

Shutesbury Select Board Meeting Minutes
January 19, 2022 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
Other Staff & Volunteers present: Deacon Bonnar, Jeff Lacy and Michael DeChiara/Planning Board, Mark Rivers/LWAC, Acting Police Chief Kristin Burgess, Steve Sullivan/Highway Department, and Miriam DeFant/Conservation Commission
Guests: Fran Merrigan and other unidentified guests

At 5:34pm, Farrell calls the meeting to order.

Agenda Review: No changes to the posted agenda.

Public Comment:

Jeff Lacy: there were three Town meetings scheduled on the Martin Luther King, Jr. holiday; he thought it was the policy of the Town not to hold meetings on holidays. Torres: there is no policy regarding holding meetings on holidays and doing so is allowable under Open Meeting Law; we work hard not to meet on holidays however the scheduled meetings had time sensitive items needing attention.

Stocker will be leaving the meeting at 6:15pm

Discussion Topics:

1. Planning Board Associate Member Bylaw: Michael DeChiara explains that the bylaw creating two Associate Planning Board Member positions would allow the Associates to act on a range of processes not just special permits, including fulfilling quorum, as determined by the chair. Per DeChiara, the Attorney General's (AG) response limits Associate Member function to only special permits; the Planning Board does not agree with this limitation. Jeff Lacy spoke with Town Counsel Donna MacNicol, Bob Ritchie/land use attorney and Margaret Hurley/Assistant Attorney General Municipal Law Unit Director; if a town disagrees with the AG's decision they can go to court which is not a good option in this case; both the Planning Board and MacNicol think a legislative approach may be better. DeChiara: both MacNicol and Ritchie agree with the Planning Board's disagreement with the AG's decision. Lacy: the approach is to change Chapter 40A Section 6 Paragraph 11 as per Chapter 40A Section 12 relative to Zoning Board of Appeals alternate members; most Legislators want local boards to function smoothly so there is a good chance a Legislative amendment to Statute would go through. DeChiara: this would be on the 2023 Legislative timeline; in the interim, Associate Members can be utilized for special permit processes; the Planning Board's intention was to talk with the Select Board prior to approaching legislators. Lacy: especially since Associate Members are joint Planning/Select Boards appointments. Stocker suggests the Planning Board write the proposed change. DeChiara: the Board can definitely write the proposed change; if approved, the change would be for the entire state. Select Board members support the Planning Board in drafting the proposed amendment to Chapter 40A.

DeChiara: the Supreme Judicial Court elevated a Waltham solar bylaw case; the goal is to clarify what constitutes unreasonable regulation; there is a likelihood the Court will narrow solar regulation which will have big impact; the amicus brief will state that solar

bylaws should have some vitality; other towns are signing on though the Mass Municipal Association will not be submitting an amicus brief. The Planning Board will review what has been written during their February meeting; oral arguments are scheduled for 3.7.22 with the brief due 20 days prior to that date. Lacy: Waltham's solar bylaw is very limiting; many towns have bylaws that reasonably regulate. DeChiara will forward the draft amicus brief to the Select Board.

