

Shutesbury Select Board Meeting Minutes
October 12, 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
Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Michael DeChiara, Linda Rotondi, Nathan Murphy, Robert Raymond and Steve Bressler
Other Staff present: Miriam DeFant/Conservation Commission
Guests: Wm Levine, Marlana Fontes, Rob Kibler and Ken Holt

Farrell calls the meeting to order at 5:31pm.

Public Comment: None offered.

Agenda Review: The agenda will include an Ethics Update from Makepeace-O'Neil.

Discussion Topics:

1. PFA's Update: Per Torres, the Highway Department/59 Leverett Road written test result is 104 parts per trillion; the acceptable range under is 20/ppt; only three results were over 100 and those were from buildings connected to the old and new Fire Department wells; the Highway Department filter has been installed and the water will be retested; post filter installation tests for 50 and 62 Leverett Road remain pending; the test for the well at the house next to 63 Leverett came in under 20/ppt. Torres: the original program was run by UMass; DEP is running the current program and has agreed to test post-filter installation on the Town related sites; there are no outstanding tests at this time; results will continue to be tracked.
2. Fire Department Future Committee: Farrell: the goal is to determine how the Fire Department will function subsequent to Fire Chief Walter Tibbetts' retirement 6.30.21, i. e., what are the community's needs and how leadership will look; a group of individuals made up of representation from the Select Board, Personnel Board, Finance Committee, Acting Police Chief Kristin Burgess, Tibbetts and Town Administrator Torres/ex-officio member will go through data and consider short and longer term recommendations and how the Fire Department relates to the Hazard Mitigation Plan. Per Farrell, it is anticipated that the committee will meet 4-5 times; the goal is to be prepared for what a re-configured Fire Department might look like in advance of annual town meeting. Stocker will consider representing the Select Board. Torres suggests that Elaine Puleo, with her interest and background in public health and as a former Select Board and Finance Committee member, may be willing to serve as the Select Board representative. Board members agree for Torres to ask Puleo if she is willing to serve. During their next meetings, the FinCom and Personnel Board will be asked for a representative. Appointments are required and be done during the 10.26.21 Select Board meeting.
 - Stocker moves and Makepeace-O'Neil seconds a motion to appoint a Fire Department Study Committee consisting of a Select Board member or designee, representation from the Personnel Board and Finance Committee, Acting Police Chief Burgess and Fire Chief Walter Tibbetts as well as Town Administrator Becky Torres serving in an ex-officio capacity. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

3. Pole Hearing/National Grid/Ames Haven & Wendell Roads: Torres: receipt of proposed changes to National Grid's plan remains pending therefore the pole hearing will be postponed and be re-posted; the proposal is to install seven new poles along the roadway. Wm Levine/Wendell Road asks if the National Grid pole project can occur co-incident with the (Locks Pond Road culvert replacement) detour. Torres will seek guidance from Nitsch's engineer and keep Levine updated; the Highway Department will be consulted about whether the road will need to be closed and the longer detour used; local traffic will not be impacted.

4. Mass Department of Transportation (DOT) Reimbursement Request: Torres: this reimbursement request, to be approved retroactively, is for engineering costs of \$84,099.50, from the Municipal Small Bridge grant of \$500,000 for the Locks Pond Road culvert replacement; the submittal was due 9.30.21.
 - Makepeace moves and Stocker seconds a motion to retroactively approve the Mass DOT State Aid Reimbursable Programs reimbursement request for \$84,099.50. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye and Farrell: aye; the motion carries.

5. Town Administrator Updates:
 - a. Land Use Clerk Resignation: Lisa Strafford could not manage the level of commitment required; this is an urgent situation; an ad has been placed on the Mass Association of Conservation Commissions' jobs board, in the local newspaper and via Town Announce earlier 10.12.21; the position is ideal for a town resident. Penny Jaques will work four hours/week to assist the Conservation Commission; the Zoning Board of Appeals and Planning Board will manage their business.
 - b. Johansson Exit Interview: An exist interview was held with former Police officer Marcus Johansson earlier 10.12.21 with Farrell in attendance; Johansson was encouraged to understand the impact of his decision to resign after staying only six months post full-time academy training and the expectation that he would have paid back the Town's support with service. Johansson will reimburse the Town approximately \$5,000; a payment plan will be worked out with Treasurer Ryan Mailloux. With Johansson's resignation, the Police Department is down 40 hours/week; the three part-timers are filling in; during the 10.26.21 meeting, Acting Chief Burgess will recommend the Select Board move Officer Taylor Beaudry to the 32 hours/week permanent part-time position. Both Burgess and Beaudry are on the Bridge Academy track; Burgess will report on this during the 10.26.21 meeting; physical requirements will be waived due to the number of officers being trained which will allow them to move more quickly through the course.
 - c. Locks Pond Culvert Project: The necessary National Grid paperwork has been transmitted and receipt confirmed; once the work schedule is confirmed, it will be sent to the Select Board; depending on the timing, the culvert work may have to be postponed. Torres will consult with Nitsch's engineer as to whether it will be okay for the section of Locks Pond Road to remain unpaved over the winter. Miriam DeFant/Conservation Commission: the Commission approved the construction schedule to 12.15.21; requests the Commission be notified if this changes.
 - d. Highway Department: Superintendent Tim Hunting has been doing administrative work and expects to return to full time equipment operation in the near future. Hunting and Fire Chief Tibbetts are preparing for the Fire Department lot for paving; the signed contract with Taylor Davis Landscaping and Construction Co. was received on 10.12.21; Conservation Commission conditions will be followed.

