

Shutesbury Select Board Meeting Minutes
May 30, 2017 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: Tim Logan/Select Board member-elect, Attorney Donna MacNicol/Town Counsel, Susan Millinger/Positive Presence, Rob Kibler, Mary Lou Conca, Miles Tardie, Don Wakoluk, Narda Wakoluk, Miriam DeFant, Penny Kim, Deacon Bonnar and Steve Bressler/Planning Board, and Master Plan Working Group members: Jeff Lacy, Michele Cunningham, Allen Hanson, Meryl Mandell/Chair, Bob Groves, and Mary Ann Antonellis.

Vinskey calls the meeting to order at 6:30pm.

Agenda Review: There will be some additions to the administrative actions portion of the agenda.

It is noted that Miles Tardie, a member of the public, is recording the "Native American Historical Preservation" portion of the meeting.

Public Comment Period: none offered.

Discussion Topics:

1. Native American Historical Preservation: Vinskey: because the Select Board has received some communication that there may be legal ramifications if a discussion is held to form a working group to study Native American historical preservation, there is a need to ensure the Board is not at legal risk by holding the discussion. Attorney Donna MacNicol/Town Counsel: her concern is the receipt of communication from Rolf Cachat threatening legal action if a targeted group from the Historical Commission were to be formed. DeChiara: if a subgroup were to be discriminatory, legal action was threatened; if it were not discriminatory, the discussion could be held. MacNicol states that she does not feel Shutesbury is in the position to have another costly Federal lawsuit; it is important to understand the parameters regarding state, federal, private, and town properties; the town does not have any authority over state land and private land may be considered only with permission and agreement with the owner; will the Historical Commission apply for a grant to do a study; it should be the whole Historical Commission evaluating the topic. DeChiara: would an advisory group to the Commission be acceptable? MacNicol: the Historical Commission, as a whole, is very inclined to make the topic a priority for the town; it is important for them to feel freed up enough to do the work. Miriam DeFant notes that although she is an associate member of the Historical Commission, she is speaking for herself and states that she feels the town is stuck in finding a way forward; the members of the Commission did not feel they could take on the topic as they do not have the

expertise. DeFant hoped the Commission would be present to meet with the Select Board and notes that there may be others who would like to volunteer and that there needs to be consultation with experts; what would the Select Board think about asking someone like Doug Harris/Preservationist for Ceremonial Landscapes to discuss his experience working with other town boards as he has ideas on how to include indigenous voices in the process; such an action could earn some goodwill. Vinskey states that he would like to see a group of interested parties come together and learn from Doug Harris. DeFant: it needs to be a town committee because Harris is a member of a sovereign nation. DeFant notes that Harris has attended several Planning Board meetings; several Tribal Historic Preservation Officers (THPOs) could be invited; this could be a concrete step. Vinskey: the focus group would be a town committee/working group. DeChiara: segregating the group is the threat of the lawsuit; the Historical Commission has the statute to do the work – they could invite Harris for guidance on how to proceed and a member of the Select Board could be present; the Select Board’s only jurisdiction is appointing the Historical Commission; the Board could provide guidance on how to proceed with the meeting. DeFant notes that she and Leslie Bracebridge/Historical Commission are attending the 6.17.17 Nolumbeka conference. MacNicol notes that Bracebridge has been attending the Nolumbeka meetings for months; the focus is on what steps need to be taken to meet this preservation goal for the town; it will be helpful to learn what other towns are doing. Mary Lou Conca: isn’t it the charge of the Historical Commission to work on all historical matters? MacNicol: some time ago, the Historical Commission had a survey done and found there were no Native American historical artifacts in Shutesbury. Vinskey: the Commission feels this topic is outside of what they can manage, therefore, there has to be a way forward; it has been said that the Commissioners are not experts – here’s an opportunity to invite those with the necessary background to come up with methods for preservation. DeChiara: the members may not have the expertise, however, it is the Historical Commission’s responsibility; there needs to be a process identified, i.e. a RFP for a consultant, the potential use of Community Preservation Act funds; can the Select Board give the Historical Commission a charge to go forth and come back with a plan. MacNicol: the Historical Commission charge is determined by statute; the Select Board can recommend; the 1989 survey is too old therefore the town may be eligible for Massachusetts Historical Commission funds; if the Commission does not have the expertise, they will need a consultant; cites Chapter 40 Section 8D regarding the powers and duties of historical commissions; the point is to get the process moving as to do so will decrease the discord. Makepeace-O’Neil notes the need for the members of the Historical Commission to feel supported. MacNicol agrees. Henry Geddes, identifying as a Native American: every archeologist will tell you they can only get so far as they do not know the oral history of an area; sees stonewalling of the obvious – there is controversy as it is hard to date stones – the stonewalling involves what form of expertise is credible – it is local people who know what is in the woods – those with Native American heritage know the tales and legends and their knowledge is credible – it is not reasonable to suppress this kind of knowledge. Vinskey: the focus of the discussion is how do we move

