

Shutesbury Select Board Meeting Minutes
June 26, 2018 Shutesbury Elementary School

Select Board members present: Michael DeChiara/Chair, Melissa Makepeace-O'Neil and Elaine Puleo

Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary

Guests: Attorney Brian Maser/KP Law, Jim Walton/FinCom and Anna Aaron/Personnel Committee, April Stein/Select Board member-elect and Personnel Board

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

At 6:30pm, DeChiara moves the Select Board go into executive session for reason #2, to conduct strategy session in preparation for negotiations with the Fire Chief, and to return to open session. Makepeace-O'Neil seconds the motion. Roll call vote: DeChiara: aye, Makepeace-O'Neil: aye and Puleo: aye.

Open session resumes at 7:26pm.

Guests: See attached list.

Select Board Review of Fire Chief Situation: DeChiara introduces the Select Board, Attorney Brian Maser/KP Law, Town Administrator, Personnel Board member Anna Aaron/Negotiating Team, Select Board member-elect April Stein/Personnel Board and Finance Committee member Jim Walton/Negotiating Team, reviews the agenda and explains the purpose of the open session. DeChiara reviews the public participation procedure: one comment per person to ensure those who want to speak are able to do so and comments are to be directed to the Chair and Select Board; it is the policy of the Select Board to listen to public comment and not respond. Per DeChiara, an executive session will follow the open session; the public session will be concluded when the second executive session begins. Peter Gees asks what the cost is for legal counsel. Jill Marland asks if questions can be asked and will they be answered. DeChiara: the Select Board will listen and consider answers subsequent to the open session.

DeChiara explains that the Select Board has information to share from the Negotiating Team's 6.26.18 report to the Select Board: in April 2017, Police Chief Tom Harding received a 6% salary increase; in November 2017, the Fire Chief Walter Tibbetts indicated that he wanted an increase of \$20,000 in order to be at the same pay level as the Police Chief; on 3.8.18, a joint meeting of the FinCom, Personnel Board and Select Board worked to decide upon a FY19 pay increase for all employees; those without contracts will receive a 2.5% increase; last year the increase was 1.5%; the Town Administrator, Highway Department Superintendent, Police Chief, Fire Chief and Police Union all have contracts. The current Negotiating Team for the Fire Chief's contract is comprised of Michael DeChiara/Select Board, Elaine Puleo replaced by Jim Walton/FinCom, Anna Aaron/Personnel Board and Town Administrator Becky Torres; these team members represent their respective committees and make recommendations to the Select Board who is responsible for signing the contract. DeChiara explains that the Fire Chief Negotiating Team met seven times and the Personnel Board met two times regarding the job description; the Fire Chief requested that his pay be equitable with that of the Police Chief; in all of the similarly sized Franklin County towns, Shutesbury is the only town with a full-time fire

chief so there are no comparables. DeChiara continues: the first offer was for an 18% total increase over three years – Tibbetts rejected this offer (addendum: there was a second offer made during the same meeting); next, the team made an effort to recognize time worked beyond 40 hours, however, by IRS standards, the Fire Chief’s position is exempt from overtime rules – as calculated by Tibbetts, 52% of his time is administrative so the avenue of overtime pay could not be taken; next, the Chief was asked to delineate “day” versus “call” tasks and even with the new breakout, the position was still at grade 10. DeChiara: given that the other employees were to receive a 2.5% increase in FY19, the Fire Chief was offered 4%; the Negotiating Team felt they needed to bear in mind the larger context in town; on behalf of the Select Board, the Negotiating Team offered Tibbetts an 8.5% increase with the increase in years #2 and #3 to be the same as the % increase received by non-contract employees – this offer was rejected. Per DeChiara: the Fire Chief became full-time in 2008; longitudinally, since 2006, the Police Chief has consistently made more than the Fire Chief; this Negotiating Team’s responsibility is the Fire Chief’s contract.

Public Comment:

Michael Pill/37 Leverett Road thanks the Select Board, Personnel Board and Negotiating Team for their many hours of dedicated service; they deserve heartfelt thanks; acknowledges that the Town has a lawyer present and notes that if there is a legal battle, the only winners are the lawyers; hopefully, New England democracy will prevail and, if the proper petition is received, a special town meeting will be scheduled as soon as possible and that the whoever wins accepts the final outcome; notes the danger of the Fire Department’s work – they put their lives on the line in all kinds of weather and is very thankful we have a full-time Fire Chief who is often the only one at the station.