2. Municipal Vulnerability Preparedness (MVP) Expression of Interest: Farrell: the Expression of Interest (EOI) is due 1.14.22; Michael DeChiara and David Green did the background work subsequent to the 1.4.22 meeting; the goal is to agree on the EOI content to be submitted. DeChiara screenshares "MVP Application: Identification and categorization": for a thematically linked proposal, the general theme is water; the activities are ranked by priority; the EOI suggests choosing key words, i.e., the "MVP Keyword" column; the second chart groups the activities by "Responsible Party" and the third chart groups the activities by "Keyword". DeChiara suggests dropping "Coordinate with the Town of Amherst on inspections for the Atkins Reservoir Dam". DeChiara to Stocker's question: large sums have been granted if a compelling argument is made. Farrell: the next step is to make an ask then MVP staff will work with us. DeChiara: collectively, planning and assessment will be done by consultants; at this point, infrastructure is not included. Torres: because infrastructure has not been identified, costs will remain low; planning and assessment with identified actions will have a cost. Torres to Farrell's question: Highway Superintendent Tim Hunting has a list of culverts and bridges though not by size or GPS location; the Department has a GPS unit and would be the best ones to do the inventory as they know the locations; a consultant could assist with the process. Steve Sullivan/Highway Department: the Department has a list of culverts with 3' diameters; there is no inventory of the smaller culverts. DeChiara: topics not in the MVP report were not included; "stormwater" includes the roads around Lake Wyola because these fit thematically and are included in the description. Farrell: there was strong sentiment about stormwater management. DeChiara screenshares the online EOI application that includes an estimated grant request. Torres agrees to put together an estimate. Farrell will confirm that a match may not be required for towns with a population under 3,000 and with less than 80% State median income. Farrell thanks DeChiara and David Green for their work. At 6:15pm, the meeting is inadvertently ended then immediately resumed; Stocker leaves the meeting. The "Green infrastructure" document was included as an educational tool for the Select Board.
 - Makepeace-O'Neil moves and Farrell seconds a motion authorizing Farrell to finalize the Expression of Interest application in consultation with Torres and DeChiara. Roll call vote: Makepeace-O'Neil: aye and Farrell: aye; the motion carries.
3. Town Hall Closure/COVID Updates: Torres: the closure of Town Hall is going well and is a relief as COVID is affecting another employee; resident needs are being met and there have been no complaints; ensuring the public is being served is a top priority. Even though the case numbers seem to be declining, Torres asks that Town Hall remain closed to the public for another two weeks. Acting Police Chief Kristin Burgess is planning to send a "town announcement" about how individuals may contact the Police Department

especially for “License to Carry” applications which must be done in person; the plan is to meet individuals in the lower room and to sanitize afterward. Torres and Makepeace-O’Neil state support for Burgess’ plan.

- Makepeace-O’Neil moves and Farrell seconds a motion to extend the closure of Town Hall to the public for another two weeks. Roll call vote: Makepeace-O’Neil: aye and Farrell: aye; the motion carries.

4. Select Board Member Appraisal Report: Makepeace-O’Neil will have an update on the appraisal reports for the three properties she owns that may abut potential large solar installations.
5. Letter to USDA/Geese Killing: Fran Merrigan/Lake Wyola area resident gives the okay to go ahead at 6:30pm. Torres: last May/June, Town Hall and the Police Department received reports of geese being shot between 6-7am; people were upset and asking for information from the Select Board; the only information the Town had was the addling permit. Acting Police Chief Kristin Burgess: the Department has been collecting information over time; a message was left at 6am on the morning USDA staff were going to be out at the Lake Wyola area; this was the first communication received giving no time to get information out to the public and for the Department to be aware and be present; she appealed in that fashion to the USDA staff who were doing population control who stated they were authorized by a permit though could not tell who had pulled the permit. Burgess subsequently spoke with Fran Merrigan and, on 7.26.21, spoke with USDA District Supervisor John Wilda regarding the need for open communication in the future; a copy of the issued permit was requested and received; contracting with the USDA can only be done by a resident who allows USDA staff on their property; USDA cannot go out on the Lake because it belongs to the Town. Burgess continues: after a lengthy conversation with Wilda, it seems they were under the assumption they were dealing with the Lake Wyola Association (LWA) and the Town; the LWA knew they could not approve obtaining such a permit; it was explained to Wilda that people were calling for days with concern about the eagles/nest; USDA was not informed about the presence of this protected species; USDA misunderstood that they were not working with the Town and had been hired by a group of individuals; Wilda did have trepidation toward approving the permit as there may not have been enough geese to merit a permit. Burgess: the Police Department’s goal is open communication with residents about what is going on around them; Wilda does not feel a need to come out this year; Merrigan had been in touch with him about renewing the contract; it took a long time to receive the Freedom of Information Act request.
Torres: the draft letter to Wilda requests a meeting and states the need for the Town to be informed at all times and be the decision makers; others do not have the responsibility to answer to townspeople; in this case, specifically, the shooting of wildlife in our Town. Burgess: Wilda believed he was dealing with the LWA who represented the Town and this was the understanding of the person doing the population control. Makepeace-O’Neil and Farrell acknowledge the need for further editing of the letter to Wilda. Multiple efforts for Fran Merrigan to participate in the discussion fail; his mic and video do not seem to be working. Burgess appreciates Makepeace-O’Neil’s suggestion to use the term “dispatching”; Wilda uses “population control”. Mark Rivers/Lake Wyola Advisory

Committee affirms the need to facilitate communication. Farrell: the meeting's purpose is to state the Town's expectations going forward. Burgess: open communication, transparency and the protection of protected wildlife is necessary; Wilda is happy to assist in any way he can; calculations are used to demonstrate the need for population control and if they need to come, he will answer any questions. Merrigan is still unable to respond. Torres tries to contact Merrigan by phone. The meeting with Wilda will include Torres, Burgess, a Select Board representative and representatives from the Conservation Commission and Lake Wyola Advisory Committee. Torres: the current contract expires 2.28.22. Farrell suggest a redraft of the letter be reviewed during the 2.1.22 Select Board meeting. Torres will follow-up with Merrigan.

