forest Legacy Proposal FY2017” map
6. Personnel Action Form: Douglas Smith/Highway Department Equipment Operator/Truck Driver
7. 9.24.15 Town of Shutesbury Expense Report

Next meeting: Tuesday, 10.13.15 at 6:30pm followed by a meeting with the FinCom from 7-8pm.

Meeting is adjourned at 9:30pm.

Respectfully submitted,

Linda Avis Scott