

Shutesbury Select Board Meeting Minutes
July 6, 2021 Virtual Meeting Platform

Select Board members present: Melissa Makepeace-O'Neil, Rita Farrell, and Eric Stocker
Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary
Other Staff present: Miriam DeFant/Conservation Commission and Historical Commission
Guests: Susie Mosher, Penny Kim, Don Wakoluk, John Espinosa, Jane Plaza, Mark Roblee, Guy DeVito, Leslie Cerier, Jim Plaza, Renee Richards, Gail Fleischaker, Henry Geddes, Janet Sinclair, Robert Seletsky, Celinda Ezzell (Ezzell Floranina), and other unidentified guests.

In the absence of an elected chairperson, Town Administrator Becky Torres calls the meeting to order at 5:35pm and asks for nominations for Select Board chairperson.

Eric Stocker nominates Rita Farrell to be Select Board chairperson. Makepeace-O'Neil nominates herself to be Select Board chairperson. Stocker: Farrell would be a good person to chair the Select Board; this nomination is not a reflection on Makepeace-O'Neil's work and appreciates her leadership during difficult and challenging times. Farrell states she has the background, time and experience to serve as Select Board chair and could serve the Board well; her interest in serving is not a reflection on Makepeace-O'Neil who has done a phenomenal job. Makepeace-O'Neil: for continuity, she would like to remain chairperson though is willing to be vice-chairperson given how strongly Stocker and Farrell feel. No public comments are allowed. Roll call vote on Farrell's nomination as Select Board chairperson: Stocker: aye, Makepeace-O'Neil: aye, and Farrell: aye.

Farrell now acts as chair. Stocker nominates Makepeace-O'Neil as Select Board vice-chairperson; Farrell seconds the motion. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye and Farrell: aye; the motion carries.

Agenda Reviewed: Farrell reviews the agenda as written. To Torres' inquiry: Miriam DeFant agrees to have the Select Board consider her exemption request under the Section 19B Ethics Disclosure.

Public Comment: Farrell, noting that 27 individuals are present for the meeting, allows public comment and explains that the Select Board adopted a public participation policy; comments are to be kept brief and, if appropriate, wait until the relevant agenda item; the Select Board will not engage during the public comment period unless the matter is of an emergency/urgent nature.

1. Celinda Ezzell: notes the importance of following the proper procedure regarding Amp Energy; the solar bylaw states no more than 15 acres; asks that the Select Board not have any conversations with Amp Energy or Cowls or sign anything until the permits are filed; emphasizes the need to ensure a democratic process is followed.
2. Remy Fernandes-O'Brien: seconds what Ezzell said; the Select Board should not to sign anything until proper permits are filed.

No further comments are made.

Discussion Topics:

1. Summer Schedule: Torres suggests the Select Board consider their availability for meetings and identify their priorities for the summer. Torres notes that the solar issue remains open and is in need of a conversation to determine direction; Gail Weiss/Accountant is working on the close of FY21, however, before she can determine the final figures, there are items in play;

the Finance Committee will meet on 7.20.21 to conduct line-to-line transfers as needed. Other goals could include: the changing status of Covid; questions about moving into hybrid meetings which needs to occur by 9.15.21. Torres asks Board members to let her know of any conflicting meeting dates.

Farrell adds to the list of issues: the Select Board and Library Trustees will be meeting with the Mass Board of Library Commissioners in August and a site for a new library needs to be identified by September. Torres: during the last grant round, Lot O32 won the straw poll by a landslide over a site behind Town Hall; the Select Board is in charge of properties in town. Farrell to the public: there has been discussion about both sites each with their own set of issues.

Farrell noting that there will be an update on PFAs during this meeting, recommends the topic stay on upcoming agendas and also requests an update from the Policing in Shutesbury Study Group. Stocker suggests the re-establishment of the Energy Committee. Makepeace-O'Neil suggests inviting committees that the Select Board has not heard from for a short update when time permits; i.e., the Energy and Building Committees. Torres: the Select Board appointed a third member, Graeme Sephton, to the Energy Committee; in addition, there are two inactive members who readjust the panel angles and may be available for other projects. Farrell, noting the benefit of regular updates from Officer in Charge Sergeant Kristin Burgess and Administrative Assessor Kevin Rudden, requests updates from department heads on a regular basis particularly the Highway and Fire Departments.

