

Shutesbury Select Board Meeting Minutes  
January 5, 2021 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: Mary Lou Ferro Conca, Don Wakoluk/Tree Warden, Michael DeChiara, Jeff Lacy and Nathan Murphy/Planning Board, Susie Mosher/Finance Committee, Nohham Cachat, Ria Windcaller; Miriam DeFant, Henry Geddes, and Janice Stone/Historical Commission, MaryJo Johnson, Kate McConnell, G. Gaillard, Susan Rice, Kevin Rudden/Administrative Assessor, Tessa Dowling/Land Use Clerk and Ari K. (Some names are incomplete due to virtual participation)

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

Agenda Review: No changes noted.

Public Comment:

1. Don Wakoluk/Tree Warden reports being notified on 1.4.21 that Eversource is planning another round of tree pruning, to start this spring, on January Hills Road, below Atkins Reservoir, moving towards Highpoint Drive. Wakoluk also reports the presence of two large maples located near 449 West Pelham Road/Houston that are deemed hazard trees; Tim Hunting/Highway Superintendent will remove one of the trees as a Town expense; the larger tree will be removed by National Grid, however it has stabilizing guide cables running from it to a nearly utility pole; the tree appears to be decaying where the cables are attached; National Grid will not remove the cables which, if they fall, are in themselves a hazard. Wakoluk requests the Select Board conduct a site visit to determine whether the larger maple is a hazard and, if it is, a joint letter be sent to National Grid requesting they remove the tree with the cables.
2. Michael DeChiara/Planning Board follows up on his 12.23.20 email "solar legislation fix" re: Chp. 184 Sec. 23C legislation from the 1970s regarding limits to regulating rooftop solar installations and current discussions about clarifying this legislation to allow reasonable regulation of large scale solar electric installations. DeChiara notes that one solar company has challenged the ability of towns to tax/PILOT (payment in lieu of taxes) large scale commercial solar installations. Kevin Rudden/Administrative Assessor: recently passed legislation, included in the climate change bill, legalizes the taxing of all commercial solar operations either via direct personal property tax or a PILOT; those that are exempt will remain exempt, i.e., rooftop residential solar; this bill also calls for the Department of Revenue to create a standard for assessment. Torres will provide information on the bill. DeChiara suggests that when the new legislative session starts, engaging Representative Natalie Blais and Senator Comerford about changes to the law that will allow reasonable regulation of large-scale solar installations.
3. Ria Windcaller reports that she and a number of residents have been meeting and are seeking information from the Select Board and Police Chief in order to better understand how the Town and Police relate; the group would like to know how to get on the agenda and note that prior requests for information have gone unanswered. To Torres inquiry, Mary Jo Johnson asked, via email, about what there is in writing about how the Town and

Police relate. Windcaller, noting that in 2021 the Police Chief's contract is up for renewal, asks who is charged with overseeing the renewal, whether the public is involved in the process, and if there is public access to the employee handbook. Windcaller notes that there was one successful community meeting and that Police Chief Fernandes met virtually with their group however was not visible; their group is interested in being liaisons and wants to be mutually involved. Makepeace-O'Neil's search indicates that Johnson's email was sent to the Select Board in October. To Windcaller's question, Makepeace-O'Neil explains that the best way to request an agenda item is to email the Select Board or contact Town Administrator Torres by phone. To Windcaller's interest in keeping an email record, Torres explains that the Select Board, other than acknowledging receipt, cannot respond to emails until their next meeting. Torres states her concern that emails sent to the Select Board were not acknowledged. Windcaller will contact Torres by phone to arrange an agenda item. Torres explains that the Personnel Handbook is for employees, contains basic information, and is in the process of being updated by the Personnel Board; when it is reprinted, the Select Board with Personnel Board input will determine if it is to be posted online. Windcaller: former Police Chief Tom Harding used to post the Department's calls; because that is not currently being done, we cannot see the Department's activity in order to have a better understanding of their work. Torres to Windcaller's question: the police chief's contract is up for renewal next year (2022). Torres explains that the Select Board has oversight over the Police Department and it is part of the Town Administrator's job description to oversee the police chief, Highway Department superintendent, and fire chief on a day-to-day basis and that voters are the final authority at town meeting. Windcaller: as a community member and as a group, we are hoping to be more active and engaged to create safety for all.

