

Shutesbury Select Board Meeting Minutes
September 14, 2021 Virtual Meeting Platform

Select Board members present: Rita Farrell/Chair, Melissa Makepeace-O'Neil, and Eric Stocker
Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary
Lake Wyola Advisory Committee: Mark Rivers/Chair, Eric Stocker (Select Board), Mary David (Conservation Commission), David Green, and Catherine Hilton (Board of Health)
Conservation Commission: Miriam DeFant/Chair (brief) and Mary David

Board of Health: Catherine Hilton

Other Town Officials present: Grace Bannasch/Town Clerk

Guests: Jennifer Wallace, Joyce Braunhut, Don Wakoluk, Elizabeth Fernandes-O'Brien, Henry Geddes, Jim Plaza, Tracy McNaughton, Bob Douglas, Eric Bachrach, Ken Lindsay, Penny Jaques, Linda Bills, Stephen Dallmus, Donna West, Arlene Forsythe-Clark, Gail Fleischaker, Sharon Weizenbaum and other unidentified attendees.

Farrell calls the meeting to order at 5:37pm.

Public Comment: None offered.

Agenda Review: Farrell reviews the agenda for the guests; no changes are made.

Discussion Topics:

1. PFA's Update: Per Torres, the plumbing work for filter installation has been completed for 50 Leverett Road and the Highway and Fire Departments; due to its proximity to the Fire Department, 32 Leverett Road (former parsonage) will also have a filter installed; there have been no further positive test results; retesting is in process and those results, thus far, confirm the original results; American Rescue Funds can be used to cover the cost of filters however the Town's overall need for these funds must be considered; the search for funding is to assist individuals who are responsible for the installation of their filters; most of DEP's funding is for large municipal systems; thus far, the Town's insurance has covered the cost of filters for residents whose contamination is the Town's responsibility.
2. Select Board Member's Abutter Status Update: Makepeace-O'Neil continues to wait for the appraiser's report and is in communication with the Ethics Commission about another potential conflict and will keep Torres informed.
3. Review of Lake Wyola Advisory Committee (LWAC) Charge/Storm Water Committee Request: Referring to the 12.7.20 email from Mark Rivers: "Request for a Town-Wide Storm Water Runoff Committee and 4.5.21 email from Town Counsel Donna MacNicol: "Re: LWAC request letter", Torres provides background on the issues: the areas most impacted are the private roads around Lake Wyola; Town roads surround the lake roads; the question is how to work with this situation in a legal manner; Town Counsel Donna MacNicol has reservations and concerns about Town activity on private roads. Rivers: the issue is silt and sand contaminants, some of which are from Town roads, flowing into the lake; studies document that this has been going on for over twenty years; the goal is funding for LWAC, the Lake Wyola Association (LWA) and the Town to develop a plan; a committee with political and technical expertise and consultation with the Department

of Environmental Protection (DEP) and the Franklin Regional Council of Governments (FRCOG) could develop the plan; once the plan is developed, the Town would be responsible for their roads and the LWA for theirs. Miriam DeFant/Conservation Commission Chair: the Commission receives complaints from individual landowners around the lake; there can be situations where the Commission has jurisdiction and those where the Commission does not. Torres reads MacNicol's 4.5.21 email letter into the record. Torres notes that when it was formed in 1991, one of LWAC's initiatives was the development of a roads plan; the LWA bylaws include a Roads Committee; a maintenance plan needs to be in place.

Penny Jaques, former Conservation Commission for over 20 years: each year, about 1/3 of the projects before the Commission are from around the lake including some for roads; Rivers is looking for Town expertise in developing a plan, not implementation, for how to improve road safety and protect the lake. Donna West/LWA president: in general, this is a community and Town issue; it would be wonderful to work together to obtain funding and fix the roads. Rivers: the LWA does do road maintenance, they spend money and have a plan, however, there is a better approach with civil engineering guidance to keep runoff from going into the lake; we need to work together for a solution. Jennifer Wallace notes she understands MacNicol's perspective: the request is not to do the work it is a request to coordinate; it is all part of the same ecosystem; the legal matters will come into play when the work needs to get done. Mary David, Conservation Commission LWAC representative, cites the benefit of having all the different committees work together and supports creation of a committee to address the issues.