forward. DeChiara notes Geddes' point about who is qualified; an RFP could require component parts, i.e. physical, ethnographic, and ensure those with native descent are consulted as well as those knowledgeable about Shutesbury. MacNicol: we understand the need for THPO qualifications to assist with a meaningful survey as well as the need to include oral and ceremonial history. Don Wakoluk acknowledges that the town has no say over state land; however, the Select Board can contact the Department of Conservation and Recreation to obtain the sites they have already identified while doing forestry activities. Vinskey: the goal is how to approach the topic – it has to be a Historical Commission matter. Vinskey states he is in limbo that this is the only solution. Conca: you are putting a block by saying funds for consultants are needed; the Select Board appoints the Historical Commission - a knowledgeable person came forth and the Select Board passed up the opportunity for this person to be on the Commission at no cost. DeFant: sees people reacting to the trauma of disenfranchisement and racism; it is true that the Historical Commission charter is governed by state statute – we need a broader scope that works with reconciliation and healing which is the charge of the Select Board; cites the evenly divided vote on the relevant citizen petition. Rob Kibler: in his opinion, the half page document (“A Message from the Historical Commission May 6, 2017) presented at town meeting was a racist thing to do; if the Commission was interested and vested, they would have done what the visioning committee did; notes the need to diversify the Historical Commission; if there is a set number of members, some members could be asked to resign. Historical Commission membership is not less than three and no more than seven. DeChiara: the Select Board will be making (FY18) appointments during the 6.30.17 meeting. Vinskey notes the need to bring the discussion to a close at this time and continue it during the next meeting; the Historical Commission is the focus of how to hold the Native American matter and there is a need to look at the composition of the Commission. DeChiara notes that he would not want to make a decision on the Historical Commission membership until the discussion is complete. The need for members of the Commission to be present for the 6.13.17 discussion is noted. DeChiara: the Historical Commission meetings held in the middle of the day limits attendance. MacNicol: committees set the times for their meetings; the Select Board can encourage meetings be held at more conducive times. Vinskey closes the discussion; the topic will be continued during the 6.13.17 Select Board meeting.

At 7:35pm, Vinskey moves the Select Board go into executive session for reason #3/PILOT negotiations and return to open session; motion is seconded by Makepeace-O'Neil. Roll call vote: Vinskey: aye, DeChiara: aye, and Makepeace-O'Neil: aye.

2. Separation of Zoning Board of Appeals (ZBA) and Planning Board Membership: DeChiara refers to MGL Chapter 40A Sections 12 & 14 and reads Section 14 #1-4 into the record. DeChiara: the ZBA and Planning Board are the only two boards that have direct oversight of similar issues, in this case, the zoning bylaw; his opinion is that to have a person on both the ZBA and Planning Board is a conflict of interest because the Planning Board develops and enforces zoning bylaws and

the ZBA makes exceptions to them. Per DeChiara: It would be better to have three people on the ZBA who are not on the Planning Board and have no vested interest in the zoning bylaw. MacNicol: Section 14 #1 refers to Section 8 which relates to the building inspector; the zoning bylaw divides special permit responsibilities between the two boards and the variances are dimensional; Shutesbury does not have a zoning administrator, however, there is a building inspector; there is no conflict of interest or illegality in having a person be a member of both; there could be bias; as appointees of the ZBA, the decision is up to the Select Board. DeChiara states that he singled out this situation due to the close relationship of the ZBA and Planning Board after the April meeting on a proposed zoning bylaw change. Makepeace-O'Neil and Vinskey note the option to recuse oneself in the case of a conflict of interest and the role of alternates. The ZBA currently has three members and two alternates. Penny Kim, as a former planning professional consulted her successor: it is very commonplace to have an individual be on both boards as they are knowledgeable and the best candidates; although it may appear there is an inherent conflict there is none, only if there is something to gain. Bressler: it is a benefit for Jeff Lacy to be a member of both boards; acknowledges Lacy's willingness to serve on both boards and the enhanced communication between boards; notes the option to recuse. Makepeace-O'Neil: agrees with Bressler and acknowledges the benefits of information exchange and expertise. Vinskey and Makepeace-O'Neil would like to leave the membership as is. DeChiara: agrees to keep status quo.

