

Shutesbury Select Board Meeting Minutes
October 18, 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: Attorney Donna MacNicol/Town Counsel/12 Lake Drive, Susan Millinger/135 Wendell Road, Peg Ross/362 Montague Road, Police Chief Tom Harding, Highway Superintendent Tim Hunting, Lori Saleem/323 Locks Pond Road, Adrian Meck/175 Montague Road and Ronald Meck/12 Birch Drive

Vinskey calls the meeting to order at 6:33pm.

Agenda Review: Changes are noted; there will be no executive session for reason #3/salt issue this evening.

Public Comment: Millinger is looking forward to an update on the status of Broadband services. Vinskey: the build out is going forward; there are still questions as to who will operate and maintain the system; MBI has indicated that towns do not have to own their systems.

Discussion Topics:

1. Highway Superintendent Review: Vinskey recognizes that Hunting has met with the Select Board several times over the last few months to provide updates on past and current projects. Vinskey asks Hunting how projects are proceeding especially in relation to notifying residents. Hunting: the primary projects have been accomplished; residents were notified about the paving of Locks Pond Road and the department received no complaints. Hunting: per the bus company, the replacement of the Montague Road culvert cannot be done while school is in session; scheduling the project is therefore problematic and may need to be done on a Saturday in November. Vinskey notes the need for residents to have a one-week notice for a road closure. Hunting: erosion control and the required DEP sign have been installed and are ready for Conservation Commission inspection. Vinskey asks if any updates to the Highway Department webpage are needed. Hunting: none at present. Vinskey would like snowplowing plans to be included on the webpage. Hunting suggests including the typical way the operation works during a storm with a disclaimer that these plans are subject to change; generally, the high traffic roads are the priority. DeChiara recommends adding a statement about how the department approaches the care of roads in winter. Hunting: the goal is to see the road "black" the day after a snowstorm. DeChiara asks Hunting if there is something he needs to ease the demands of paperwork and roadwork. Hunting explains that, as the Superintendent, he needs to complete the Chapter 90 paperwork; there does seem to be more paperwork this year; estimates spending approximately one day a week on paperwork; special projects take more time, i.e. wetland permitting for culvert replacements; the Ames Brook and Locks Pond

culverts will require special attention. DeChiara asks if there are funds for engineering services. Torres and Hunting: Chapter 90 funds can be used. Hunting: the question is whether the Locks Pond culvert is large enough for a 50-year event; Morris Root/Root Engineering (dam engineer) seems to think the culvert is large enough; slip lining the culvert would have less impact environmentally and financially however would still cost ~ \$100,000. Hunting: per Mark Stinson/DEP Circuit Rider, the culvert is a candidate for slip lining; Army Corps of Engineers needs to be consulted. Vinskey: the main question is how large the culvert needs to be. DeChiara notes the need to consider climate change. DeChiara asks Hunting how he handles receiving and responding to messages. Hunting: phone messages are routinely checked and responded to; phone calls are an easy way to receive a response; email is checked about every several days; cites the example of the drainage issue at the Pelham Hill Road end of Baker Road, his consultation with the closest abutter, and the plan to meet with the Conservation Commission. Vinskey asks if Hunting needs any assistance from the Select Board. Hunting: the meeting about timelines was helpful; will seek guidance from the Select Board regarding sensitive matters with residents. Vinskey appreciates the time Hunting has spent with the Board considering matters of public concern.

