

Shutesbury Select Board Meeting Minutes
April 16, 2019 Shutesbury Town Hall

Select Board members present: Melissa Makepeace-O'Neil/Chair, Elaine Puleo, and April Stein
Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary

Guests: Mike Vinskey, Don Wakoluk/Sustainable Cannabis Development Advisory Committee, Penny Kim/Town Moderator; George Arvanitis, Eric Stocker and Rita Farrell/Finance Committee; Joan Hanson/Women of Positive Presence; Jeff Lacy and Michael DeChiara/Planning Board, Paul Lyons/candidate for Town Moderator, Gail Weiss/Town Accountant

Makepeace-O'Neil calls the meeting to order at 6:34pm.

Agenda Review: Puleo requests time to review the Fire Chief's monthly report and plan for the Police Chief's review.

Public Comment:

1. George Arvanitis/FinCom Co-Chair, noting that he is retiring, requests that the Select Board confer with the new Town Moderator to consider the makeup of the seven-member Finance Committee; there is a need to recruit for better representation of the town; it is a loss for the Town that younger, newer people are not serving on committees. Arvanitis continues: OPEB (Other Post-Employment Benefits), per Mailloux/Town Treasurer, needs an allocation of cash, therefore, he recommends doubling the amount of the contribution and keeping the issue of funding OPEB alive.
2. Don Wakoluk notifies the Select Board and Town Administrator that he is Shutesbury's first legal hemp licensee; he will be posting his business and growing in a greenhouse; when his setup is ready, he will request a security inspection by the Shutesbury Police Department. Wakoluk reports that he has been assisting Highway Superintendent Hunting with identifying trees that need to be cut.
3. Jeff Lacy states his wish to become a member of the FinCom; he recommends reducing the budget by \$311,476 to bring it in line with the statutory method; the Town has spent enough time on the issue and needs to take advantage of statutory formula; we need to avoid higher interest on the broadband debt by using lower interest funds and avoid increases in payroll, i.e. the town clerk and town collector line items; we need to learn what other towns do in these areas. Lacy recommends that both assistant positions be utilized for transition purposes only.
4. Penny Kim/Town Moderator: as a follow-up to Arvanitis, in her ten years of service, it wasn't until last year that two persons were interested in being appointed to the FinCom; she agrees with the need to look around and develop interest in new members.
5. Michael DeChiara: practically speaking, there is a need to welcome, do outreach and recruit and an event like the Select Board dinner could be helpful. DeChiara: regarding the regional budget, the Legislature is looking at the foundation budget, therefore, he recommends an orderly approach by waiting to see what the State does about funding education.

Discussion Topics:

1. Review Election Warrant: Stein moves the Select Board accept and sign the Annual Town Election Warrant for 5.4.19; the motion is seconded by Puleo and unanimously passed.
2. Review 4.16.19 Draft Annual Town Meeting Warrant: Stein moves the Select Board accept the “2019 Annual Town Meeting Warrant”; Puleo seconds the motion. The start time for the meeting is changed to 9:00am and the document is reviewed. Torres to Puleo’s question about the Article #6 and the change in the Municipal Light Plant (MLP) Board from five to three: the reduction, if passed, will take place by attrition; the MLP Board members have been made aware of the constraints of reducing the number of members and the need to abide by open meeting law. The order of the articles and placement of the reports is considered. Arvanitis: the FinCom will put the regional school assessment method into context; the recommendation is that whatever method is chosen, we move toward equity; in the end, everyone agreed that it would be good if we achieved a 50/50 method - a method that has more equity. It is noted that Sean Mangano/Amherst-Pelham Regional School Finance Director will speak to the regional school budget article. Lacy: this (the regional school assessment) is a terrible deal for Shutesbury – the \$311, 476 is more than our entire budget increase; 72% of the districts in the State use the statutory method; it will not be a big deal to go statutory. Lacy urges the Select Board to reduce the regional school assessment amount in the budget to the statutory method. DeChiara: as a matter of process, it is essential the FinCom present the state of the Town as well as the region at annual town meeting. Timing of regional and budget items is considered.

Article #1: Puleo moves and Stein seconds a motion to approve Article #1/Regional School District Agreement; motion passes unanimously.