Torres: LWAC was created to help coordinate lake/Town issues and coordinate with the LWA; the Town does not have engineers; there are limits to how much Highway Superintendent Tim Hunting can contribute; LWA has road maintenance in its charge; the LWAC needs to realize its origins. Arlene Forsythe-Clark: the lake is a jewel; Town roads spill onto the lake roads; experts are needed to keep the lake as beautiful as it is. Torres, as per MacNicol's email, the Town cannot work on private roads without a bylaw defining how the Town may work on these roads; a betterment cost would be assessed to the residents in the area and the LWA; the bylaw would define how Town resources are used to work on private roads. Farrell: the Town could provide funding for improvements if a bylaw articulates how this would be done; there would need to be a lot of research; engineering consultation would need to be paid for; we need to ensure the lake remains a viable healthy resource in a beautiful setting. Makepeace-O'Neil asks if such a bylaw effect all the private roads in town. Stocker: the lake is at the bottom of hill so the water will naturally go there. Stephen Dallmus: the Town owns the lake (this is not accurate: many of the "land under water" parcels are owned by the Town, some are privately owned, and the center of the lake, the great pond, is owned by the State); the concern is sediment going into lake from Lake roads; the Town has an interest in maintaining the roads. West: a bylaw provides the way forward; let's get a committee with Hunting's involvement working on this; we have a mutual problem that needs Town involvement. Clarke recommends starting with roads that have the most need. Bob Douglas: given their history, the Conservation Commission, LWAC and the LWA have built in protection of the lake; the sedimentation is getting worse; Highway

Department staff would be able to offer suggestions; the current measures are not working. Rivers: the 2007 study by the Department of Conservation and Recreation (DCR) did not include enough detail to create an actual plan; a professional plan with detail is needed. Torres confirms that Rivers is talking about a full engineering study. West: the LWA has \$16,000 in their environmental fund; a capital campaign would be needed. Makepeace-O'Neil suggests that an intern from a local college intern may help. Wallace thanks the Select Board for their time; clearly there are things the LWA needs to do however the water flows downhill from Town roads; there is a mutual need for a coordinated effort. Jaques: Mark Stinson/DEP Circuit Rider met with the Commission in August and noted that the same problems are discussed in all small towns with lakes; it may be helpful to learn what are other towns doing; there are DEP grant programs available that may need to go through FRCOG. Torres confirms that DEP grants do need to flow through the Town which is why LWAC needs to look at their roots, the responsibilities and role they already have.

Tracy McNaughton: the 2007 Stormwater Improvement Study by Scott Campbell/DCR has details; not only does the Town have the ability to secure funding, the LWA, as a 501c3 non-profit, has the ability to apply for funding; Scott Campbell is still a resource. Farrell: another committee is not needed; LWAC has representation from all the key Town committees though some input from the Highway Department could be added and we could take another look at the 2007 plan and begin an outline of what needs to be done, i.e., what are the responsibilities of the Town, the lake area property owners, the LWA and consider a bylaw. Rivers: the LWAC does not have expertise. Farrell: Town staff/volunteers do not have expertise; the Highway Department could assist; FRCOG could be a resource. Torres: currently, replacing the Locks Pond culvert is the major project before the Town; it took about eight years to obtain funding for the engineering work; around the lake, we are looking for an upgrade to a set of interlocking roads which is a huge amount of work; Hunting can offer suggestions with best practices that may help the LWA guide residents. Torres offers to attend upcoming LWAC meetings to assist the group in reviewing their charge/responsibilities and planning next steps. Rivers accepts this plan. The next LWAC meeting is scheduled for 9.18.21. Farrell thanks participants; the Select Board will go forward with the LWAC and provide backup support.