2. All Chairs Meeting Agenda: Board reviews agenda and room setup plans. Vinskey: Paul Vlach/Web Committee Chair will send materials out in advance of the meeting.
3. Policy for Sale/Lease of Town Property: DeChiara reviews revisions to “Shutesbury Policy Regarding Disposition (Sale or Lease) of Town-Owned Real Property”; and use of the term “unlikely use status” in place of “surplus”; per Chapter 30B, the department in charge of the sale is responsible for solicitation. Vinskey and Makepeace-O’Neil appreciate DeChiara’s work. Makepeace-O’Neil moves the Select Board approve the “Shutesbury Policy Regarding Disposition (Sale or Lease) of Town-Owned Real Property”; motion is seconded by DeChiara and passes unanimously.
4. Regional Assessment Percentage Determination: DeChiara: during the summer of 2015, the Shutesbury Regional Assessment Summer Study Committee recommended the “ability to pay” be included in the formula; the current committee’s goal is to create a lasting methodology. DeChiara: per Arvanitis, the FinCom’s position is that 10% would continue what we are currently doing into the next fiscal year and that they could work with 15%; DeChiara and Arvanitis, however, are recommending starting at 20%. Per DeChiara, the statutory amounts are not included in the “Regional Assessment Method Working Group September 21, 2016” report; Sean Mangano/Director of Finance Amherst-Pelham Regional Schools has been asked to redo the chart with statutory amounts included. DeChiara: the Working Group is conceding for a second temporary year; we are committed to coming up with a permanent solution by the end of this fiscal year; we have made clear that Shutesbury is not pushing the statutory method, however, if we cannot financially live with the chosen percentage, the statutory method will

be part of Shutesbury's town meeting discussion. Vinskey confirms that the goal is to come up with a permanent solution and a workable percentage for the next fiscal year. DeChiara: Mangano is seeking a temporary two-year solution. Vinskey states his concern that there may be less of a commitment to a permanent solution. DeChiara: the plan is to start at 20% and work from there.

5. Select Board Reports:

- A. Council on Aging (COA): Makepeace-O'Neil reports that the COA received an additional \$1,000 in State grant funds; plans to encourage more participation include a dinner/bingo night at the Shutesbury Athletic Club, a game/trivia night, and a canvas painting evening to be held in the Senior Lounge; the Aging in Place Task Force is planning to interview seniors to determine the specific needs of Shutesbury elders; the Council wrote a letter of support for Ben Grosscup's/singer-songwriter Cultural Council grant application – if granted, the COA will sponsor a coffeehouse event during the fall of 2017.
- B. Water Resources Committee (WRC): Per Makepeace-O'Neil, the Committee met with Attorney Donna MacNicol/Town Counsel regarding requiring/encouraging private well testing. MacNicol: the goal is to encourage private well testing and to map out the water quality/quantity in town; if the town requests receipt of results and the WRC received information about non-potable water, the Board of Health would need to be notified. DeChiara asks if the Shutesbury School water pipes are new enough not have lead contamination concerns. Torres: yes.
- C. Master Plan Working Group (MPWG): Per Vinskey, the Committee is about to finalize the contract with The Cecil Group; the main facilitator left the firm and the Committee was concerned with how the new facilitator would function – during the 10.17.16 meeting, a practice facilitation was held and the Committee voted to proceed with the new facilitator; the first Visioning session will be held 11.3.16. Torres: the new facilitator is the principal of the firm.
- D. Finance Committee: Per Torres, on 11.15.16, the FinCom will meet with the Select Board; the FY18 budget requests have been distributed.
- E. Emergency Management Team: Per Makepeace-O'Neil, the Team is working with a volunteer on a ham operator job description; work was done on the dam safety signs: there will be two "Danger Fall Hazard" signs on the dam building and two "Use This Area At Your Own Risk" signs at the entrance. MacNicol: ideally, one would want the entire area fenced off; "no trespassing" signs are not practicable; cites the example of the "Potholes" in Shelburne Falls; usually, folks sit on the dam and/or fish; the proposed signs will offer the most protection available. Torres: Walter Tibbetts/Emergency Management Director will order the signs. Vinskey asks for a motion to approve the installation of four warning signs at the area of the Lake Wyola dam; DeChiara moves and Makepeace-O'Neil seconds the motion that is unanimously approved. Makepeace-O'Neil: fifty-five individuals participated in the 10.15.16 flu clinic - student nurses from the Greenfield Health Department staffed the event; sheltering equipment will be purchased with EMPG funds.

6. Town Administrator Updates:

Massachusetts Municipal Association (MMA): during the recent MMA meeting, concerns were voiced about new Public Records Law requirements and the budget shortfalls; the survey about the actual funds needed for road maintenance/improvement will be redone.

Small Town Administrators of Massachusetts (STAM): an upcoming meeting will focus on matters related to policing and police departments.

