

Shutesbury Select Board Meeting Minutes
September 29, 2020 Virtual Meeting Platform

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

Guests: Miriam DeFant, John Montanari, and Kevin Rudden/Administrative Assessor

Makepeace-O'Neil calls the meeting to order at 5:30pm.

Agenda Review: Per Torres, the agenda will include one Shutesbury Conservation Commission and three Historical Commission appointments and the FRCOG/User Towns Radio Memorandum of Agreement. Farrell requests time to talk about a proposal for welcoming new residents.

Public Comment: John Montanari: as a point of order, how does one request an item be included on the Select Board agenda. Montanari refers to his blog post, "My Statement to the Shutesbury Select Board regarding the Black Lives Matter banner on Town Hall" and his three main points of opposition. Montanari quotes from the "*Massachusetts Open Meeting Law Guide*": "If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice." Montanari refers to 6.9.20 meeting minutes: the Select Board circled back and voted on a public comment without posting the topic on an agenda therefore he suggests a redo; you "snuck one past us". Montanari asks for comment from the Select Board. Torres reminds Montanari that discussion does not occur during the comment period. Montanari notes that he spoke with Office of Campaign Finance and asks if the Select Board conferred with Town Counsel about hanging the banner.

Torres explains that items on the agenda are at the discretion of the Select Board. Montanari: the way the 6.9.20 decision was handled is not against the law but not recommended; he was not informed and able to participate. Torres explains that the Select Board sponsored a forum with the Police Department that is available to view. Montanari: in summary, the banner is contentious, controversial and divisive; public money spent on a public building should be universal. Montanari asks about the amount of feedback, both negative and positive, the Select Board has received. Makepeace-O'Neil reports that 28 people contacted her with negative comments/feelings about the placement of the banner on Town Hall. It is not known how many positive comments have been received. Montanari: this is an issue that should not be decided by the majority; believes his rights are being disregarded and he resents this. Torres: discussion is not appropriate during the Public Comment period.

Discussion Topics:

1. Historical Commission and Conservation Commission Appointments: Farrell moves and Stein seconds a motion to accept the resignations of Christopher Donta and Craig Pepin

from the Historical Commission. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries. Farrell moves and Stein seconds a motion to appoint the following to the Historical Commission: John Walter for a term expiring 6.20.2022, Greg Caulton for a term expiring 6.30.2022, and Miriam DeFant for a term expiring 6.30.2023. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries. Torres: Per Penny Jaques/Chair, two individuals are interested in serving on the Commission; there is one vacancy, however a resignation is expected so there will be another appointment request at a future meeting; Jaques recommends Miriam DeFant be appointed to fill the current vacancy. Stein moves and Farrell seconds motion to appoint Miriam DeFant to the Conservation Commission for a term ending 6.30.2022. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.

2. Review Town Common Deed: Torres explains that the Shutesbury Community Church has requested permission to add a handicap ramp and two handicap parking spots. Torres conferred with Town Council Donna MacNicol who advises that there are strict rules about construction on the Town Common because it is a park and needs to remain open; to allow construction may require a home rule petition. Per Torres, the deed does not specify the bounds of the building therefore more research is needed; currently, the only drawing available is owned by Julie Taylor, an abutting property owner, and is not a Town document. Farrell: the church owns to the drip line of their building; the question is whether Town Common land can be used by the church. Torres: per MacNicol, there are very specific rules and an easement may not even be possible; the church needs handicap access and, per Pastor Ellis, installation of an elevator would undermine the structure of the building and a lift on the outside would be beyond the footprint. This topic will be continued on the 10.13.20 meeting agenda.
3. Means Tested Real Estate Property Tax Exemption Proposal: Administrative Assessor Kevin Rudden reviews his 9.2.1.20 "Means Tested Real Estate Property Tax Exemptions" (MTRE) draft proposal. Rudden explains that the proposed exemption, used by other towns, would require at town meeting vote to file a home rule petition to adopt a MTRE; anyone who qualifies for the State income tax Circuit Breaker credit would be eligible for the exemption. Rudden continues: per the Department of Revenue (DOR), 29 Shutesbury residents received the Circuit Breaker credit in 2017; if the exemption is passed during the 2021 annual town meeting, it would be implemented in FY23. Per Rudden, the Board of Assessors would put out an application in mid-August/September, the Assessors' office would qualify applicants then present the allowable DOR amount to the Select Board; the Select Board would have the right to choose between a 50-200% exemption. Rudden: this would be a year by year decision; in November, there would still be one tax rate which would vary related to the cost of the program; the cost is born by property owners not personal property/business taxes; this is a fair program based on the value of taking care of the neediest residents of the town. Rudden to Farrell's question: individuals must apply for and be granted the Circuit Breaker credit; providing the Assessors' office with a copy of their State tax form will demonstrate eligibility for the MRTE; unlike the Circuit Breaker credit, the MRTE is an exemption. Rudden to Stein's question: as an example, in Hopkinton, for a 200% exemption for 35 residents, the tax