Article #2: Stein moves and Puleo seconds a motion to approve Article #2; motion passes unanimously.

Article #3: Puleo moves and Stein seconds a motion to approve Article #3; motion passes unanimously.

Article #4: Puleo moves and Stein seconds a motion to approve Article #4; motion passes unanimously.

Article #5: Stein moves and Makepeace-O’Neil seconds a motion to approve Article #5; motion passes unanimously.

Article #6: Stein moves and Puleo seconds a motion to approve Article #6; motion passes unanimously.

Article #7: Stein moves and Puleo seconds a motion to approve Article #7. Torres: the FinCom and Broadband Committee are learning the limits of an Enterprise Fund. Eric Stocker: the Enterprise Fund will establish a mini general budget. Arvanitis: the budget for the Enterprise Fund is listed in Article #9; the need to approve the Broadband Enterprise Fund budget will be repeated annually. Torres: per the Department of Revenue (DOR), it must be called a Broadband Enterprise Fund; this method has the support of the DOR; the plan is to do use a Broadband Enterprise Fund for three years then possibly return to a MLP model once Shutesbury-Net has an established record; Heath is currently

going through the same process. Arvanitis: the Enterprise Fund is the model used by municipal utilities. Torres: the Enterprise fund can fund the debt on behalf of the town. Puleo: it could also reduce the amount subscribers pay. Lacy asks if the \$135,00 for debt and interest and the \$108,000 for maintenance is committing the Town to a borrowing regime for broadband. Torres: this is a one-year budget; the \$135,000 is an estimate for borrowing that may be needed – it is a space holder; a line to line transfer can be done. Torres to Mike Vinsky's question: the \$135,000 is principal and interest for upcoming debt payments; Arvanitis' estimate is \$135,000/year for the 20-year loan on \$1.7 million with 3% interest. Rita Farrell: the funds will not actually be borrowed for one-two years. Torres: \$402,514.20 in revenue is a solid estimate if the 75% subscriber rate is achieved; the goal is for the emergency reserve to get to \$400,000. Puleo: if expenses are greater, subscription rates could be increased. Torres to Vinsky's question: if the Enterprise Fund is voted down, it would be difficult to operate the MLP; the accounting would then follow MGL Chapter 164 MLP rules and this accounting would not be done by the Town Accountant. Arvanitis: these are estimates for the first year. Vinsky states that he is concerned that the Town can give the MLP funds however the MLP cannot return funds to the Town. Torres affirms that Town Accountant Gail Weiss will be present at annual town meeting. Farrell: the revenue for the Enterprise Fund comes from subscriptions. Arvanitis notes that Vinsky is objecting to the structure of the Enterprise Fund. Gail Weiss/Town Accountant: DOR has made it clear that the general fund, if needed, can support the Enterprise Fund but the reverse cannot be done; there is no precedence, at this point, regarding future dissolution of an enterprise fund. Weiss states it is clear that if there is not an enterprise method, the Town Accountant will not be able to handle the funds. Torres: a straight MLP is a separate entity with a separate budget and its own audit; the MLP has more latitude and its Board has power similar to that of the Select Board. DeChiara: the Town could benefit from an enterprise fund, i.e. a decreased subscription rate. Torres: once the enterprise fund has substantial reserves, the other structure may be considered; we will have three years of performance to look at; DOR certifies free cash and sets the tax rate therefore an enterprise fund seems to have the most stability. Vinsky reaffirms his opposition to the enterprise fund. Weiss: if Article #7 fails, neither the Town Accountant or the Town Treasurer will be to handle any of the MLP funds. Makepeace-O'Neil: the enterprise fund creates a sub-business platform. Stocker: more than anything, it is an accounting process. Weiss to Vinsky's question: once adopted, the enterprise fund has to be utilized for three years. Select Board members agree with the title "Broadband Enterprise Fund". Weiss to Vinsky's question: the MLP can use their free cash to supplement their budget; free cash goes into their undesignated fund account. Article #7 passes unanimously.

Article #8: Puleo moves and Stein seconds a motion to approve Article #8; motion passes unanimously.

Article #9: Stein moves and Puleo seconds a motion to approve Article #9; motion passes unanimously.