### **Discussion Topics:**

1. Review Sirius Community Payment in Lieu of Taxes (PILOT): Kevin Rudden/Administrative Assessor explains that the Town has PILOT agreements with two Shutesbury nonprofit entities, Temenos and Sirius Community, and that in 2020 an extensive review of Sirius Community's tax-exempt status was completed. Rudden continues: the PILOT agreement with Sirius has lapsed though they have continued to pay the Town an amount every month; the goal is to establish a new agreement with a five-year plan, increasing the payment to \$16,000 per year, signed by the Select Board and Sirius. Per Rudden, Sirius has been greatly impacted by the pandemic; they are currently paying \$12,000 annually however are willing to gradually return to the \$16,000 goal by 2025; Sirius has voluntarily agreed to a full inspection by Rudden and a professional evaluator in the spring of 2021. Stein: an assessment will provide a clearer sense of the value of the Sirius Community's property. Rudden notes the need to be realistic due to the current conditions and impacts on Sirius and Temenos ability to run programs; when the work with Sirius is done, he will begin to work with Temenos. Rudden to Farrell's question about Sirius: there are a number of buildings; some are one/two family and others are dormitory style; residents/participants are paying to live/work there. Torres: Sirius is deemed an educational non-profit that gives workshops; former Administrative Assessor Ken Holmberg did look over the properties however this was done during a downturn in the economy and the values were not there to support an

increase in the Sirius PILOT. Rudden: Sirius will need to segregate rentals for events, i.e., weddings from educational events. Rudden to Farrell's question: an assessment of the property's value is required every ten years; it is needed if the Town has a recertification in the future and, if it is ever sold, the Assessors need to know the value; the PILOT is voluntary. Rudden to Stein's question: the Board of Assessors uses a one-page formal PILOT agreement signed by both parties. Farrell cites the need for an honest update of Sirius' holdings. Torres notes that there was a good spirit of cooperation during the fall 2020 meeting with members of the Sirius community. Rudden will prepare a PILOT agreement for the 1.19.21 Select Board meeting. Select Board members request Rudden provide the correspondence to/from Sirius regarding the PILOT.

2. Review Information/Fact Sheet re: Amp Energy/Solar Proposal: It is noted that those attending the 12.16.20 meeting with Evan Turner/consultant for Amp Energy included Farrell and Stein (singly, each attended a portion of the meeting), Kevin Rudden/Administrative Assessor, Town Administrator Becky Torres, representatives of Cows, Inc., and Amp Energy. During this meeting, Turner presented a proposal for the Town to enter into the newly developed Department of Energy Resources/DOER program partnership in which a town would manage a solar electric site; this program was recently written into law and there are no current examples. It needs to be determined if such a partnership would be of interest/benefit to the Town, would result in a positive cash flow, and whether Shutesbury has the capacity to do so. Rudden refers to the 1.1.21 *The Daily Hampshire Gazette* "Key W.D. Cows forestland protection \$3.25 million deal": Cows is looking at developing solar farms on acreage carved out of the recently announced conservation restrictions on 2,000 acres in Shutesbury; at this time, no special permit applications have been submitted, only the ANRADs (Abbreviated Notice for Resource Area Delineation) are before the Conservation Commission; during the 12.16.20 meeting, Evan Turner, consultant for Amp Energy, gave town officials more details about what they are hoping to do. Rudden: the proposed sites are on five large and one small parcel in Shutesbury, the same ANRAD parcels; the Baker site is being kept from consideration at this time; a total of 40- 45 megawatts, sized to the sites, is planned; they are looking at locations as far from residents and wetlands as possible. Rudden refers to the memo "Information about AMP and its Solar Energy Proposal for Shutesbury": the proposed sites include one near Poverty Mountain totaling three sites off of Pratt Corner Road, one off of Leverett Road, and one off of Carver/Montague Roads; Amp Energy's intent is to apply for special permits during this calendar year. Rudden continues: in order to make their decision about improvements to the substation by the end of March, Amp Energy needs a sense of the Town's interest in seeing the special permits go through; they did comment that the bylaw changes passed (6.27.20 annual town meeting) are too restrictive and they are planning to seek waivers. Per Rudden, regarding the discussion about the public/private partnership: if it is not done, there will be a PILOT; there are legal issues with the proposed partnership; Amp Energy's goal is to build the solar farms within three years.