Deb Tebo/30 West Pelham Road thanks the Fire Department for their work; asks the Select Board if the Highway Superintendent is considered an administrator and whether he receives overtime pay; we deserve to hear what Walter Tibbetts has to say.

Leslie Luchonok/61 West Pelham Road states that he is going to make personal and subjective comments: has lived in Shutesbury since 1990; had a major house fire in 1993 that required mutual aid response in snowy conditions – Walter Tibbetts led the charge and the firefighters were impeccable; they had another fire that Tibbetts and his crew, arriving within five minutes, strategically attacked and minimized damage; they had a car accident and Tibbetts and his crew were there within five minutes; then, his wife called 911 at midnight and Walter arrived within five minutes and the comfort he provided was immeasurable; we think he should have parity with Police Chief; if there is a special town meeting, we will vote for parity; we cannot imagine not meeting Tibbetts’ demands.

Walter Tibbetts/Fire Chief offers a clarification that the first offer he received was tied to signing contract in which he would receive a certain percentage of what the Police Chief makes (addendum: there was a second offer made during the same meeting); we may be giving a brand-new Police Chief \$78,000; in the negotiations I said: if you decide to pay the Police Chief less, he would receive less – that is why I turned that offer down; yes, he wanted parity with the Police Chief however cannot justify \$76,000 due to the impact on taxes; he then settled back down to asking for \$65,000.

Julio Mendez/12 Old Egypt Road: in the short time we have been here, the emergency team has responded to our home five times; cites the FY18 Select Board priorities from the Town website

and recommends the Select Board give more attention to the Fire Chief rather than solar upgrades.

Steve Schmidt/518 West Pelham Road states that he has a background in economics and is familiar with town finances; there are things that spread sheets and budgets do not capture such as dedication; the Fire Chief definitely deserves a significant increase; he does not understand why the Fire Chief is not paid on parity with the Police Chief; it is wrong to tie the Fire Chief's salary to what other employees are receiving.

Amanda Alix/16 Lakeview Road: if we end up without a Fire Department at the end of next month, what is the plan?

Michael Hootstein/423 Wendell Road states that he moved back to Shutesbury in 1999 after his wife was shot through the head so he understands the role of the first responders; honors Marilyn Tibbetts and Chief Walter Tibbetts. To the Select Board and Attorney Maser: the Chief's retirement letter was a complaint of a hostile work environment; we owe Walter Tibbetts an apology; he has witnessed the Fire Chief and emergency medical technicians in action; notes Tibbetts' work during the ice storm; we are a dying town and are failing the next generation; we have cliques and shut off the opposition; I am embarrassed by the publicity and hold the Select Board responsible; recommends the Select Board ask their attorney about a hostile work environment.

Tracy McNaughton/82 Shore Drive states she has lived in town eight years and cites how she met Tibbetts when her son started a brush fire; has great respect for police and firefighters who tend to be humble heroes; Walter Tibbetts is kind, caring and concerned; well aware how retirement works and Tibbetts deserves to retire comfortably; he should be paid comparable to the Police Chief.

Linda Newcomb/23 Pelham Hill Road states she is a retired Amherst police officer; from a police perspective, the Select Board does not know what we do – you do not go to our calls – you do not know our training; to have a Fire Chief that is a resident in town is unheard of – he goes to every call; it takes a while for Amherst to get here – do not let the opportunity go away – you will never have another “in house” Fire Chief; she would expect the Fire Chief to be paid more than a new Police Chief; we pay a lot of taxes in town – with no Fire Department, our house insurance will go up; does not think the Select Board understands what we have – we need the people that are here; please rethink your decision.

Rachel Schwab-Rehorka/86 Cooleyville Road speaks as parent and states that she understands the Select Board is doing their best; wants parity for the Fire Chief; notes the importance of speaking truth to power and would rather have a mediator than an attorney; Walter Tibbetts helped to save the lives of two members of her family – he arrived in seven minutes and it took the Amherst ambulance forty-five minutes to get to her house and sometimes Amherst does not have an ambulance to come to Shutesbury; another time, her father had a stroke and Tibbetts came and her father survived; notes the importance of having a Fire Department in town that knows addresses – Amherst missed her number sign; Tibbetts is loyal, calm and good with babies and children and also does emergency management; she cannot imagine the Town without Tibbetts; feels mediation is needed to come to resolution.

