

Shutesbury Select Board Meeting Minutes  
June 8, 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

Other Town Officials present: Police Officer in Charge Kristin Burgess, Tessa Dowling/Land Use Clerk, and Kevin Rudden/Administrative Assessor

Guests: Mark Olszewski/Shutesbury Athletic Club, Jeff Lacy, Michael DeChiara, Sharon Weizenbaum, Lesley Smith, Miriam DeFant, Penny Jaques, Gail Fleischaker, Don Wakoluk, Jane Plaza, Henry Geddes, Mary Lou Conca, Robert Seletsky, Susie Mosher, Diane Jacoby, Joe Trapani; other unidentified participants were present.

Makepeace-O'Neil calls the meeting to order at 5:35pm.

Agenda Review: No changes are made.

Public Comment:

1. Jeff Lacy offers a "shout out" to the Shutesbury Highway Department for their beautifully done job on Baker Road; he will follow-up with a letter to the Highway staff.
2. Michael DeChiara appreciates that the Select Board will be holding an executive session to review the 4.30.21 executive session minutes and notes that the Board plans to adjourn after this session; if the Board decides to release the minutes, they will need to document that decision during the next open meeting or, after the executive session if open session is resumed.

**Discussion Topics:**

1. Police Officer-in-Charge (OIC) Promotion: Torres: Officer Kristin Burgess has served as Officer in Charge since 3.6.21 when former chief, Dan Fernandes, was required to step down sooner than anticipated; Burgess has taken on the challenges she has faced this year along with more requirements from the State; her thoroughness, attention to detail and people and maintaining a presence in town is appreciated, therefore it is recommended the OIC Burgess be appointed to sergeant.
  - Stein moves and Farrell seconds a motion to promote OIC Kristin Burgess to Sergeant. Stein echoes Torres's appreciation: the feedback from Town residents has been phenomenal, this is a wise choice. Makepeace-O'Neil agrees: earlier today, someone expressed their appreciation for Burgess' work at Lake Wyola. It is noted that Burgess' promotion to sergeant clarifies who is in charge of the Police Department while the Policing in Shutesbury Study Group is in progress; there is an increase in salary to ensure Burgess is fairly compensated and the needed authority as described by Burgess during the 5.25.21 meeting. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries. Sergeant Burgess thanks all those listening for their support; she is grateful and happy to be here.
2. Amp Energy Follow-up: Makepeace-O'Neil: the purpose of the discussion is in regards to the 5.21.21 email from Andrew Chabot/Amp Energy ("Shutesbury/Amp Public Entity Conversation Next Steps") requesting follow-up. Torres: the question is, does the Select

Board want to entertain further conversation with Amp; the Select Board has yet to review an agreement from Amp; Town Counsel Donna MacNicol suggested making a list of issues that might be off the table for an agreement with Amp and what might be workable; the Board might have a conversation to resolve once and for all whether they oppose an agreement or whether there are reasons for potentially entertaining one; Chabot is willing to provide a sample concept operations and management (O&M) agreement which the Select Board could review.

Farrell, referring to the prior discussion with MacNicol: her position has not changed, it is premature to negotiate an O&M when we do not know what we would be operating and managing as no permits have been applied for; it is too complex for the Select Board to negotiate without expertise. Stein: the Select Board needs to do due diligence and explore as far as it will go using consultants, i.e., an actuary, to determine if it is viable or not. Makepeace-O'Neil agrees with the need for due diligence; we can look at a sample that is not completely theoretical and start a creative conversation – how can we think outside of the box; if there are applications, they can be honed. Stein; we are not a town that is vulnerable to the corporation; it is our say; we need to have faith in the solar bylaws; our town has protections and a good group of people overseeing them; we are equals at the table. Farrell: how are we equal with the deep bench that Amp has; Amp does not get Category 1 standing without an executed O&M agreement which they want as soon as possible; her guess is that they want this before applying for permits; without an O&M agreement, it does not do them any good for us to say we are interested. Stein: we have the ability to get the resources we need; we will not jump into anything that is bad for the town. Farrell; we do not have the technical expertise; there will be significant legal expenditures. Stein: Amp will pay for our consultants; agrees that Amp wants an agreement; she would be an abutter though sometimes, you have to step away and consider the greater good; this situation has brought up a lot of emotion in the community and needs to be looked at carefully; as the Select Board, we need to move forward on this part; the Planning Board will have their part. Makepeace-O'Neil states she will also be an abutter via property on Lady Slipper Lane; at the last meeting, we noted the need for more information; we do not have enough information to say no; we need to do due diligence.