Torres also attended two Broadband Committee meetings; met with Mike Miller/ConCom member and environmental chemist and Vinskey on 10.11.16; met with the new MIAA insurance agent and attended FinCom and Master Plan Working Group meetings.

Shutesbury Buildings Committee: Groves/Chair proposed revisiting the possibility of using old town hall as a meeting space – the Committee supported his pursuit of this project; the painting contract is almost resolved and, on 10.15.16, Hayden Roofing completed repair of the school roof. The Building Committee unanimously voted to remove the men’s room urinal; potentially, a drop-down infant changing table could be installed in place of the urinal; leaking in the façade on the rear south end of the building and the southeast corner of the elevator is being investigated - this is being done in advance of the elevator inspection at the end of the month.

Some abutters did not receive the postcard announcing the time change for the dog hearing in advance of tonight’s meeting.
7. Future Select Board Agendas: Vinskey suggests postponing the “Native American Heritage invitation”; all Board members agree to postpone this topic to 1.10.17. Members consider rescheduling the 12.27.16 meeting noting that warrants will need to be signed. The Energy Committee debriefing is planned for 11.15.16; the meeting with the FinCom will also be held 11.15.16. The next employee review is planned for 12.13.16; Torres will find out which of the finance team are available on this date. For 11.1.16: review Public Participation Policy, debrief All Chairs Meeting, update on grant funding for security enhancements at Shutesbury School, review wage increase for Highway Department employee – per Torres, the Personnel Board and FinCom approved this wage increase, the Leverett transfer station proposal, and preparation for the 11.15.16 meeting with FinCom. Torres will check in with McGinnis/Leverett Town Administrator regarding Leverett’s response to the shared police chief inquiry.
8. Select Board Representative/Police Chief Contract Negotiations: A motion is made by DeChiara to nominate Makepeace-O’Neil to represent the Select Board during the police chief contract negotiations, Makepeace-O’Neil accepts the nomination, the motion that is seconded by Vinskey, and is passed unanimously.
9. Finance Committee Budget Guidelines: Vinskey, referring to “Select Board pre-meeting notes for October 18, 2016 – SB input to Finance Committee FY18 guidelines”: reviews his recommendations and states that he does not see that it is necessary to increase the tax levy by 2.5%. Vinskey notes that the generalities of

this concept were identified during the 9.1.16 meeting with the FinCom; his recommendations represent the specifics. DeChiara confirms that, according to Vinskey's figures, a zero increase in the tax levy would save the town \$121,251. Torres: are you proposing a zero increase in the tax levy as a standard practice? Vinskey: no, just for FY18. Torres: the standard practice is to build a budget; new information is gained as the budget process proceeds; the tax levy is based upon the recap - it is not an absolute 2.5% levy increase. DeChiara confirms that, based upon the actual numbers, what is voted at town meeting may change. Makepeace-O'Neil: town residents may not understand this process. Vinskey: what document shows that the levy did not go the full 2.5%? Torres: a review of the recap sheets. DeChiara suggests considering the topic of the tax levy more in depth during the 11.1.16 meeting, in particular, the voted versus actual levy number for the past 10-15 years. Makepeace-O'Neil notes the importance of sharing this information with the public. DeChiara: there are two uncertainties - revenue and expenses. Torres: the recap will provide the actual numbers. Makepeace-O'Neil requests that the driver behind budget line increases be included. Torres agrees – this is one the ways she would like to expand the town's financial reporting. DeChiara: refining the budget is commensurate with increasing accessibility to information; notes the need for a tie-in between the Master Plan and the budget. Vinskey: the tie-in will be a town meeting vote. DeChiara: via the Master Plan, the town will identify where/how to invest funds. Vinskey: this topic will be revisited during the 11.1.16 meeting.