If Amp Energy moves forward with the projects, the Conservation Commission reviews matters related to wetlands, the Planning Board reviews special permit applications, the Select Board negotiates the PILOT, the Assessors' office calculates valuations and tax

impacts, and the Historical Commission responds to written inquiries regarding archeological and/or Native American ceremonial sites. Torres: the new standard is for all industrial solar installations to have battery backup systems in place; the Historical Commission would, per the bylaw, receive an inquiry letter regarding the presence of ceremonial stone landscapes. Rudden: Cowls' intent is to develop their unrestricted parcels; their forestry operations will continue on the restricted parcels. Miriam DeFant/Historical Commission asks if there is a sense of when the special permits will be submitted and when a letter would be sent to the Historical Commission, whether Amp Energy will participate in the SMART (Solar Massachusetts Renewal Target) program with or without the partnership and if there will be risk sharing with the partnership. Rudden: without a specific date, they expect to submit at least one special permit application in January; they have to participate in the SMART program to be financially feasible; the partnership proposal is too vague to evaluate risk sharing, i.e., among others, there are employee and procurement issues.

Rudden to Stein's question: per Turner, Shutesbury would be the first town; it is a concern that the partnership has never been done before. Farrell, noting that she attended most of second meeting, observes that the discussion about the partnership set off alarms about what it would really mean and that there are a number of considerations; Amp Energy is talking about a potential partnership before any special permits have been submitted; the Select Board cannot get ahead of the Planning Board and Conservation Commission who have jurisdiction over permitting. Torres: if a partnership is to be considered, it needs to be evaluated and understood; everything is conditional on the Planning Board's authority. Michael DeChiara/Planning Board thanks the Select Board for the conversation and requests Torres to share the report with the Planning Board; in terms of filing, in November 2020, Turner mentioned that the Pratt Corner East special permit application would be submitted in January 2021; as well, Turner mentioned the partnership to Planning Board as a "great way for the town to get more funds"; the partnership concept raises concerns about risk and capacity; the Town would be getting paid for services which is very different in character from a PILOT; it feels dubious. Rudden: the partnership is an issue for the Select Board to research and decide and is separate from the special permit process. Torres: the partnership could be approached in a manner similar to the broadband situation; the potential for income/profit needs to be researched to determine whether they are possible. Torres explains that for informational purposes, she is researching potential subcontractors. DeChiara emphasizes the need for research because the proposed partnership seems to be a means for pushing off risk. Torres: the SMART program provides financial benefits for developers. DeChiara: the term partnership is a misnomer; this is a contractual relationship and we would not be sharing in the profits. Rudden: Amp Energy is located in Toronto and is a huge cooperation. Makepeace-O'Neil: with a partnership, the cost of post employee benefits would be a consideration for the Town. DeChiara: Amp's need for a sense from the Select Board by March is concerning; how could this be determined given the need for the Planning Board's special permit process; there is not a legitimate way to determine town commitment. Rudden: Amp Energy wants a memorandum of understanding which would be subject to review and approval and relevant laws. DeChiara: even that statement is ahead of the process. Torres to DeFant's observation about siting limits on