rate increased \$35/year per taxpayer; by filing for the Circuit Breaker credit, applicants are self-identifying. Rudden: applicants are 65 years and older whose assessed property value is below a certain level; DOR's top limit is \$800,000 in valuation and an asset limit of \$250,000. Rudden: 12 towns currently have the program; the MRTE is easy to apply for and easy to administrator and does not put a burden on others; each year, the average tax payer will know the cost of the program. Stein: this program will pinpoint the need for a discreet group of people. Rudden: the Select Board will decide the percentage of the exemption each year based on the State rate; the program does not hurt the 2.5% tax cap and is not incorporated into the overlay. Farrell: conceptually, the MRTE proposal is great and she is supportive. Rudden notes that he is busy finalizing valuations, reviewing personal property and preparing for the classification hearing. Rudden expects to have ready a MRTE proposal ready for Select Board review by mid-December. Torres suggests Rudden review his research with the Finance Committee during their next meeting. Rudden will be reviewing his research with the Board of Assessors during their 9.30.20 meeting; the exemption is a priority for the Assessors. Rudden recommends including a note with property tax bills explaining the one-year reduction in the tax rate. Stein moves and Farrell seconds a motion to include a friendly reminder about the one-year tax reduction with property tax bills. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.

4. Select Board Town Newsletter Article: The draft article is reviewed; Stein's writing is appreciated by Makepeace-O'Neil and Farrell.
5. Highway Department Equipment Operator Appointment: Torres: Highway Department Superintendent Tim Hunting requests the appointment of David Grenier to full-time equipment operator position; last year, when Rob Adams did not return, Will Stratford was hired as a part-time equipment operator; there are also two part-time snow plow operators. Per Torres, there may be some budget issues, however, Hunting is working to make a cohesive balance in the Department and having a third full timer will make a real difference. Torres will provide facts related to the Department's work hours. Because Hunting's contract ends 6.30.21, Torres will be in conversation with him regarding his plans; Hunting may renew for an additional year. It is noted that Torres and Walter Tibbetts/Fire Chief have contracts that expire 6.30.21. Farrell requests that a list of contracted employees be presented at the 10.13.10 meeting for planning purposes and creating a negotiation committee with Select Board, Personnel Board and FinCom representation. The need for an additional Personnel Board member is acknowledged. Farrell moves and Stein second a motion to appoint David Grenier as a full-time Highway Department equipment operator. Roll call vote: Farrell: aye, Stein: aye; and Makepeace-O'Neil: aye; the motion carries.
6. Chapter 90 Municipal Bridge Reimbursement: Per Torres, this Chapter 90 request is for reimbursement of \$44,305.55 in funds, used before 6.30.20, for engineering design work on the Sawmill River/Locks Pond Road culvert replacement project. Torres: to date, \$100,000 of the \$500,000 has been spent; the reimbursement form will be finalized for Select Board signatures. Stein moves the Select Board approve the Chapter 90 Reimbursement Request for the \$44,305.55 spent on engineering costs, through 6.30.20,

for the Sawmill River/Locks Pond culvert replacement project; Farrell seconds the motion. Roll call vote: Farrell: aye, Stein: aye; and Makepeace-O'Neil: aye; the motion carries.