Article #10: Puleo moves and Stein seconds a motion to approve Article #10; motion passes unanimously.

Article #11: Puleo moves and Stein seconds a motion to approve Article #11; motion passes unanimously.

Article #12: Stein moves and Makepeace-O'Neil seconds a motion to approve Article #12; motion passes unanimously.

Article #13: Puleo moves and Makepeace-O'Neil seconds a motion to approve Article #13; motion passes unanimously.

Article #14: Makepeace-O'Neil moves and Stein seconds a motion to approve Article #14; motion passes unanimously.

Article #15: Stein moves and Puleo seconds a motion to approve Article #15. Torres: the goal is to add \$5,000/year to reach to \$15,000. Motion passes unanimously.

Makepeace-O'Neil recommends letting citizen petitions stand on their own without Select Board approval (Articles #16, 35, 36, and 37).

Article #17: Makepeace-O'Neil moves and Stein seconds a motion to approve Article #17. Lacy: this matter was brought to Planning Board by Catherine Hilton on behalf of the Board of Health; there have been issues with livestock, specifically horses and pigs, in close proximity to the lake and the introduction of bacteria; Shutesbury has liberal agricultural provisions in the zoning bylaw. Lacy to Puleo's question: if livestock is lawfully present currently, the bylaw allows the use to continue, however, if such a use stops, it cannot be re-established; per Hilton, there is no current use. The motion passes unanimously.

Article #18: Stein moves and Makepeace-O'Neil seconds a motion to approve Article #18. Lacy: waiver provisions currently exist in the bylaw, however, while working on the marijuana bylaw, the Planning Board found ways to improve the waiver provisions of the solar and wireless communication bylaws; this is standard waiver language that the Planning Board agrees with. DeChiara explains the written request requirement in the waiver; the permit granting authority needs to address the request; the waiver request cannot lower the quality of the bylaw from its public purpose; the same wording is contained within the marijuana bylaw; corrections to the numbering within this provision, as per Article #20, can be made at the public hearing and amendments made from the floor of annual town meeting. Puleo notes the need to have the term "derogate" explained on town meeting floor. Motion passes unanimously.

Article #19: Puleo moves and Stein seconds a motion to approve Article #19. DeChiara explains that the Planning Board worked on the proposed marijuana bylaw for many months with guidance from Town Counsel Donna MacNicol and the Sustainable Cannabis Development Advisory Committee (SCDAC); the Board started with the FRCOG template with a goal of supporting smaller establishments as per the Use Table; the Board approached the types of establishments by function thereby supporting the small and discouraging the large and decided to recommend approving retail only in the Town Center District. Puleo notes that there is no "by right" use. DeChiara: it is a matter of scale and complexity. Lacy: permitting is divided, by scale, between the Planning Board and the Zoning Board of Appeals. DeChiara explains that hemp is considered an agricultural crop by the State and cannot be regulated by the town nor be referenced in the marijuana bylaw. Don Wakoluk/SCDAC: the Advisory Committee recommended the Planning Board not put forth a hemp bylaw and the focus for hemp be on education; members of the SCDAC will volunteer for the Farm and Forestry Commission and focus on best practices; the SCDAC's function was to advise the Planning Board and the Committee recommends the Planning Board's marijuana bylaw. DeChiara: the Town Administrator will be notified of known hemp growers. Puleo: because annual town