Farrell has serious reservations about this being good for the town and taking on this kind of responsibility and the liability of overseeing five mini industrial power plants with a population of 1,700 residents and mostly volunteers; if this is about money, we do not need an O&M agreement because there will still be PILOTs (payment in lieu of taxes) if the projects are permitted; we will need to cover costs and doing so may not be worth the risk. Farrell continues: solar does not make high demands on road and provides PILOT income for the community without much in the way of additional expense; the O&M agreement is a carrot that Amp is dangling. Makepeace-O'Neil: what if those concerns were covered and a portion of profit was given to Shutesbury? Farrell: so much is unknown therefore she does not feel confident in doing an O&M agreement; in March, DOER stated there has been no such O&M agreement in the State and would not be able to say yay or nay until all negotiations are complete and it is not clear DOER would ever approve such an O&M. Stein appreciates Farrell caution; it is important to play this out as

far as we can and satisfy the needs of the town over Amp's. It is noted that town meeting has the ultimate decision.

Public comment will be allowed for five minutes; 1-1.5 minutes/person.

Michael DeChiara: this is a hard stop for Farrell; is baffled by the conversation; you have spent several months doing due diligence; there was a presentation by Amp, a meeting with DOER, a presentation on the SMART program; the topic was discussed again with guidance from Town Counsel who was clear on the need to wait until close to the end of permit process; agrees with Farrell on the need to wait to near the end of permitting; as soon as you say we take this or that, it is a negotiation; wait.

Lesley Smith: the good of the town, we all want that though we do not have a common definition; what do we mean by this.

Makepeace-O'Neil: financial, environmental, the whole town as a package; a majority of people are not present for these discussions.

Sharon Weizenbaum: noticed that Amp has been surveying and was on Pratt Corner Road earlier today measuring right of ways through properties; concerned that there is momentum on the developer's part; agrees, what does the good of the town mean; confirms that the surveying was for a logging company.

Miriam DeFant: in doing due diligence before the nitty gritty of a contract, there needs to be financial, actuarial, and environmental impact assessments, i.e., the effect on private roads and erosion; in this case, there would need to be a third party review to understand the liability the town may be entering into. The public comment time has elapsed.

- Stein moves and Makepeace-O'Neil seconds a motion for the Select Board to hold a discussion with Andrew Chabot/Amp Energy. Roll call vote: Farrell: no, Stein: aye and Makepeace-O'Neil: aye; the motion carries. Select Board members agree to hold the discussion with Chabot during their 6.15.21 meeting.

3. Building Inspector Use of Town Counsel Services: Torres: the Administrative Assessor discovered that a house was being built off Montague Road; per the Building Inspector, the fact that no permits had been issued resulted in a cease and desist order being issued; the owner, with their lawyer present, met with the Planning Board and represented to the Building Inspector that they were waiting for feedback from Planning Board; there was no action to be taken by the Planning Board; the Building Inspector would like to move forward with legal action as the owners have not obtained legal access to site; the Select Board has to approve use of Town Counsel for this purpose.

- Farrell moves the Select Board provide the Building Inspector with support from legal counsel for an illegally built house; Stein seconds a motion. Torres: Town Counsel Donna MacNicol has experience with this kind of situation. Roll call vote: Farrell: aye, Stein: aye, Makepeace-O'Neil: aye; the motion carries.