4. Review Draft COVID Policy: The 9.1.21 draft "COVID Policy for Shutesbury Employees" is reviewed by screenshare. Farrell refers to the KP Law 12.17.20 eUpdate "Labor and Employment Issues Concerning the COVID-19 Vaccine": the draft does not require vaccination; unless the policy is already in the Police union contract, it has no jurisdiction unless the contract is renegotiated to include the policy. Torres: the elementary school contract is under the School Committee's authority and their staff have a Memorandum of Understanding (MOU) COVID policy; it is uncertain whether this MOU includes a vaccine mandate. Torres: with a mandate, the concern is that there may not be a path for those without a vaccination to stay employed. Farrell: if vaccination records are provided to the Board of Health, privacy is a concern. Makepeace-O'Neil: per OSHA (Occupation Safety and Health Administration), this is not a HIPAA (Health Insurance Portability and Accountability Act) matter; one person, with a confidentiality agreement, could view vaccination cards and check "yes" against the name on a list of

employees. It is observed that it would be the supervisor's responsibility to monitor unvaccinated employees.

Stocker: "ask" is not strong enough. Makepeace-O'Neil: if required unless an employee has a medical or religious exemption, what would the backlash be from those who choose not to be vaccinated? Torres: if mandated, non-compliance would mean termination; mandating could result in consequences related to maintaining services; one to three employees may fall into this category. Makepeace-O'Neil supports a mandate to keep employees safe; employers can make requirements of employees. Stocker suggests including in #4 that if an employee is not vaccinated, they need to get tested weekly at their own expense. Makepeace-O'Neil affirms: a negative PCR test once/week. The Board and Torres revise the policy: the Select Board strongly encourages all employees to be vaccinated; if an employee chooses not to be vaccinated, they must wear a KN95 in all Town buildings and outside when 6' of social distancing cannot be maintained; they will also be required to have weekly PCR tests. It is observed that a single mask is adequate for vaccinated employees. PCR test results will be provided to the Board of Health; if an employee is experiencing COVID-19 symptoms, an antigen test can be done; if the results are positive, contact tracing can be done. Torres amends the document via screenshare.

- Makepeace-O'Neil moves and Stocker seconds a motion to accept the amended "COVID Policy for Shutesbury Employees". Grace Bannasch/Town Clerk appreciates the policy as a staff person working near the front door of Town Hall and notes that she is comfortable saying that vaccination records are an internal personnel record and exempt from open meeting law. To implement, Torres will post the policy, email it to employees, and meet with department heads; the Board of Health will review the policy during their 9.15.21 meeting. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye and Farrell: aye; the motion carries. It is noted that the policy can be revisited as needed.
5. Future Fire Department Configuration Committee: Farrell, noting that Fire Chief Walter Tibbetts has indicated his plan to retire, recommends a committee of no more five members to research and make recommendations on the future configuration of the Fire Department, i.e., the Police Department Officer in Charge and a Select Board member. Torres suggests that Tibbetts and the Town Administrator be ex-officio members. Other members: a Board of Health member with a medical background as well as Personnel Board and Finance Committee representation. The Committee's charge and appointments will be considered 9.28.21.
- Makepeace moves and Stocker seconds a motion to form a "Future Fire Department Configuration Committee". Roll call vote: Makepeace-O'Neil: aye, Stocker: aye and Farrell: aye; the motion carries. Farrell and Torres will draft a charge for the Committee.
6. Redistricting Vote: Grace Bannasch/Town Clerk: redistricting is done every ten years; Shutesbury is a single precinct town; the map prepared by Secretary of State's office indicates one precinct; the 2021 Block Report indicates one precinct; the Town Boundary Description of the official markings is the same description submitted in the past.