7. Status of Reopening Plans: Torres reports that outdoor trash bag distribution continues on Mondays from 3:30-5pm with an average of 4-6 residents attending each week; on 9.28.20, three new homeowners attended; when it is too cold to set up outdoors, walk-up distribution will occur from a window in the senior lounge. CARES Act funds will be used to purchase a Sufficient ERV recycling ventilation unit for \$6,100; the unit has been ordered by Jamrog and will arrive in about two weeks and be installed in the Town Hall downstairs in time for the election. It is noted that improved air circulation is needed in the upstairs hallway. The library unit is different and is on order; Library Director Mary Anne Antonellis is working on a reopening plan. Torres to Farrell's question: staff are meeting with residents outside, one on one, and will use the senior lounge when these meetings need to be inside. Currently, Assistant Town Clerk Susie Mosher is assisted by one election worker at a time; they are distanced and keeping windows open; earlier 9.29.20, enough ballots arrived to start the mailing. Makepeace-O'Neil recommends staying with what is working for now.
8. Town Administrator Updates:
 - a. Sawmill River/Locks Pond Road Culvert Project: Nitsch engineers are working with the Conservation Commission and answering the questions raised by DEP; after reviewing a few more points, the Commission may be ready to issue the Order of Conditions after their 10.8.20 meeting. Town Counsel Donna MacNicol will write the easement documents once the Order of Conditions is issued. Torres and Walter Tibbetts/Emergency Management Director will be submitting a Notice of Intent to move the dam weir closer to the road and patch an area of dam; this work will be done during the culvert replacement project. Tessa Dowling is doing well in assuming Land Use Clerk responsibilities.
 - b. Meet & Greet Proposal: Farrell reports on a conversation with Torres and Library Director Mary Anne Antonellis about a way to informally meet and greet new residents on the Town Common; the goal would be to provide an opportunity for folks new to Town to meet the Select Board, Library Director, Police and other Town officials interested in attending. Per Farrell, resident participation would be scattered; dates need to be considered as well as Board of Health feedback received. Torres to Makepeace-O'Neil's question: proposals for Halloween celebrations are going through the Board of Health; the possibility of a Halloween parade will need coordination with the Police Department. Stein supports a welcoming event.
 - c. Use of Town Right of Way: Torres explains the need for a way to have the Town's right of way along roadsides to be respected: last winter, a Wendell Road family wanted the Town to be responsible for a crack in a piece of their fence that seemed to be the result of the snowplow throwing snow; per the Town's insurance provider, the Town is responsible when equipment comes in contact with property; in this situation, the fence, installed by the prior owner, is in the right of way. In another example, a Pelham Hill Road resident has piled cord wood in the right of way which does not allow a walker, etc. to get off the road. In another instance, a Locks Pond Road resident paved off a section of

the right of way. Torres asks the Select Board to support the sending of a letter, as an introduction to the subject, to the property owners misusing the right of way; follow-up phone calls will be made to the owners. Torres to Farrell's question: the Pelham Hill Road situation may require a survey; the letter will be asking the property owners to respect the right of way. In advance of sending the letters, Torres will measure all the sites and will check with Town Counsel for guidance on what the Town's rights are; safety is a priority. Torres to Farrell's question about liability: the right of way is protected by state law. Farrell suggests that protection of the right of way may be a useful newsletter article.

- d. FRCOG/Shutesbury Memorandum of Agreement: Farrell moves and Stein seconds a motion to approve the "Memorandum of Agreement By and Between Franklin Regional Council of Governments and The Franklin County Emergency Communication System and Commonwealth of Massachusetts Interoperable Radio System and the Town of Shutesbury". Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye, the motion carries.
 - e. Sirius Community Payment in Lieu of Taxes (PILOT): Last week, Torres and Administrative Assessor Kevin Rudden met with representatives of the Sirius Community to redo their PILOT; the meeting outcome was positive and negotiations will be continuing. The PILOT will be reviewed by the Board of Assessors before it comes before the Select Board for signatures.
 - f. CARES Act: The report on spending through 6.30.20 was submitted 9.25.20; there will be an upcoming workshop on the next round of funding; there has been an inquiry about the possibility of coverage for broadband installations and subsidized subscriptions.
9. Past/Future Agenda Items: Farrell asks about a 10.13.20 agenda item to address the concerns raised by Montanari. Torres suggests the Select Board consider a letter to address the issues raised by Montanari. All members agree that Stein and Farrell will each write a letter and send it to Torres who will send it to Makepeace-O'Neil to coalesce into one letter; the goal is to have a letter for review during the 10.13.20 meeting. Torres will review the proposed letter writing process with Town Counsel Donna MacNicol as it may make sense for all three members to each write a letter with Torres finalizing the content.

Administrative Actions:

1. Select Board members will sign vendor warrants totaling \$291,179.96.
2. Select Board members will sign payroll warrants totaling \$99,414.70.
3. Stein moves and Farrell seconds a motion to approve the 9.15.20 meeting minutes. Roll call vote: Farrell: aye Stein: aye and Makepeace-O'Neil: aye; the motion carries.

At 7:34pm, Farrell moves and Stein seconds a motion to adjourn the meeting. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. Town Common deed and "Plan of Land for Julia Joan Taylor"
2. 9.21.20 "Means Tested Real Estate Property Tax Exemptions" by K. Rudden
3. Draft Shutesbury Select Board article for "*Our Town*"

4. “Memorandum of Agreement By and Between Franklin Regional Council of Governments and The Franklin County Emergency Communication System and Commonwealth of Massachusetts Interoperable Radio System and the Town of Shutesbury”

Respectfully submitted,
Linda Avis Scott
Administrative Secretary