10. Dog Hearing/323 Locks Pond Road: At 8:30pm, Vinskey opens the dog hearing and recognizes the parties present for the hearing: Lori Saleem, Ronald Meck, Adrian Meck, and Attorney Donna MacNicol/Town Counsel. Torres is unable to locate Police Chief Harding. Vinskey, to Saleem and R. Meck: if you are going to speak, please stand and swear to tell the truth, the whole truth, and nothing but the truth. Saleem, R. Meck, and MacNicol complete the oath. Vinskey provides interested parties with a hand out dated 11.11.16 and titled “ 323 Locks Pond Road dog issue”. Vinskey: during the 1.26.16 dog hearing, the dog (Mocha/owned by Saleem) was considered a nuisance and Saleem agreed to “keep her dog indoors whenever she was not at home.” Vinskey reads into the record:

“Since January 26, 2016, two citations have been issued, one on April 21 and one on September 28. Since January 26, 2016, there are three instances of documented/confirmed issues with Lori Saleem's dog; April 8, 21, and September 28. All three events were at night. Assuming Lori Saleem is home at night and knowing the sensitive nature of her dog barking why would she not immediately take action if the dog were barking? If she was not at home, why would she leave the dog out when she knows it would violate the Select Board's directive?”

Saleem disputes the distance from her house to Meck's (400 feet). Vinskey continues: “There were no complaints from January 26 until April 8. There were then no complaints from April 28 until September 12.” Vinskey: if complaints come at night, when Saleem is home, why doesn't she bring the dog in?

Saleem: she is surrounded by vacant houses; the garden room is surrounded by a 10 foot fence that one is unable to see through - the dog is outside in this area with a bark collar on during the day; right now, Mocha is home and crated; when she is sleeping and the dog wants to go out, she lets him out and he barks to come in. Saleem clarifies that the garden room is an outdoor space where Mocha is safe from traffic. Vinskey asks about the 4.8.16 complaint. Saleem states that she often works late on Thursday and Friday evenings and, that during good weather, she might leave the dog outside with a bark collar on. Vinskey: complaints have come in at midnight. Saleem states that she may have fallen back asleep after letting the dog out. Vinskey: if you let the dog out and fall back asleep, the dog barks a long time? Saleem: the situation has created a lot of pressure and she has become hypersensitive to her dog's noises. Saleem states that she wants to keep the peace and refers to her canvassing of neighbors who have no issues with her dog. Saleem explains that she has spoken with a neighbor who will walk the dog on Thursdays and Fridays; it was easier to follow the plan during the winter. Vinskey to Saleem: you were asked to keep your dog inside when you are not home. Saleem states she was hoping the dog could be outside during good weather. Vinskey: at the last meeting, it was assumed you would be home at night and attentive to the dog's barking. Saleem reports that she found the last couple of citations in her door; they were delivered when she was home and the dog was with her – figures she must have fallen back asleep after letting the dog out. Vinskey: it appears that you have “blown off” what we have asked you to do; it is disconcerting that you were asked to do a certain thing and did not follow through; we want to find a workable solution; the solution did work from January 26 until April 8. Saleem: when there are no complaints, she is following through. Vinskey: what did you stop doing in April? DeChiara confirms that, when called about dog barking, the State Police do not make a visit and asks Meck if he experienced a gap in the barking episodes. Meck: there have been times when the dog barks and he has not called; the police have verified the barking; he does not want to bring the State Police up from Belchertown for a barking dog; states what Saleem says is not true – dog is barking for hours. Vinskey: there are vacant houses in the area – how do you verify that the barking dog is Saleem's? Meck: after nine years, he recognizes the dog's bark. Saleem: I have only lived on Locks Pond Road for five years. Meck: does not believe Saleem is home when the dog barks for hours although he has not confirmed this. Vinskey asks Saleem for her solution to the problem. Saleem: the solution is to keep the dog inside when she is not at home. Meck: does not hear the dog barking during the day. Saleem: has specified with dog walkers that Mocha is to be inside by 6pm; Mocha is in perfect health. Saleem: if Meck is okay with the dog being outside during the day, she would like permission to have dog outside during the day in the fresh air and sunshine and will promise to have dog inside by 6pm; has to be able to let dog out at night and let her back in after a few barks; she will have everything set for her outside – has bark collar on during the day. Makepeace-O'Neil suggests Saleem put the bark collar on at night. Saleem: she is a very good guard dog. MacNicol: between 9pm-2am, there are lots of things Mocha may bark at; if she barks, you have to let her back in - this is what is disturbing the neighbor – you need to stay