Don Wakoluk/215 Leverett Road: two years ago, a truck fell on him and Tibbetts was the first one on the scene and saved his life; Shutesbury is a small town and we can negotiate a contract reasonably; the three key positions are the Fire Chief, Police Chief and Highway Superintendent; Tibbetts is a brave leader – let the people decide.

Ron Meck/12 Birch Drive appreciates the Fire Department; Tibbetts has been on call since 1979, about 15,000 days; does not care about comps and labor law – Walter Tibbetts is an iconic public servant. Meck states that he was on the Fire Department for ten years - Tibbetts was devoted to the work, professionalism, firefighters, and equipment; if Tibbetts says he deserves a raise, he deserves it – I want us to vote it. Meck states he will put up \$5,000 if the rest of the community steps up to donate the rest of Tibbetts’ requested raise.

Steve Wolf/505 Pratt Corner Road asks if the Select Board has taken into consideration the cost of replacing the Fire Chief; what would the difference in pay be if a new chief were required to live in town; a pay scale is used to keep pay down – please provide the pay scale used to determine Tibbetts salary; Tibbetts is underpaid by \$30,000; his wife went into atrial fibrillation in Amherst - if she were in Shutesbury, she would have died; let us vote on this.

Mike Vinskey/391 West Pelham Road states that he considers Tibbetts to be a friend. Vinskey states that he was a member of Select Board from 2014-17 and served on the Emergency Management Team and Lake Wyola Advisory Committee; he also sat behind the Select Board desk and has worked with everyone but Anna Aaron; is concerned when he hears that there is not open discussion as we are all part of the decision; we are in a no-win situation – the only recourse is to overturn a past decision – to use this as precedent is a bad situation; priorities are a little messed up – we have a retiring police chief and there was talk about how we do not need a full-time police chief, an expensive one, and that is what we are moving toward; a full-time librarian does not make sense; we voted \$75,000 for a mowing machine at town meeting; the school will need a new roof; we voted \$75,000 for new playground – this was not an appropriate funding source as could have been Community Preservation funds; voter priorities are probably not well aligned; we have one of the highest tax rates and are rapidly approaching the levy - then there will be no more money for raises and money for operating the town will be flat; we are spending money we probably should not be spending and we are coming to a point where money is even tighter.

Mike Sepanek/201 Leverett Road states that he has lived in town for sixty-eight years; the Select Board missed the boat – Police Chief Harding gets more money than Fire Chief Tibbetts; Harding puts his life on the line when he is in Shutesbury; Tibbetts and his crew put their lives on the line for every call; Tibbetts deserves \$65,000 – they have their lives on the line all the time; last year, they saved his wife’s life – Tibbetts and his crew kept my wife alive and breathing until the ambulance showed up; Tibbetts goes to bat for everyone no matter who you are; he is the one I want working for me; let’s put it to the vote – give \$5,000 from the library fund to Walter Tibbetts.

Paul DeMarco/78 West Pelham Road: in March, the Hampshire County Trust voted a lower health insurance premium and we use the \$8,000 saved to pay Tibbetts. (addendum: the Trust raised premiums by 5%; a 10% increase had been anticipated)

Gregg Cliff/247 Wendell Road appreciates the Select Board’s diligence; Tibbetts’ job has expanded greatly in the last years so there is no ability to compare to other towns; we are incredibly lucky to have Tibbetts and the others on the crew; the Chief does work after hours to repair the machines – he has not seen police officers doing oil changes on their vehicles; will a new Fire Chief put on a wetsuit to clean out the Lake Wyola dam sluice; we have received huge value for a long time and there needs to be some redress.

Susie Mosher/360 Cooleyville Road states that she has lived in town for forty-eight years; she has respect for the Fire Department and all of the town servants; it is okay to voice opinion – she is not in favor of having the town vote on contracts – this would be setting precedent; three other

contracts were negotiated this year; using government and the rule of law is extremely important – the factors mentioned among others, like education, were considered; from January to June, this team worked to negotiate a contract; this is an important tenant of democracy; if the other contract negotiations did not break down, we need to understand why this one did; it was not the team, they did not ask Tibbetts to give up his job – the Fire Chief and Fire Department made that decision; she would want to see the contract negotiated.