- e. COVID Policy: The COVID policy will go out to employees 10.13.21 and a meeting with department heads will follow; the contact person will be the Town Administrator.
 - f. Assessors' Office: Once the Department of Revenue signs off, the numbers will be shared; free cash certification is expected before the tax rate is set; the annual Assessors' hearing with the Select Board is scheduled for 11.9.21.
6. Planning Board Associate Members: At 6:25pm, Deacon Bonnar calls the Planning Board to order and reads the statement about virtual meetings into the record. The Planning Board joins the Select Board meeting to consider the appointment of two associate members. It is noted that in their 9.29.21 letter, the Office of the Attorney General approved Article #14 citing that statute only authorizes the service of associate planning board members when a planning board is serving as a special permit granting authority. It is also noted that anticipation of special permit applications (large-scale solar) is the main reason for the Planning Board to seek associate members and that special permit decisions require a super majority.
- Bonnar: the Planning Board voted to recommend two candidates, Ken Holt and Rob Kibler; suggests each make comments about their reasons for seeking associate membership.
- Candidate Rob Kibler: solar projects are a big issue for Shutesbury; although they are allowed by law, we need to be careful in how they are permitted, i.e., are they in the best interest of town environmentally and financially. Kibler's background is as an engineer with forty plus years of experience primarily in the water industry; he is philosophically opposed to large scale solar installations however they are allowed by law.
- Candidate Ken Holt: he is interested in the decision process being done with due diligence for the Town; this is a big decision (large-scale solar) and needs to be as done as objectively as possible; scientific data as well as the psychological and social effects need to be obtained objectively.
- Stocker agrees with Holt's statement that "feelings need to go away" during the special permit process. Farrell: by law, the special permit process is the responsibility of the Planning Board. Bonnar: of the three candidate applicants, only two could serve; Attorney Michael Pill could not serve.
- Jeff Lacy states that he voted nay on all three candidates; the biggest concern is that special permit decisions are discretionary and both Holt and Kibler are known partisans on the issue (large-scale solar). Lacy continues: Kibler's wife, Miriam DeFant, is also a known solar opponent who testified against the Wheelock project and serves on both the Conservation Commission and Historical Commission; if Kibler were to serve on the Planning Board, there would be too much concentrated power in one household; Holt is an abutter to one of the proposed sites and has written impassioned op-eds prior to any new project applications being submitted. Lacy is not convinced both can be impartial though welcomes either or both to run for election to the Planning Board. Lacy suggests the focus be on Lake Wyola representation and recommends taking time as there are no applications pending at this time. Michael DeChiara states that he is convinced that both Holt and Kibler can "put on the hat" of the official role and make fair and balanced decisions with responsibility to broader community and the integrity of the role.
- Robert Raymond notes that both candidates have strong opposition to cutting down trees for solar and asks both to what extent they can move beyond this as an associate member and have projects move forward. Holt: in his work as a scientist, a hypothesis is formed and when the data comes out, he goes with the bottom line because information goes beyond belief system or bias; believes he can be objective. Kibler: perhaps no one here prefers cutting the forest over placing solar in parking lots; he spoke out against shoddy engineering for the

Wheelock project, i.e., one detention pond is flooding when it is supposed to be empty; the role of the Planning Board is to speak to the data; yes, it is discretionary and he has the integrity to vote with the facts and the law.