3. Master Plan Working Group (MPWG)/“Shutesbury Community Vision Report May, 2017”: Vinskey: after having had an opportunity to look at the report, what are the next steps? DeChiara appreciates the MPWG's great effort; states that he does not think he can endorse the statement as does not feel there was adequate analysis, synergy, or prioritization; the themes felt meaningless as they could be diametrically opposed; the data did not get processed to the level where it could become policy. Meryl Mandell/MPWG Chair: the vision was a pulling together of the data; the MPWG charge was not to do analysis – it was to put the data into themes; identifying the topics that are on people's minds is the starting point, endorsing the vision statement comes next, then further steps are decided, i.e. do we set up topical groups or go into a full master planning process. Lacy: topics were raised that are not realistic in the near term, i.e. public transportation. DeChiara: endorsement comes at the end - we need to spend time on what is feasible. Mandell: endorsement does not mean the Select Board agrees with all of the content; endorsement indicates that the process was valid and the Select Board agrees with the MPWG's desire to have the data analyzed. Mandell: the vision statement it is the biggest umbrella – the overall themes; the strong desire for community space is an example of a topic that could be explored. DeChiara: government efficiency is different from reducing taxes; if we endorse this, we are saying that by 2027 we will have reduced taxes. Mandell: that is an example of what gets teased out; this is what we heard from participants; we will find out what is translatable – what will receive more investigation. Antonellis: the MPWG did diligent work that could be the beginning of a larger conversation –

how do we take the data to a different level – we heard what is meaningful to folks and what felt important to include in the document. DeChiara acknowledges the good data collection; what do we do to “sharpen” the data? Vinskey asks if he is hearing that this is potentially a flawed document? DeChiara: the data is real and is documented, however, the themes are not clear. Makepeace-O’Neil appreciates the data though agrees there is a need for more definition and states that she very much likes the community vision statement. Kim: it seems like the MPWG is advocating a full master plan process - a broader, more data driven process. Lacy: a full master plan process would take about two years and cost more money; there are middle paths – the three themes work well together — community building is a way to bring infrastructure and finances together; regarding land use and housing, the Planning Board and ZBA are in the process of making zoning adjustments. Groves: the MPWG was told to learn the wishes of participants and not set them against what is possible; if it is to be reasonable, there has to be financial planning – how to distribute limited resources. Mandell reads from the second paragraph on page 5: there are inherent conflicts; the MPWG has finished its work; if there is no endorsement, this is a dead document; we tried to focus on the broader wishes – a vision looks at the big picture. Makepeace-O’Neil: if the topics were to go to committees, the conflicts could be worked out. Lacy: the MPWG was a very diverse group of twelve people; the data was filtered through us - it is a vote of confidence that we agreed on the document. Vinskey: the vision statement can be used as a general guideline; subcommittees could be set up to look at specifics or ask the Planning Board to engage in a full master plan process. Vinskey notes that he is not sure whether either of these options fit. Antonellis states that she would hate to see the conversation stop here - how do we keep the conversation going. DeChiara: the next step is figuring out how to deal with the data – we need to figure out the priorities. Antonellis: this is a vision and not a plan. Mandell: we realize these are complex issues. Torres: the statement is a vision of 2027 – that seems absurd and is inherently flawed; wants to put the blocks together in a feasible manner. Lacy: people will be satisfied that they were heard; the vision statement is aspirational. Bressler: in a visioning process, you end up with a dream – it is a broad goal – i.e. how do we get to fiscal conservatism without losing services. Logan suggests redirecting the conversation to the options and asks how much of the 2004 document was used. The zoning bylaw update is noted as one of the main accomplishments of the 2004 Master Plan. Mandell: the 2004 document was reviewed at the start of the MPWG process; it was agreed to use the document as a reference –quite a lot of the 2004 document could be brought forward. DeChiara: can we clarify? Bressler: that is part of the work; this is not a practical document – it is a vision. DeChiara states that he would affirm that the document is ready for further work. Antonellis to DeChiara: could you propose a statement appreciating the efforts of the MPWG – thinks the report is a good starting point for further exploration. Vinskey: the statement is okay; who is going to do the work? Antonellis: the next step is a conversation with the Planning Board about how to move forward; the Planning Board then comes up with a proposal. Vinskey leans toward individual committees to do the next level of work. Hanson:

it would be a mistake to make any decision based on the vision – it is based upon categorization with inherent bias - it is a broad view and the value is in the raw data; you do the things that make the most people happy; cautions against interpretation; the data can be used as part of the normal town functioning.