4. Assessor's Office Staffing: Torres: Administrative Assessor Kevin Rudden has been offered a 30 hour/week position for a town near where he lives; Rudden is willing to continue part-time in Shutesbury. Per Torres, the proposal is to increase the Assessors Clerk hours from 12 to 20/week and perhaps retitle the position to Assessors Assistant and to decrease the Administrative Assessor's hours from 20 to 12/week. Torres has reached out to Leslie Bracebridge, the current Assessors Clerk; the proposed change will

allow Rudden to continue the good work he has done for the Town. The draft revised job description will be reviewed by the Personnel Board 6.10.21. Rudden: the proposed change is within the same budget funding. Torres: we will be covering what we have been with the proposed changes. At 6:21pm, Farrell leaves the meeting. Rudden to Stein's question: yes, the proposal is reasonable and will work.

5. Juneteenth Holiday: Makepeace-O'Neil: the question is whether to add Juneteenth as a paid holiday for employees. Torres: she has heard from other towns that they are treating Juneteenth the same as other holidays.
  - Stein moves that Juneteenth be a paid holiday for employees; Makepeace-O'Neil seconds the motion. Torres to Stein's question: the Department of Elementary and Secondary Education made Juneteenth a paid holiday for school employees. Roll call vote: Stein: aye and Makepeace-O'Neil: aye; the motion carries.
6. Shutesbury Athletic Club Common (SAC) Victualler's License: Scott: the SAC's Common Victualler's license application is for serving prepared and frozen food; per Catherine Hilton/Board of Health, Claudia Lucas the Health Agent, is responsible for issuing the Food Service Permit; the SAC has submitted their application for this permit which involves a kitchen inspection; the Board of Health agreed, in principle, that it is okay for the SAC to serve food provided they are properly licensed. Mark Olszewski/SAC President & Manager: we are waiting to hear from Lucas/Health Agent for the Board of Health who has our application and will need to inspect the kitchen.
  - Stein moves and Makepeace-O'Neil seconds a motion to approve the Shutesbury Athletic Club's Common Victualler's License to expire 12.31.21. Roll call vote: Stein: aye and Makepeace-O'Neil: aye; the motion carries.
7. Reopening Town Hall: Catherine Hilton/Board of Health was expected to be present for this topic however is unable to attend. Torres recommends ensuring that the Board of Health is in agreement with the plan to reopen Town Hall on 6.21.21. Torres continues: there will need to be time to prepare the building after annual town meeting; concerns needing to be made clear - unvaccinated employees need to wear masks, that we can only request unvaccinated visitors to wear masks and we need to ensure employees are comfortable and have spaces in which they are comfortable. Scott asks if six foot signs will be installed and lists of visitors kept. Torres will ask the Board of Health for recommendations; the downstairs room with the air exchanger has the best ventilation and can be used for helping the public. Torres recommends that no small in-person meetings be held until July; hybrid meetings could be used. Makepeace-O'Neil recognizes the need to continue to be flexible. Torres will write a reopening plan for the Board of Health and Town Hall employees.
8. Town Administrator Updates:
  - a. Land Use Clerk Resignation: Torres: on 6.7.21, a letter of resignation was received from Land Use Clerk Tessa Dowling; her last day will be 6.18.21. Tessa Dowling thanks for the Select Board for the opportunity to work as Land Use Clerk; it was a very valuable learning experience; she has accepted a full time position with Mount Grace Land Trust; she will be working closely with Torres and Scott to prepare for her departure. Select

Board members wish Dowling all the best in her future endeavors. Michael DeChiara/Planning Board notes that he is just learning of Dowling's departure and that she will be missed. Dowling reports that she has informed the Conservation Commission, Planning Board, and Zoning Board of Appeals chairs and will be talking with members about how tasks can be divvied up during the transition.