meeting established the SCDAC, a Committee report at town meeting is needed. DeChiara notes that the Planning Board and SCDAC had a good working relationship. Motion passes unanimously. Article #20: Stein moves and Puleo seconds a motion to approve Article #20. Lacy: the public hearing for a cell tower special permit application remains open; the current wireless telecommunications bylaw contemplates a waiver for height only, therefore, the Planning Board decided to rewrite the waiver provision; the special permit public hearing will be resumed after annual town meeting. Motion passes unanimously. Article #21: Makepeace-O'Neil moves and Stein seconds a motion to approve Article #21; motion passes unanimously. Article #22: Stein moves and Puleo seconds a motion to approve Article #22; motion passes unanimously. Article #23: Puleo moves and Makepeace-O'Neil seconds a motion to approve Article #23; motion passes unanimously. Article #24: Stein moves and Puleo seconds a motion to approve Article #24; motion passes unanimously. Article #25: Makepeace-O'Neil moves and Stein seconds a motion to approve Article #25. Farrell to Vinskey's question: the project (landscape edging around the preschool playground) was not brought to the Community Preservation Committee (CPC). Vinskey states that he would rather this item go through the CPC. Torres: Community Preservation Act funds are a valuable and scarce resource. Puleo notes that Vinskey could argue his case on town meeting floor. Motion passes unanimously. Article #26: Makepeace-O'Neil moves and Puleo seconds a motion to approve Article #26; motion passes unanimously. Article #27: Stein moves and Puleo seconds a motion to approve Article #27; motion passes unanimously. Article #28: Puleo moves and Stein seconds a motion to approve Article #28; motion passes unanimously. Article #29: Makepeace-O'Neil moves and Stein seconds a motion to approve Article #29. Torres to Vinskey's question: yes, this is a school related expense; it is for payments that were not billed at the right time and could not be paid because the fiscal year was complete; it will be paid from last year's returned funds; Article #30 is for a similar situation. Motion passes unanimously. Article #30: Stein moves and Puleo seconds a motion to approve Article #30; motion passes unanimously. Article #31: Puleo moves and Stein seconds a motion to approve Article #31. Torres: there was an accounting error and this will be a reverse use of free cash to repay grant funds in the appropriate line item. Motion passes unanimously. Article #32: Makepeace-O'Neil moves and Puleo seconds a motion to approve Article #32. Torres: this bill came after the fiscal year closed. Motion passes unanimously. Article #33: Puleo moves and Stein seconds a motion to approve Article #33; motion passes unanimously. Article #34: Stein moves and Makepeace-O'Neil seconds a motion to approve Article #34. Torres; this article was requested by the MassDEP due to the recycling crisis; the twenty-year contract will be up next year; the town will need to look carefully at our recycling program as we may need to pay for recycling instead of earning funds. Motion passes unanimously.

3. Review Annual Town Meeting Plans: No particular concerns. Stein notes that this will be Penny Kim's last annual town meeting as Town Moderator.
4. Review Annual Town Meeting Budget: Makepeace-O'Neil asks Torres to review any changes that have occurred since the 4.2.19 draft. Torres: the "Hamp Trust Employee Co-Pay Account" is established in expense line #173. Torres to Vinskey's question about revenue line #8: this line assists in monitoring where the town is at relative to levy capacity; #line 24 is an acknowledgement of the excess levy capacity in our budget. Further explanation of levy capacity, new growth and debt exclusion occurs. Arvanitis to Vinskey's question: new tax revenue is from sources that did not exist at the end of the last fiscal year; Joe Markarian's/FRCOG recommendations on how to present a budget were followed. Stein: the detail makes for transparency. Further review/explanation of "Property Tax Levy" section occurs. Torres notes that the FY20 budget has been reviewed by Weiss/Town Accountant.
5. Review Compensation Plan: Per Torres, the compensation plan is in process; the relevant details are included in the FY20 budget.
6. Review Health Insurance Agreement between Town Employees & Unions: Torres notes that the agreement has been reviewed by Attorney Brian Maser/KP Law. Puleo moves to approves "Town of Shutesbury Memorandum of Agreement By and Between The Town of Shutesbury Police, Teamsters Local Union No. 404, The Town of Shutesbury Elementary Educators, The Shutesbury Affiliated Workers and The Town of Shutesbury Benefitted Employees" dated July1, 2019 – June 30, 2020; the motion is seconded by Stein and passed unanimously.
7. Review FRCOG Community Compact: Puleo moves the Select Board approve the work done by Joe Markarian/FRCOG with the Finance Committee and Select Board; Stein seconds the motion that passes unanimously.

At 9:29pm, Puleo moves and Stein seconds a motion for the Select Board enter executive session for reason #3 – to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares – for MCAD case Masiuk v. Town of Shutesbury et.al. and to return to open session. Roll call vote: Makepeace-O'Neil: aye, Puleo: aye, and Stein: aye.

Open session resumes at 9:36pm.