Vinskey: the topic warrants more discussion. Logan recommends the second option and suggests the Select Board make a motion to identify the manpower to explore. Lacy supports #2 “Directly Implement the Vision (page 27): a dialog would occur by doing a planning project around the topic of community engagement. DeChiara agrees with Lacy’s suggestion. Kim, in support of #2, suggests the building committee could be expanded to look at facilities. Vinskey suggests further consideration before the Select Board makes a decision.

DeChiara appreciates how twelve people navigated charge of the MPWG.

Vinskey: the Select Board will reconsider the topic on 6.13.17.

4. Committee Reports: None offered.

5. Town Administrator Updates:

A. Municipal Lighting Plant: the document to receive Broadband funds from the EOEEA was signed by Vinskey; confirmation of the receipt of the funds is pending; Voelker/Treasurer is starting the process of going out to borrow. Vinskey: disbursement of the professional services allocation is expected before 6.30.17.

B. In light of Officer Sawicki’s resignation, Police Chief Harding would like to meet with the Select Board about service needs and staffing. Vinskey: this meeting will occur 6.13.17; the need for Personnel and Finance Committee input is noted. DeChiara: a prior agreement has a claw back clause. Torres: the proposal discussed with Sawicki was not signed, however, it would have had a three-year buyout. It is noted that the public may want to have input on service needs and staffing therefore the topic will be placed on Town Announce; time is set for 6:45pm. Vinskey, noting the responsibility to spend taxpayers’ money wisely, states his concern about not having an agreement with Sawicki; is unsure how to address his concern about how the agreement was not achieved. Torres: Sawicki was Shutesbury’s first auxiliary officer before he was hired part-time; the Chief recommends, the FinCom approves the funding for the Police Academy, and the Select Board approves attendance at the academy. DeChiara suggests the Select Board note this as a costly oversight. Vinskey recommends the topic be reconsidered during a future meeting. Logan: if the individual owes money, the funds could be withheld from their last paycheck; recommends a clause to allow collection via this method.

a. Future Agenda Items: Police Chief Tom Harding - staffing, Susie Mosher/Town Clerk - record storage, MPWG vision statement next steps, Native American historical preservation; consider FY18 appointments.

Administrative Actions:

1. The Select Board will sign vendor warrants totaling \$185,127.15.
2. The Select Board will sign payroll warrants totaling \$95,712.62.
3. DeChiara moves to approve the 5.16.17 Select Board meeting minutes; motion is seconded by Makepeace-O'Neil; minutes are unanimously approved as amended.

Unanticipated Items:

1. Planning for Meeting with State Representatives: DeChiara, regarding the \$25/\$1,000 valuation levy limit, suggests the 6.6.17 Regional Assessment Working Group meeting may be an appropriate time to ask the group to sponsor a meeting with State Representatives Kulik and Goldstein-Rose and perhaps others. DeChiara will coordinate with Arvanitis/FinCom to raise the conversation within the working group.
2. State Notification – Trash Hauling Contract Change: Vinskey moves the Select Board sign the Commonwealth of Massachusetts Standard Contract Form to DEP for a new department procurement contract (change to Alternative Recycling Systems, LLC as Shutesbury's trash hauler) through 6.30.22. Makepeace-O'Neil seconds the motion that passes unanimously. Vinskey will sign the document in the presence of notary public Susie Mosher/Town Clerk.
3. Google View: Board considers the offer from an individual, via email, to include an interior of Town Hall on Google View. Vinskey will reply indicating that the Select Board is not interested in the offer.
4. Walter Cowls Jones Working Forest CR Response: Draft letter to Cinda Jones is reviewed and edited. Torres will edit the document, prepare it for signing by the Select Board then email the letter to Jones.
5. Email: Vinskey suggests responding to specific email inquiries by suggesting that the topic of inquiry may be an agenda item to be considered in an open session of the Select Board.

At 10:06pm, DeChiara moves to adjourn the meeting; motion is seconded by Makepeace-O'Neil and passed unanimously.

Documents and Other Items Used at the Meeting:

1. MGL Chapter 40 Section 8D
2. "A Message from the Historical Commission" May 6, 2017
3. MGL Chapter 40A Sections 12 and 14
4. "Shutesbury Community Vision Report" May 2017
5. 5.24.17 email regarding "Google Street View"
6. 5.30.17 Select Board letter to Cinda Jones/President W.D. Cowls, Inc.
7. Commonwealth of Massachusetts Standard Contract Form to DEP

Respectfully submitted,
Linda Avis Scott
Administrative Secretary