Al Springer/233 Pelham Hill Road remembers when a school cook received a \$5,000 raise and the cook does not go out in the snow and only works 180 days/year. (addendum: the chef's salary increased from \$15,000 to \$20,000)

Gail Fleischaker/62 West Pelham Road acknowledges the work and training of Walter Tibbetts and the Fire Department; they are well respected; there has been a breach of negotiations and confidentiality and the threat to town safety does not do service to anyone.

Neil McNeill/16 Locks Pond Road notes that he served on Fire Department in the past; the town is served by volunteers; if we were to lose anyone from any department, what would you do to match the loss; Walter Tibbetts is committed to working in the town and being on call – there is a dollar value for being on-call; if Tibbetts needs to be paid more, allocate more money to the Fire Department and the Chief can decide how to disperse the funds; to replace Tibbetts, a new Chief would be asked to live in town; members of the Fire Department have to be available to be on-call and funding needs to recognize this.

Penny Kim/187 Leverett Road states that she has lived in town for over 50 years and is pleased that we all agree that we have a great Fire Department and Fire Chief; we may not all agree that we need a full time Fire Department; perhaps we might be part of a larger fire department in order to share personnel and equipment; we all agree that we have a process for treating employees equitably - we are looking at the job and the person; overtime, the Personnel Board has developed policies, procedures, job descriptions and a negotiation process; when we do not agree, we negotiate – that means we each give a little and compromise.

Paul Vlach/323 Montague Road: it is unfortunate it came to this; Walter Tibbetts played by the rules; the Police Chief and Highway Superintendent used outside offers to get what they asked for; the Highway Superintendent gets overtime; if you have been following NextDoor Shutesbury – we can agree Tibbetts is a nice guy and when it comes time to replace him, we won't have someone who responds humbly; for transparency, the Select Board could share facts on NextDoor; notes a lack of transparency; if not NextDoor, use the town announce system; thanks those who participated in the respectful dialog on NextDoor; asks the new Select Board to consider NextDoor.

Jen Taylor/20 Wendell Road thanks the Select Board for the open forum; her husband is on the force; if you need help, these are the folks you want responding; how can we vote on a budget – at town meeting that is not finalized; we will be asking for a special town meeting to vote on the Fire Chief's salary; how can we change the budget so that it is final at town meeting; the Fire Department gives their all in any situation; they did not want to put the town at risk – they put in their resignations to be sure that without a chief they did not put the public at risk.

Bob Lombard/45 Shore Drive became a full time resident in 2008; when he had a tree accident, Walter Tibbetts was the first responder; the stories about him are remarkable; the love that the Chief has sown is evident here; you have insulted Tibbetts' character and integrity; cites his work with Tibbetts during the ice storm; when their house had a chimney fire in 2008, the Fire Department's work was meticulous; the Tibbetts family has put this town on the map in a good

way; this is a black eye for Shutesbury; there is nothing but kudos for Tibbetts; raise taxes to pay him; he has peace knowing Tibbetts is on the job; do the right thing and settle this tonight.

Lee Elder/20 Wendell Road states that he has been on the Fire Department for three years and loves what he does even with the disruptions to his life; working with Walter Tibbetts is one of the best things in my life; he works with you to ensure you are the best you can be; he saves the town money by working on things and has come up with wonderful ideas on how we can fight fires more safely; Tibbetts invented the “beast”; we have been told we are one of the best Fire Departments because we are progressive; the Chief deserves more than he is asking for; there is no reason for this discussion, Walter Tibbetts is worth his weight in gold; we took our decision to resign as well, because if Tibbetts left without training a new chief, we and our town would be at risk; we have the numbers for a special town meeting.

Ann Walsh/26 King Road states she is a twenty-year resident; appreciates rule of law and negotiations; as citizens, we all have a right to tell the government when you have made a mistake and you have made a mistake; she would give up a cell tower to save someone’s life; we have a right to vote on this.

Gregory Steve/56 Wendell Road: if you want good neighbors, be one; shows a photo, on his phone, of his lung that he states shows evidence of damage including some from firefighting; we take things from granted; retired from the Shutesbury Fire Department as a Captain and had the privilege of working under Walter Tibbetts; back in the day, we did not wear air-packs – cites injuries he sustained in the line of firefighting and emergency calls and the exposures he endured, i.e. HIV; as a firefighter, he held this as a his responsibility; he received a call from his insurance company - our category may change to ISO10 and we may not have coverage or our costs will increase; Tibbetts’ raise would cost \$33/year in taxes for his property; the town is asking and, if needed, demanding the right to vote; this has not been a fiscally responsible action; your job is to stand sentinel; please take care of us.