BioMap 2 sites: the siting of the solar farms is the applicant's responsibility; per Turner, Amp Energy purchases these sites to be good neighbors. Stein notes the need for the Select Board to approve the "Information about AMP and its Solar Energy Proposal for Shutesbury" document; this is a complicated issue and stirs up feelings. Rudden: Torres and I wrote up the short informational summary about what is currently known. Makepeace-O'Neil recommends sending the report to the relevant committees. Torres: all the pertinent points have been reviewed during this meeting; suggests posting the summary on the Select Board webpage. Jeff Lacy/Zoning Board of Appeals: official zoning advice should be provided by the Building Inspector and/or Zoning Board of Appeals; the Planning Board intentionally built waivers into the special permit process. Torres: the Planning Board chair was informed about the 12.16.20 meeting however was unable to attend; notice was given too late to invite another member. Janice Stone: how will the public be able to weigh in on the public-private partnership? Torres: annual town meeting would be part of the decision-making process for the partnership; the memorandum of understanding would not be related to the SMART program. Stone is concerned about the Select Board's role in making such an agreement. Makepeace-O'Neil: the process will occur during an open meeting.

3. Response to Inappropriate Emails: In light of the recently received emails, Torres recommends the newly configured Historical Commission have an update on open meeting law, record requests and how emails are to be handled from Town Counsel Donna MacNicol. Torres continues: a new cache of emails from Rolf Cachat-Schilling (Sasachiminesh/Nohham R.P. Cachat-Schilling) and James Cachat have been received by the Select Board and Historical Commission; in the past (2018), antagonistic emails, sent by the same parties, caused harm to volunteers and staff therefore, on the advice of Town Counsel, the Select Board sent a letter to the named parties explaining that their email would be blocked from shutesbury.org email addresses however would still be seen by the Select Board. Torres: the concern is that we do not want to return to the past situation; boards are key to town operations and need positive engagement; the purpose of this agenda item is to ask the Select Board for an initial conversation about the current emails. Torres suggests that if there are further aggressive/attacking emails, the Select Board would need to review the situation and send a warning about sending aggressive/attacking emails to town volunteers, etc. and if a subsequent warning is needed, the Select Board will set up a method to prevent these emails. Farrell, as a Select Board member, found it most appalling that there were blanket accusations; something should be done immediately about the inappropriateness and inaccuracy of the emails; any response needs to be stated clearly. Makepeace-O'Neil: having endured the past attacking emails, the Board needs to address the situation now. Stein agrees and notes that the senders are no longer residents of Shutesbury; the current emails are terribly offensive and triggering of past events. Torres: per Town Counsel, because time has passed since the prior letter, the Select Board needs to issue a warning before blocking the parties' email. Miriam DeFant: as secretary, manages the Historical Commission email and needs to know what we define as aggressive, i.e., the reference to "blood curse"; the current procedure is to forward to all Historical Commission email to the members however, though she did so, it felt uncomfortable forwarding the subject emails; does the Commission need to acknowledge receipt of these emails. DeFant reports

speaking with Henry Geddes/Historical Commission Chair about the emails that spoke damagingly about and questioned the credentials of the consultant to be hired by the Commission. DeFant understands the Select Board received an email about herself and asks what the process is for investigating potentially defaming emails. Makepeace-O'Neil: the receipt of this type of email has been experienced in the past; the Select Board does not respond to each comment. DeChiara, based on past experience, recommends responding as soon as possible; the prior attacks were distressing and it will not stop unless there is a response; attacks are not deserved. DeFant: board members need a clear process, i.e., can a member of a board who receives emails from these individuals forward them to the Historical Commission. Torres cites the First Amendment. Makepeace-O'Neil: that is why, in the past, there was a route for these emails to be received by the Select Board. Torres: what can be done is limited; the Select Board will do what it can to protect from volunteers/employees from abusive language. Makepeace-O'Neil encourages those affected to try and not take the abusive language personally as this is the individuals' communication style which makes it difficult to engage in conversation. Torres will update the 2018 Select Board letter. Makepeace-O'Neil suggests review of the past letter and the updated letter. Torres suggests and Board members agree to meet prior to the 1.12.21 three board meeting to review the past and updated letter. DeChiara: at the prior time, a letter from the Select Board was also sent to the relevant boards. Farrell acknowledges DeFant's feelings of being attacked and notes that this meeting is a public record that a letter is being prepared to advise the recipients to cease harassment.