up when you let her out at night. Vinskey confirms that the dog may be out during the day, is to be in by 6pm, and that Saleem will stay up at night while the dog is out; Saleem will also try keeping the bark collar on at night. Vinskey asks Meck for his solution. Meck: the dog is not happy if it is barking for hours; he does not believe Saleem is home when this happens. Vinskey to Saleem: the problem with your solution is what happens at night when the dog barks and there is a complaint – we cannot have someone watching to see if you let the dog out and back in; concerned problem will not be solved. DeChiara: there are facts that do not jive – Meck says dog is out for hours – you say you let the dog out and then back in; with the exception of letting the dog out, the dog must be in during the night; when it is good weather, the dog can be out during the day, otherwise, the dog must be inside; that was one condition you were not following. Adrian Meck asks to speak and swears to tell the truth, the whole truth and nothing but the truth. A. Meck to Saleem: suggests having dog walkers let the dog in. Saleem: the plan is for the dog to be walked at 5pm and in the house by 6pm. Saleem: when the weather gets cold, Mocha will be crated inside the house. DeChiara: the dog should be inside in inclement weather; in the winter, the dog will be inside most of the day. Saleem: when I am home, I can hear the bark; the bark collar was tested recently and she had Mocha's fur cut so the collar is closer to her skin. Vinskey: if the dog barks during the day, is it a problem? Meck: yes; the condition should be "no barking dog". Vinskey: if you are not home, the dog must be inside; at night, you will be there to monitor and the bark collar will be on. Saleem states she is willing to upgrade the bark collar. Vinskey to Meck: is this a reasonable solution? Meck: maybe Mocha could go to a doggy daycare or stay with someone else; it is a problem that the dog is home alone a long time. Vinskey: the Select Board needs to come up with a solution that satisfies both parties – recognizes there have been past attempts at solutions. Vinskey to Saleem: the dog will have to stay inside during the day and have the bark collar on at night with prompt attention to bringing her in. Saleem agrees to do what she is asked to do and states that if it does not work, she will have to rehome the dog. Vinskey: there are consequences – if complaints continue, you may need to rehome the dog. Saleem states that she has spoken to her other neighbors and refers to her petition – they all have no complaints or any issue with the dog. Meck: Huntress and McNaughton moved because of Saleem's dog. Vinskey: this is a quality of life issue – what will trigger the Select Board needing to ask you to remove the dog. MacNicol: the real question is what will trigger another hearing - that is the consequence – Saleem needs to understand, removal may have to be considered. Saleem asks Meck to record the dog barking. Meck has sent recordings to the Town Administrator and Police; he is more for the dog than himself in this situation; will call Dispatch when the dog barks. Meck states that he is not out to get Saleem. Vinskey confirms that the reason for another hearing is the issuance of another citation. Vinskey asks Meck if he would agree with two citations. Meck: no. Vinskey to Saleem: you need to keep the dog inside when you are not at home; the bark collar is to be kept on at night – one citation will be cause for another hearing. DeChiara agrees with the objective third party being the trigger. MacNicol notes the need to ensure the citation is for barking. Saleem:

what is the noise ordinance? MacNicol: this is a separate issue from the noise ordinance. Makepeace-O'Neil: could the trips outside be longer? MacNicol: the dog can be outside in the evening when Saleem is home. Vinskey: to ensure that all present are clear, the Select Board directs Saleem to keep the dog inside when she is not home; additionally, she needs to monitor the dog outside when she is home and bring the dog in when she barks; there is an assumption that the dog can be outside when Saleem is home. Saleem agrees to keep the bark collar on while the dog is outside. DeChiara notes that MacNicol is differentiating between evening and night. MacNicol: the point is that Saleem cannot let the dog bark; most dogs spend the day in the house. Meck: there is a distinction between barks – dogs barking to come in are different from dogs barking in misery. MacNicol: when the owner is not at home, the dog is to be kept inside; when home, the dog must be monitored when outside in the evening and must be brought inside immediately when she barks; it is up to the Select Board whether to require the bark collar when the dog is outside; you may include that the dog will not be left outside from late evening until early morning. DeChiara suggests a written copy of the agreement be provided to Saleem and Meck. Vinskey to Saleem: it is up to you to ensure you keep Mocha from barking and to be on this 100% of the time. DeChiara: as per Mass General Law, there is a need to note that the owner did not comply with the Select Board requirements. Saleem states that she spoke with Chief Harding and Torres about the citations earlier on 10.18.16. DeChiara: there needs to be a “good faith” effort to pay the citations. Saleem: there is more conversation to be had about payment of the citations. Vinskey summarizes: the dog must be inside whenever the owner is not home, the dog must be brought in immediately when barking during the evening, the dog shall not be left outside for extended periods from late evening to early morning, and the issuance of one citation will result in a dog hearing. MacNicol clarifies that to meet the statute's standard, the dog may be required to leave the community. DeChiara moves that the Select Board found that the initial order was violated therefore is responding with an expanded order that the dog be kept inside when the owner is not at home, be monitored when outside during the early evening, and not be left out for extended periods from late evening to early morning; the issuance of one citation by the Shutesbury Police or one written report by the State Police will result in another dog hearing. Makepeace-O'Neil seconds the motion that is unanimously passed.

Administrative Actions:

1. Sign State Election Warrant: DeChiara moves and Makepeace-O'Neil seconds the motion to approve and sign the State Election Warrant; motion passes unanimously.
2. Select Board Minutes: DeChiara moves to approve the 10.4.16 meeting minutes; Makepeace-O'Neil seconds the motion; the minutes are unanimously approved as amended.
3. FY16 Select Board Annual Report: Makepeace-O'Neil moves to approve the FY16 Annual Select Board report as amended, DeChiara seconds the motion that is unanimously approved.

4. Visioning Consultant Contract: Vinskey: per the Master Plan Working Group all is in order with the contract. Makepeace-O'Neil moves, DeChiara seconds and all approve the motion to approve the 10.15.16 contract with The Cecil Group.
5. Fire Department PAF: Makepeace-O'Neil moves and DeChiara seconds the motion to approve the appointment of Benjamin Drake as a Fire Fighter; motion passes unanimously.
6. Halloween Event: Vinskey: per Torres, this is an informal event; how do we let residents know about the event? Torres: "trick or treating" is not a town-sponsored event; residents with children know what the tradition is. Vinskey: is there a need for drivers to know about the children on Leverett Road? Torres: the Police Department puts out cones to alert drivers and stations cruisers at either end of the travelled area. Members agree that no Select Board action is needed.
7. A thank-you card appreciating Select Board participation in Celebrate Shutesbury is received from Jessica Carlson-Belanger.
8. Vendor Warrants totaling \$544,446.47 will be signed.
9. Payroll Warrants totaling \$94,794.71 will be signed.

DeChiara moves and Makepeace-O'Neil seconds the motion to adjourn the meeting at 10:22pm.

Documents and Other Items Used at the Meeting:

1. Town of Shutesbury Highway Superintendent Job Description
2. Town of Shutesbury Personal Services Contract: Superintendent Department of Public Works
3. 10.25.16 All Board & Committee Chairs & Department Heads Meeting Agenda
4. Shutesbury Policy Regarding Disposition (Sale or Lease) of Town-Owned Real Property
5. 9.21.16 Regional Assessment Method Working Group Report
6. Vinskey's 10.18.16 Select Board Pre-meeting Notes
7. Vinskey's 10.11.16 "323 Locks Pond Road dog issue" document
8. MGL Chapter 140 Section 157 "Nuisance or dangerous dogs; orders for remedial action; appeal; violation of order
9. 1.26.16 Select Board minutes regarding dog hearing
10. 10.16.16 petition submitted by Lori Saleem
11. 1.16.16 – 10.1.16 "Dog Complaint History for 323 Locks Pond Road" submitted by Chief Harding
12. Warrant for the State Election 11.8.16
13. FY16 Select Board Annual Report
14. 10.15.16 Town of Shutesbury contract with The Cecil Group
15. Fire Department PAF for Benjamin Drake/Fire Fighter

Respectfully submitted,
Linda Avis Scott/Administrative Secretary