6. ABCC Annual Report: Per Scott, the "Town of Shutesbury Annual Liquor License Report for the 2021 Calendar Year" indicates the Class and number of licenses issued: 1 Club License; Fees: the \$450 license renewal fee for 2021 was waived by a vote of the Select Board; there were no violations during the calendar year and no actions or findings for violations.
 - Makepeace-O'Neil moves and Farrell seconds a motion to approve the "Town of Shutesbury Annual Liquor License Report for the 2021 Calendar Year".
Roll call vote: Makepeace-O'Neil: aye and Farrell: aye; the motion carries.
7. Town Administrator Updates:
 - a. Selectboard Planning Tool January to June 2022: This planning tool will be used by the Select Board to track and add to activities and tasks; it will be helpful to have a living document to update during meetings The Police Study and Fire Chief Study groups are getting close to making recommendations. It is acknowledged that a decision regarding scheduling the date and location for annual town meeting will done in mid- February; the status of the pandemic is uncertain.
 - b. Army Corps/Lot O32: A meeting was held with a DEP representative and a licensed site professional (LSP) from O'Reilly, Talbot & Okun regarding the area more than 500' back near the former location of the TVO tower; this remote installation was removed in 1994 along with 100+ yards of soil; in 2021, testing in the area found a hot spot; a DEP filing will be required; both DEP and the LSP believe the Army Corps/Department of Defense is the responsible party; the Select Board will be kept updated.
 - c. HVAC/School: On 1.20.22 there will be a meeting with the engineering firm and local knowledgeable local volunteers, Bob Groves, Michael Broad, and Jeff Quackenbush; the goal is to go out to bid in advance of annual town meeting.

At 7:08pm, Fran Merrigan rejoins the meeting noting that he had difficulty logging in and that he missed the discussion about the letter to the USDA. Farrell summarizes the draft letter which is based on information from Acting Police Chief Burgess; the letter will be edited and considered during the 2.1.22 Select Board meeting; the goal of the meeting with USDA is to ensure communication about future needs for population control; Torres, Burgess and Select Board, Conservation Commission and LWAC representatives will attend the meeting with USDA. Merrigan asks if he can pursue culling. Farrell: per USDA, the population of geese will not need to be controlled this year. Merrigan affirms that the LWA did not have anything to do with the permit; he has received a document to renew the permit and understands the meeting with USDA will be held. Farrell: the Select Board needs to understand the

population control permitting process and that is to be done with full consultation with the Town; USDA did not follow their own procedures relative to the protection of bald eagles. Merrigan: adding the goose eggs has very little impact on the number of geese because they are coming from Ames Pond; Kestrel Land Trust/owner of Ames Pond is unwilling to have the eggs added. Farrell clarifies for Merrigan that the meeting with USDA will not be a public meeting.

Administrative Actions:

1. Select Board members will sign #22-16 vendor warrants totaling \$1,012,939.62.
2. Select Board members will sign #22-16 payroll warrants totaling \$114,247.02.
3. Approval of the 1.4.22 meeting minutes is carried over to the 2.1.22 meeting.

At 7:15pm, Makepeace-O'Neil moves and Farrell seconds a motion to adjourn the meeting. Roll call vote: Makepeace-O'Neil: aye and Farrell: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. 12.17.21 DeChiara email "Request for discussion at January SB meeting: Associate Member bylaw"
2. 12.29.21 letter from Attorney General's office re: Warrant Articles #14 and 15
3. "MVP Application: Identification and categorization" with several groupings and "Detail of Water-Related Recommendations"; "Green infrastructure"
4. Draft letter to Donald J. Wilda/District Supervisor USDA Amherst MA\
5. "Selectboard Planning Tool January to June 2022"

Respectfully submitted,
Linda Avis Scott
Administrative Secretary