8. Select Board Small Touches Request: Torres: due to the constraints of the Select Board expense line, she recommends purchasing one bench this year and purchasing a second bench in 2020. Makepeace-O'Neil moves and Stein seconds a motion to purchase one bench, as suggested by Mary Anne Antonellis, to be placed on the side of the Shutesbury Elementary School track; motion passes unanimously. Puleo suggests purchasing a plaque to commemorate the work of the Broadband Committee. Makepeace-O'Neil supports Puleo's idea. Stein asks if doing so would set a precedent. The Select Board agrees to plan a Broadband celebratory event to be held tentatively in October 2019.

9. Town Administrator Updates:

- a. EEOA Grant: the kick-off meeting with the Conway School of Landscape Design was held 4.17.19.
- b. The Municipal Small Bridges Grant engineering choice is due 4.30.19; receipt of bids is pending – one firm dropped out as they were unable to meet the necessary criteria; if there is no response from the other firms, Nitsch will be the choice; the goal is to have a comparative bid.
- c. Calls from drivers upset about the muddy roads are diminishing.
- d. Interviews by the Police Department resulted in one candidate; Chief Fernandes requests a public interview with this candidate during the 4.30.19 Select Board meeting. A date for Police Chief Fernandes' review is pending. Torres: New Salem and Wendell have received a FRCOG grant to regionalize their police departments and have asked Leverett to join them.
- e. Puleo: the Fire Chief reports are extremely helpful to receive; it is important to know what the job entails; there are few fires and many more medical calls; if the town ever wants to have a mutual department, these reports provide the necessary data and are invaluable for future discussions. Puleo requests Torres to let Fire Chief Walter Tibbetts know that the Select Board appreciates his reports. Both Makepeace-O'Neil and Stein agree with Puleo's appreciation. Stein notes that there are frequent calls to particular addresses and wonders if there is a way to dovetail these residents with the appropriate agencies. Puleo notes that community health workers are being trained.
- f. Puleo acknowledges Leverett's loss of long-time volunteer Don Gibavic.
- g. Tim Logan is not interested in being the appointed constable.

10. Committee Updates: None offered.

11. Prior/Future Action & Agenda Items: No activity on this item.

Administrative Actions:

1. Election Worker Appointments: Makepeace-O'Neil moves and Stein seconds a motion for the Select Board to appoint the list of "Appointed Election Workers for 2018-2019 for a term to commence 4.16.19 and end 8.14.19"; motion passes unanimously.
2. Recycling and Solid Waste Committee Appointment: Makepeace-O'Neil moves and Stein seconds a motion for the Select Board to appoint Marla Killough to the Recycling and Solid Waste Committee; motion passes unanimously.
3. Select Board members sign vendor warrants totaling \$555,987.06.
4. Select Board members sign payroll warrants totaling \$99,051.66.
5. Select Board members sign broadband warrants totaling \$89,692.82.
6. Select Board members sign an appropriation treasury warrant for \$274,000.
7. Stein moves and Makepeace-O'Neil seconds a motion to approve the 4.2.19 meeting minutes; the 4.2.19 minutes are unanimously approved as presented.

At 10:10pm, Puleo moves and Stein seconds a motion to adjourn the meeting; motion passes unanimously.

Documents and Other Items Used at the Meeting:

1. Annual Town Election Warrant for 5.4.19
2. 4.16.19 Draft 2019 Annual Town Meeting Warrant
3. Article 8.11: Adult Use Recreational Marijuana Establishments
4. 4.12.19 Draft Shutesbury Town Report
5. "Town of Shutesbury Memorandum of Agreement By and Between The Town of Shutesbury Police, Teamsters Local Union No. 404, The Town of Shutesbury Elementary Educators, The Shutesbury Affiliated Workers and The Town of Shutesbury Benefitted Employees" dated July1, 2019 – June 30, 2020
6. 4.11.19 email from Mary Anne Antonellis "benches"
7. Monthly Fire Chief Reports for February and March 2019
8. Appointed Election Workers for 2018-2019 for a term to commence 4.16.19 and end 8.14.19
9. 4.10.19 email from Meryl Mandell "Recycling and Solid Waste Committee Items"

Respectfully submitted,
Linda Avis Scott
Administrative Secretary