Ron Meck: points have been well made about the rule of law; this is an extraordinary circumstance – you will not see this outpouring of support for anybody else; this country was founded on extraordinary circumstances.

Steve Wolf: during the negotiation of salaries, what was allocated for director (department head) salaries – if there was no allocation, why not; does the Select Board have the power for emergency funding -if yes, use it; if we lose our fire department, I will need to change my insurance company; we will not need a cell tower with Broadband on the way.

Mike Sepanek: we have decided to sell our house so he called a realtor who said they could not give an answer to his question about selling a house in a town without a fire department because it has never happened before; the realtor recommended the town resolve the situation as quickly as possible and his bank said the same thing; home values will go down.

Brian Bender/256 Locks Pond Road states that he has lived in Shutesbury for 12 years; questions the decision process; we need to budget to meet Tibbetts’ needs; understands budgets have constraints so is willing to pay a \$33/year increase in taxes to pay the Fire Chief; he heard Tibbetts’ request was denied; asks why the town wasn’t asked to vote an increase in taxes to cover cost of the Chief’s request and proposes this be considered; does the State beach pay any taxes to the town – we have to pay to use the beach, if there is an emergency at the State beach our emergency personnel are required to attend to it.

Steve Schmidt: DCR pays a PILOT for land they own.

George Arvanitis/Finance Committee: the Town receives ~ \$33,000/year in PILOT/payment in lieu of taxes from DCR.

Walter Tibbetts thanks those who support him and those who do not; refers to statements about impropriety – the confidentiality of negotiations is on the part of the employer; he did not break confidentiality; there was no impropriety on his or the town’s part.

Lee Elder: the Fire Chief would not say anything to the Department; we knew the negotiations were frustrating then he said “I might be retiring”; he was tight lipped however we knew there was a problem and we made our decision without him; the money is available.

Sandra St. Jean/78 Pelham Hill Road: whatever decision is made, it will affect us for generations.

Walter Tibbetts to the public: the Department’s greatest concern is your safety; he is still willing to negotiate; he felt he had to make a statement with his retirement letter.

DeChiara: the Negotiating Team felt that they were in active negotiations; negotiations, if all parties are willing, can continue; the Select Board will talk about the next steps in the process. Attorney Brian Maser is present to provide guidance to the Select Board about what can be communicated.

Leslie Luchonok states that he has an abiding sense of disbelief that we are here for \$10,000; everyone has spoken about the work of Tibbetts and the Fire Department.

Jen Taylor: the petition signatures have been collected; you have up to forty-five days to schedule a special town meeting, however, we need to schedule and vote before the end of July; how can we vote on a budget item at annual town meeting if negotiations are still in progress?

Leslie Bracebridge/530 Wendell Road notes that the Select Board can vote to not accept Tibbetts’ retirement letter.

Michael Hootstein: we all deserve transparency and we cannot fathom how we got to this place; we have no idea what you are doing; we have a due process and, eventually, we need to have all the notes.

Meryl Mandell/453 Wendell Road: we have heard some strong testimony as to why we need to honor Tibbetts’ request – so go back into negotiations and end this by giving Tibbetts what he wants.

DeChiara thanks everyone present during the open session for participating.

At 9:40 pm, DeChiara moves the Select Board resume executive session for reason #2, to conduct strategy session in preparation for negotiations with the Fire Chief, and to return to open session. Makepeace-O’Neil seconds the motion. Roll call vote: DeChiara: aye, Makepeace-O’Neil: aye and Puleo: aye.

Open session is resumed at 10:32pm.

Administrative Actions:

1. The “Town of Amherst and Town of Shutesbury Agreement for Provision of Ambulance Service” contract for the period beginning July1, 2018 and ending June 30, 2018 is signed.
2. The Select Board plans to meet 6.29.18 at 7:00 am.

At 10:42pm, Puleo moves and Makepeace-O’Neil seconds a motion to adjourn the open session; motion passes unanimously.

Respectfully submitted,
Linda Avis Scott
Administrative Secretary