- Makepeace-O’Neil moves and Stocker seconds a motion to adopt the Shutesbury 2021 Final Redistricting Map, Boundary Description and Block Report. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye and Farrell: aye; the motion carries. Select Board members will sign the Single Precinct Authorization Form and Certificate of Vote of Adoption Form.
7. Local Detour on Wendell Road: It is noted that the Select Board has received emails from residents living on the dirt portion of Wendell Road and Ames Haven Road concerned about the Wendell Road local detour during the Locks Pond Road culvert replacement. Torres: the culvert project is on the end of Locks Pond Road where it meets Lakeview Road (Locks Pond Road will be closed during construction; Lakeview Road will remain open); Locks Pond Road truck detour signs are up to prevent larger vehicles using the local detour which is only for residents living around the lake and there are fewer of these as the seasonal residents have left. Torres: the detours are expected to be in place for 1-2 months; the project is not permitted past 11.15.21; it is common sense that most people will use Montague Road; Wendell Road has been the targeted local detour which is why that culvert has already been replaced. Torres screenshares the “Construction Sign Summary and Detour Plan”. All Board members agree to the need for some additional safety signage for Wendell Road, i.e., “two-way traffic” & “curve ahead” and ask Torres to report on plans for additional signage during the 9.28.21 meeting.
 8. Land Use Clerk Appointment: Per Torres, Land Use Clerk candidate Lisa Stratford currently works for the Town of Leverett 20 hours/week as Town Clerk and Select Board Secretary; the Land Use Clerk position is 14-19 hours/week. Torres: during her interview, Stratford indicated that as Town Clerk, she is familiar with Zoning Board of Appeals and Planning Board work; she will need more training/support for Conservation Commission work; Scott, former Land Use Clerk, is available to provide support.
 - Stocker moves and Makepeace-O’Neil seconds a motion to appoint Lisa Stratford as Land Use Clerk. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries
 9. Town Administrator Updates:
 - a. Locks Pond Culvert: The current issue is maintaining electricity to the house at the mouth of dam; the wires/pole need to be moved ~5’; extending bars need to be used to adjust the wires which complicates the matter; a meeting of the relevant parties will be held in order to figure out a system for the house’s service and allow the poles to be moved. This process could take a month therefore Torres may ask our legislators for assistance in moving this aspect of the project along as it may impact the timing for the culvert replacement which will take between 6weeks and 2 months to complete; this is a priority project and excavation cannot take place until the pole is moved. Farrell asks for an update prior to the 9.28.21 meeting; if necessary, the Select Board will hold an extra meeting to address this issue.
 - b. Lot 0-32 and Town Hall Field: OTO (O’Reilly, Talbot, & Okun Environmental Consultants) tested the water and will do soil borings in the staked cleanup areas on Lot 0-32; the perc test behind Town Hall was successful and will not require a raised system which will be needed for Lot O-32.

- c. Town Hall Staff: A Board of Health Clerk and Assistant Collector are needed; the Assessors Department is on track for the recap and new growth determinations; Ryan Mailloux/Treasurer and Gail Weiss/Accountant are working on closing the books for FY21.
- d. Joint Letter to the Region: The joint letter from the Finance Committee, Select Board and School Committee is screenshared; the letter asks the Region to discuss the assessment formula and provide educational material in a timely manner in order to avoid a lengthy process; the School Committee will consider the letter during their 9.16.21 meeting.
 - Makepeace-O’Neil moves and Stocker seconds a motion to approve and sign the letter to the Regional School Committee, Mike Morris and Doug Slaughter. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
- e. Regional Emergency Planning Committee: Makepeace-O’Neil moves and Stocker seconds a motion to appoint Emergency Management Director Walter Tibbetts to the Regional Emergency Planning Committee. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Administrative Actions:

1. Select Board members will sign #22-7 vendor warrants totaling \$286,137.18.
2. Select Board members will sign #22-7 payroll warrants totaling \$108,046.27.
3. Stocker moves and Makepeace-O’Neil seconds a motion to approve the 8.25.21 meeting minutes. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye and Farrell: aye; the 8.25.21 meeting minutes are approved as presented.
4. Makepeace-O’Neil moves and Stocker seconds a motion to approve the 8.31.21 meeting minutes. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the 8.31.21 minutes are approved as presented.

At 8:08pm, Makepeace-O’Neil moves and Stocker seconds a motion to adjourn the meeting. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. 12.7.20 email from Mark Rivers: “Request for a Town-Wide Storm Water Runoff Committee and 4.5.21 email from Town Counsel Donna MacNicol: “Re: LWAC request letter”
2. LWAC formation materials
3. 9.1.21 Draft “COVID Policy for Shutesbury Employees” & KP Law 12.17.20 eUpdate “Labor and Employment Issues Concerning the COVID-19 Vaccine”
4. Resume for Lisa Stratford, Land Use Clerk candidate
5. 9.16.21 joint letter to the Regional School Committee, Mike Morris and Doug Slaughter
6. Census 2020 Redistricting Materials

Respectfully submitted,
Linda Avis Scott
Administrative Secretary