- Stein moves and Makepeace-O'Neil seconds a motion to regretfully accept Tessa Dowling's resignation from the Land Use Clerk position effective 6.18.21.  
Torres: an ad was submitted this morning and will be posted on the Town website. Dowling states that she is willing to assist with training. Jeff Lacy/Planning Board is sorry to see Dowling leave. Roll call vote: Stein: aye and Makepeace-O'Neil: aye; the motion carries.
- b. Project Bids: The Locks Pond culvert project bid will be opened 6.9.21. The school roof bid came in lower than expected at \$231,000; the relevant warrant article can be modified on town meeting floor; there will be enough in the final amount to cover contingencies; the contractor, Cape Way Roofing of Westport Ma, is known by the architect and has a good reputation and experience working on other school roof projects.
- c. PFAs Follow-up: The Watkins' new well tested positive for PFAs, they were receiving bottled water initially; Clean Water installed a new carbon filter for \$1,500 and a retest was done earlier today; there may be a number of homes that may need these filters. Torres continues: there will be more consultation with the Board of Health; the Highway Department and the Fire Department and the nextdoor home are currently using bottled water as a precaution; if the Fire Department/nextdoor house well tests positive, filters will be installed; grant funding will be sought to assist with the cost of testing and filters.
- d. Cinder Block Building: Demolition is pending an asbestos test; the Conservation Commission site visit is also pending.
- e. Police Union Negotiations: Negotiations have just begun; the Select Board is asked to confirm that the negotiations are for a three year contract; someone suggested a one year contract however the team went into negotiations for three years.
  - Stein moves and Makepeace-O'Neil seconds a motion that the police union negotiations are for a three year contract. Roll call vote: Stein: aye and Makepeace-O'Neil: aye; the motion carries.
- f. Annual Town Meeting: Stein appreciates all the extra work done by the Town Administrator and volunteers to arrange for an outdoor event. Torres: earlier today, members of MLP worked to ensure there will be good internet service for attendees; a number of paper copies will be available; packets were mailed out to 48 individuals identified as not having internet service; any others parties may call her to arrange pickup of paper copies.

#### Administrative Actions:

1. Select Board members will sign vendor warrants totaling \$115,646.26.
2. Select Board members will sign payroll warrants totaling \$110,464.30.
3. Stein moves and Makepeace-O'Neil seconds a motion to approve the 5.6.21 meeting minutes. Roll call vote: Stein: aye and Makepeace-O'Neil: aye; the motion carries.

At 7:00pm, Makepeace-O'Neil moves and Stein seconds a motion to enter executive session, for reason #2, to review the minutes of the 4.30.21 executive session held to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective

bargaining sessions or contract negotiations with nonunion personnel; specifically, to conduct negotiations with the Town Administrator and to resume open session. Roll call vote: Stein: and Makepeace-O'Neil aye.

Recording is resumed. At 7:36 pm, Makepeace-O'Neil resumes the open meeting. Michael DeChiara rejoins the meeting. Makepeace-O'Neil: during the prior executive session, it was decided that all three Select Board members needed to be present for the executive session and that it came to our attention that all three members had not read the minutes in advance of the session therefore a decision was made to postpone the approval of the 4.30.21 executive session minutes. DeChiara: he believes, per Open Meeting Law, that if they have a quorum, the Select Board needs to release the executive session minutes. Torres: it was decided to do so at the next possible date, 6.15.21. DeChiara thanks the Select Board and states he is fine with the Select Board having an executive session on 6.15.21; this is a reasonable time frame. At Makepeace-O'Neil's request, Torres will assist with looking into Open Meeting Law.

There being no further business, at 7:40pm, Stein moves and Makepeace-O'Neil seconds a motion to adjourn the meeting. Roll call vote: Stein: aye and Makepeace-O'Neil: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. 5.21.21 email from Andrew Chabot/Amp Energy: "Shutesbury/Amp Public Entity Conversation Next Steps"
2. 6.7.21 letter of resignation from Tessa Dowling/Land Use Clerk

Respectfully submitted,  
Linda Avis Scott  
Administrative Secretary