2. Abutter Status Report: Makepeace-O'Neil spoke with the Ethics Commission earlier 7.6.21 and needs to gather more information; the issue is her status as an abutter on the West Pelham Road side of a potential solar installation site on a Pratt Corner parcel (Lot ZG-2); there is the potential for a financial impact; the process may allow her to discuss and vote on the matter. Makepeace-O'Neil notes that two Planning Board members have the same abutter issue; Section 19 prohibits an elected official from discussing, recommending, and voting on the matter if there is a conflict of interest; an independent official appraisal of her property needs to occur; the appraisal determines whether or not the addition of a solar installation will impact the value of her property either up, down or neutral. Per Makepeace-O'Neil, the cost of the appraisal is between \$375-\$500; the appraisal is submitted to the Ethics Commission who decides whether there is an appearance of a conflict or that she can fairly participate in the process; she has to decide if she will bear the cost of the appraisal or whether there is another source. Makepeace-O'Neil confirms that a full appraisal is needed to determine either positively or negatively if there is a conflict; if there is a financial impact, she will recuse herself from the Select Board during the topic and, if she needs to, speak as a private citizen.

Torres: one Planning Board member has done a full appraisal and their exemption request submitted; the Chair of the Planning Board also has to pursue the same process therefore the Planning Board asked the Finance Committee for an addition to their line item to assist with the appraisal costs; this procedure is necessary for board members to do their job; Makepeace-O'Neil is the third case and the Conservation Commission Chair is the fourth case; there are funds available for the Planning Board and the Select Board expense line can be used to cover Makepeace-O'Neil's costs, however, the Finance Committee may need to allocate more funds. Per Torres, Town Counsel Donna MacNicol agrees that Town funds may be used for this purpose; we are in the position to support committee members in this situation; they will need to obtain three estimates for the cost of an appraisal which can be done via phone.

- Stocker moves and Farrell seconds a motion to use the Select Board expense line to cover the cost of Makepeace-O'Neil's appraisal. Makepeace-O'Neil recuses herself from the discussion. DeFant asks if the Conservation Commission has the funds to cover the cost of the required appraisal which is in process. Torres: Michael DeChiara/Planning Board was granted an exemption by the Ethics Commission and will be reimbursed for the cost of the required appraisal; a request to the FinCom for DeFant's costs is appropriate. Roll call vote: Farrell: aye, Makepeace-O'Neil: abstain, and Stocker: aye; the motion carries. Makepeace-O'Neil will keep Torres updated on her process which will have a bearing on future conversations with Amp Energy.

DeFant to Farrell's question: she consulted the Ethics Commission as an abutter to Lot ZG-2, the Wheelock solar site, the Department of Fish and Wildlife (DFW) Conservation Restriction project and the potential Pratt Corner East Amp Energy project; the appraiser has started and will be finished in two weeks. DeFant: per the Ethics Commission, she can also file with the Select Board as the appointing body, under Section 19.B1, describing the conflict and asking the Select Board to grant an exemption that would allow her to participate in several Conservation Commission projects that could involve Lot ZG-2 including a joint site visit with the Planning Board and the DFW site.

DeFant continues: as secretary for the Historical Commission, she has been tasked with compiling the report to Amp Energy that is due 7.23.21; regarding the Conservation Commission, it is difficult to chair and be recused; due to these time pressures, she is asking the Select Board to grant an exemption. Torres: Town Counsel MacNicol reviewed DeFant's request and recommends the Select Board not grant the exemption request because it is too broad and represents two committees; the request needs to be narrower. Makepeace-O'Neil's concerns are similar to those of MacNicol: DeFant is requesting an exemption for two boards, for which the roles and work are different, on one form; the requests need to be separate and more defined. Stocker agrees with MacNicol's position. Makepeace-O'Neil notes that DeFant's request is the first of its kind before the Select Board and will set precedent.

Farrell: later in the meeting, the appointment of a potential Commission member will relieve quorum pressure. DeFant agrees that the quorum issue will be resolved with the appointment and notes that per the Ethics Commission, she has one conflict of interest as a near abutter to Lot ZG-2; the conflict is the financial relationship to the parcel. DeFant continues: the biggest concern is the statutory deadline, per the solar bylaw, for the Historical Commission report to the Planning Board; she has been tasked to write the report but has a conflict of interest; the Historical Commission voted to write the report therefore she is in a time sensitive dilemma. Farrell: this is a Historical Commission report. DeFant: would writing constitute deliberation? Farrell and Stocker: writing the report is not a deliberation. Farrell: the conflict is not by writing the report as the Historical Commission will vote; this could be a question for Town Counsel. Farrell states she is not willing to allow a blanket exemption for DeFant and recommends DeFant move forward on writing the report.

- Makepeace-O'Neil moves the Select Board deny Miriam DeFant's request for an exemption under Section 19B as advised by Town Counsel; Stocker seconds the motion. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
3. PFA's Update: Torres has been in contact with Department of Environmental Protection (DEP) representatives and been notified of current test results: negative at the Pelham Hill Road intersection with Leverett Road; two residences had high levels – the property the

Town is responsible for installing a carbon filter and the test with the filter was negative; the second household and the Fire and Highway Departments will have carbon filters installed within the next five days. Torres continues: the DEP team will be visiting residents close to the well that tested positive and will be testing approximately 20 households as well as retesting after filters have been installed; the neighbors of Town Hall are negative; the Town Hall test is pending; the contaminated well is ~ 100 feet from the other Town well at the Fire Department site. Torres anticipates that it will be mid-August before DEP has a handle on the problem in Shutesbury.