Makepeace-O'Neil asks each for an example of when they went against their personal philosophy. Kibler cites a workplace example when he reported the inappropriate behavior of a peer and was ultimately fired for doing so. Holt: on a number of occasions when data evidenced the facts, he was able to admit his hypotheses were wrong. Makepeace-O'Neil: in thinking about applying, were the applicants approached by the opposition or a board to serve? Holt: no. Kibler: yes, his wife who is more attuned to town politics. Stocker acknowledges Lacy's point that the two applicants have a known position and is concerned about this; he is on the fence and asks if the appointment decision could be extended. Steve Bressler: each Planning Board member has a different bias however the law and bylaw must be upheld as objectively as possible; associate members biases are parked at the door; once on the Planning Board, members cannot shirk regulatory responsibilities. Nathan Murphy notes that he voted yes for Kibler because he acts independently from DeFant and has relevant work experience; he voted against Holt because his writings (on large-scale solar) were based on fear. Murphy is concerned about Holt's ideological slants; there is more at stake than one particular project, the Board needs to be very careful with its decisions, i.e., revenue that is not residentially based. Murphy needs to recuse himself from any energy related project due to his employer's code of conduct; due to the importance of quorum and constructive grant concerns, he would not be opposed to punting as there are no projects pending at this time.

Linda Rotondi: everyone comes with a bias/agenda/concern, i.e., the Master Plan process caused her to serve on the Planning Board; has seen Kibler in more meetings that Holt and feels Kibler can be objective and follow the guidelines.

Bonnar does not doubt the candidates could put their biases aside however he is concerned about appearances and appointing those with known positions. Holt notes that he read his op-eds and letters to the Select Board and Planning Board carefully and his appeal is to find out objectively whether approval could go forward; he believes in his ability to be as objective as anybody else. Kibler agrees with Lacy on some points, i.e., the elected versus appointed member and the need to include all demographics, i.e., Lake Wyola which is a big part of the town; as a resident, he wants the two best persons to serve even if it is not him and suggests that if the Boards are not comfortable appointing now, they take time to repost. DeFant refers to her prior bias and notes that she is not involved in any political advocacy at this time; her position on large scale solar installations has evolved and she is now agnostic. DeChiara sees Kibler's recent statement as proof of his ability to be impartial; associate members are necessary due to the concern about constructive approval and the need for a super majority decision (5 out of 7) and Murphy will be recused; the associate member appointments are to 6.30.21.

Farrell: if special permit applications come in, and an associate member is in place, they cannot be replaced and will need to be reappointed after 6.30.21. Lacy: once the public hearing is opened, there needs to be continuity through to the decision; both associate members will need to listen in and can only miss one public hearing. Lacy is concerned about how the associate member appointments will be seen and perceived and notes that the Wheelock site has generally performed well; the detention basin is simply not discharging all of its water which reduces its capacity and needs to be tweaked to work better.

No other concerns are stated.

- DeChiara moves that Rob Kibler be appointed as an Associate member of the Planning Board for a term ending 6.30.22; Raymond seconds the motion. Roll call vote: Raymond: aye, Bressler: aye, Murphy: nay, Rotondi: aye, DeChiara: aye, Bonnar: nay, Lacy: nay, Makepeace-O'Neil: nay, Stocker: nay, and Farrell: nay. Torres: six/no and four/yes; the motion fails.
- DeChiara moves that Ken Holt be appointed as an Associate member of the Planning Board for a term ending 6.30.22; Bressler seconds the motion. Roll call vote: Rotondi: aye, Bressler: aye. Raymond: aye, Murphy: nay, DeChiara: aye, Bonnar: nay, Lacy: nay, Makepeace-O'Neil: nay, Stocker: nay and Farrell: nay. Torres: six/no and four/yes; the motion fails.

Farrell thanks Holt, Kibler, and the Planning Board and notes the responsibility to have associate members who have not taken a strong position; optics are very important; broader outreach and members without public opposition/conflict are needed. The Planning Board is asked to do another search for candidates. Select Board members note that the difficult decision is not a reflection on either Holt or Kibler as individuals and that optics are a concern.

Administrative Actions:

1. Select Board members will sign #22-8 vendor warrants totaling \$88,606.71.
2. Select Board members will sign #22-8 payroll warrants totaling \$113,189.64.
3. Makepeace-O'Neil moves and Stocker seconds a motion to approve the 9.28.21 meeting minutes. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the 9.28.21 minutes are approved as presented.

At 7:26pm, Makepeace-O'Neil moves and Stocker seconds a motion to adjourn the Select Board meeting. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

At 7:26pm, Murphy moves and DeChiara seconds a motion to adjourn the Planning Board. Roll call vote: Bonnar: aye, Bressler: aye, Murphy: aye, DeChiara: aye and Lacy: aye; Rotondi and Raymond departed before the motion to adjourn; the motion carries.

Documents and Other Items Used at the Meeting:

1. Mass Department of Transportation Municipal Small Bridge Grant reimbursement documents
2. 9.29.21 letter from the Office of the Attorney General regarding Warrant Articles #14 and #15

Respectfully submitted,
Linda Avis Scott
Administrative Secretary