4. Town Administrator Updates:
  - a. Town Hall: The Board of Health's support and guidance to town boards/committees/departments providing guidance is acknowledged and appreciated; departments are fully staffed; school union negotiations will start during January; trash bags sales have been great and folks are appreciative – Town Clerk Grace Bannasch and Torres take turns managing the Monday afternoon pickup. Contracts for the Town Administrator and Highway Department Superintendent are coming due; during the 1.29.20 meeting, the Select Board will need to decide who will represent the Board on the negotiation teams. Because there are no current members of the police union, only a memorandum of agreement will be needed.
  - b. Elementary School: The Building Committee has yet to meet; Bob Groves/Chair will be contacted to schedule. The school roof was leaking badly again therefore, in concert with working on the engineering study, reapplying for the Mass. School Building Authority assistance grant is recommended.
  - c. Finance Committee: The FinCom is working hard and during their recent meeting conducted a workshop on Cherry Sheets and State funding; the three-board meeting is scheduled for 1.12.21. Farrell confirms that the elementary school budget will be the focus of the three-board meeting and that no date has been set for the next four town meeting. Farrell notes the need to talk about an annual town meeting date and advocates for asking legislators for the same options in place for 2020. Torres: along with the State of Emergency, those options are still in place. Torres also notes the need to extend the date for annual town meeting to allow the bids for the school roof to come through. Farrell: the Board needs to be thinking about when to hold annual town meeting now;

there needs to be an alternative location/outdoors given the timing/weather; not everyone will have the vaccine until sometime in the summer; a resident recently sent an email in support of an outdoor annual town meeting. Torres: in talking with Grace Bannasch/Town Clerk, timing on the annual town election side still needs to be figured out; suggests the date for annual town meeting be a standing agenda item.

ABCC Calendar Year Annual Report: Farrell moves and Stein seconds a motion to approve the Town of Shutesbury “Annual Report for Calendar Year 2020” to ABCC. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O’Neil: aye; the motion carries.

Our Town Winter Edition: Scott, in conversation with Janis Gray/Editor and Torres, recommends a 1.29.21 article due date with mailing during the last week of February; per Town Clerk Bannasch, election information is pending; especially in light of the number of new residents, she will write an article about the open elected positions and the roles of their respective boards; in the interim, Bannasch may have more information about the timing of the election and nomination papers. Select Board members support the timing for the winter edition of *Our Town*.

#### Administrative Actions:

1. Select Board members will sign vendor warrants totaling \$122,949.23.
2. Select Board members will sign payroll warrants totaling \$110,399.13.
3. Stein moves and Farrell seconds a motion to approve the 12.22.20 meeting minutes. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O’Neil: aye; the 12.22.20 minutes are approved as presented.

At 7:33pm, 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. Michael DeChiara’s 12.23.20 email “solar legislation fix”
2. 12.19.20 email from Claudia Citkovitz/Treasurer Sirius Inc. “Additional follow-up from meeting of 2020-09-21: PILOT”
3. 1.1.21 *The Daily Hampshire Gazette* “Key W.D. Cows forestland protection \$3.25 million deal”
4. “Information about AMP and its Solar Energy Proposal for Shutesbury”
5. Town of Shutesbury “Annual Report for Calendar Year 2020” to ABCC

Respectfully submitted,  
Linda Avis Scott  
Administrative Secretary