Farrell asks who is responsible for the contamination. Torres: DEP will work in concentric circles from the contaminated well on the Fire Department site and those will be the Town's responsibility; the second property, located off Locks Pond Road has no known relationship with the Town and the household is taking responsibility for paying for the filter; DEP will also work in concentric circles from this site. Farrell suggests the Select Board consider assisting households, who cannot afford them, with the cost of filters. Torres: the filters range in cost; the first one installed was \$1,500 though the Board of Health's original estimate was \$3,000. Farrell suggests researching potential grant sources to assist with costs. Torres: because this is related to water infrastructure, it may be possible to use Federal recovery funds; there may also be State funding that DEP may be aware of. Torres will ensure residents have information about funding sources. Makepeace-O'Neil and Stocker agree with this plan.

4. Appointments:

- Conservation Commission: Farrell: Beth Willson has experience and a depth of knowledge as well as a nod from the Commission. Miriam DeFant/Commission Chair: the process in the past has been for the interested person to provide an email introduction, attend several meetings to learn the mission and how the Commission works; the Commission has a quorum problem when there is a recusal as in her case; Willson is a town resident who is experienced and understands the work of Commission; this is an unusual situation in that the Commission is short staffed due to turnover and we have a temporary clerk. DeFant continues: Willson is only committing to a couple of months of service, however, there are others interested is serving so it is anticipated the vacancies will be filled before the end of summer. Makepeace-O'Neil moves and Stocker seconds a motion to appoint Beth Willson to the Conservation Commission. Roll call vote: Farrell: aye, Makepeace-O'Neil: aye, and Stocker: aye; the motion carries.
- Zoning Board of Appeals: Stocker moves and Makepeace-O'Neil seconds a motion to appoint Herb Gilmore as a full member of the Zoning Board of Appeals. It is noted that Gilmore previously served as an Alternate member of the ZBA; with Gilmore becoming a full member, there will now be two vacant alternate member positions. Roll call vote: Farrell: aye, Makepeace-O'Neil: aye, and Stocker: aye; the motion carries.
- Lake Wyola Advisory Committee (LWAC): Per Torres, David Green previously served as the Lake Wyola Association (LWA) president, is a long time lake resident and is currently a member of the LWA. Stocker moves and Makepeace-O'Neil seconds a motion to appoint David Green to the Lake Wyola Advisory Committee. Roll call vote: Farrell: aye, Makepeace-O'Neil: aye, and Stocker: aye; the motion carries.

5. Town Administrator Updates:

- a. Town Hall is having a soft reopening; depending on staffing, the front door will be unlocked though the back door may be locked; there will be a notice on the door if no staff are present. Torres advises the public to continue to reach out by phone and email for assistance and notes that visitors are encouraged to wear masks when coming into Town Hall; employees are wearing masks when out of their offices; there is concern about the Delta variant therefore we are proceeding with caution.
- b. The engineers for the Locks Pond Small Bridge project will be meeting with the contractor; a preconstruction meeting for the school roof project is being planned.
- c. Torres welcomes new Select Board member Eric Stocker and new chairperson Rita Farrell. Torres recognizes and thanks Melissa Makepeace-O'Neil for her work as chairperson especially over the past fifteen months. Stocker and Farrell agree with Torres' sentiment.
 - Makepeace-O'Neil moves and Stocker seconds a motion to accept Kent Whitney's resignation from the Broadband Committee. Roll call vote: Farrell: aye, Makepeace-O'Neil: aye and Stocker: aye; the motion carries.

Administrative Actions:

1. Select Board members will sign VW 22-2 vendor warrants totaling \$391,614.55.
2. Select Board members will sign PR 22-2 payroll warrants totaling \$92,320.28.
3. Makepeace-O'Neil moves and Farrell seconds a motion to approve the 6.22.21 meeting minutes. Roll call vote: Farrell: aye, Makepeace-O'Neil: aye, and Stocker: abstain; the 6.22.21 meeting minutes are approved as presented.
4. Farrell announces that the 6.8.21, 6.17.21, and 6.29.21 executive session minutes were released to the public during the 6.29.21 executive session.

At 6:50pm, Stocker moves and Makepeace-O'Neil seconds a motion to adjourn the meeting. Roll call vote: Farrell: aye, Makepeace-O'Neil: aye, and Stocker: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. "Disclosure by Non-Elected Municipal Employee of Financial Interest and Determination by Appointing Authority" filed by Miriam DeFant 6.28.21

Respectfully submitted,
Linda Avis Scott
Administrative Secretary