

Shutesbury Select Board Meeting Minutes  
March 15, 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: Gail Fleischaker/Web Committee, Acting Police Chief Kristin Burgess, Mary Anne Antonellis/Library Director, Grace Bannasch/Town Clerk, Police Officer Taylor Beaudry, Michael DeChiara & Deacon Bonnar/Planning Board, and Miriam DeFant/Conservation Commission

Guests: Tim Logan, Doc Pruyne/*The Reminder*, Tarrah Dempsey, Diane Jacoby, Mary Lou Conca, Joan Hanson, Zoe Weizenbaum, Leslie Cerier, Nate Heard, Penny Kim, and Graeme Sephton

Farrell calls the meeting to order at 5:49pm.

Agenda Review: As posted.

Public Comment: None offered.

**Discussion Topics:**

1. ARPA Reporting: Torres: the Town will receive American Rescue Plan Act funds via FRCOG and the US Treasury; use of the funds requires an account administrator, a point of contact for recording and an authorized contact for recording; Torres will be the point of contact for recording; the account administrator is responsible for tracking and reporting per requirements; this work is done online. Per Torres, fund use needs to be related to health issues, i.e., well water work, ventilation/heating/cooling improvements, rent subsidies. Because the important decision making will occur on the front end, Torres suggests a committee be set up to allocate use of the ARPA funds. Farrell: a separate discussion regarding fund use will be needed; the combination of funds is over \$500,000.
  - Makepeace-O’Neil moves and Stocker seconds a motion to designate the Town Administrator as the individual responsible for reporting on the use of American Rescue Plan Act funds. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
2. Open Meeting Law Complaint Addressed to the Select Board: Farrell refers to the Open Meeting Law complaint submitted to the Office of the Attorney General by Jeff Lacy citing the Select Board. Farrell reads the “Description of alleged violations” into the record: “In 2021 the Shutesbury Selectboard created a Police Study Group (PSG) as a town committee. It appointed two of its three as voting members of the committee – a quorum of the Selectboard. Meetings of the PSG, with both Selectboard members in attendance have been held without benefit of the Open Meeting Law requirements for notice, minutes, etc. I further question whether it is proper for a body such as the Selectboard to create an advisory committee tasked with reporting recommendations back to it when two of the committee’s members constitute a voting quorum of the Selectboard.”

Farrell: the process is to respond to the complaint in writing, within a specific timeframe, to Jeff Lacy and the Attorney General’s office; Town Counsel Donna MacNicol and Town Clerk Grace Bannasch have been consulted and their position is that there has not

been a violation because the PSG is a sub-committee of the Select Board and all meetings were duly posted. The draft letter to Lacy is screenshared by Torres. Farrell: the Attorney General's office will determine how the matter is to be addressed by the Select Board in the future; the postings indicated the PSG as a subcommittee of the Select Board; in the future, if two members of Select Board are on a subcommittee, the posting will indicate that two Select Board members are part of the group. Makepeace-O'Neil suggests the posting state "the PSG is a subcommittee of the Select Board". Farrell agrees with this suggestion and that minutes be done as a subcommittee. Stocker agrees. Town Clerk Grace Bannasch: the best way is to include a statement in the text of agenda, i.e., "this is a subcommittee of the Select Board"; in the beginning, the PSG was posted as a Select Board meeting with PSG noted in the agenda which resulted in confusion by members of the public who thought they would be attending a Select Board rather than a PSG meeting. Gail Fleischaker/Web Committee: when a subcommittee is formed, the Web Committee will ensure the designation of subcommittee is clear in the webpage title. Torres: to meet the response requirement, the letter due date is 3.25.22; any edits are subject to review by Town Counsel.

- Makepeace-O'Neil moves and Stocker seconds a motion to approve the Select Board response letter to Jeff Lacy subject to review by Town Counsel. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

3. Acting Police Chief Update: Acting Police Chief Kristin Burgess introduces Tarrah Dempsey who approached Burgess through the Bridge Academy; Dempsey has experience working as a part-time trained officer in Colrain and is attending the Academy through Colrain with some in-person testing to complete; Colrain's Chief supports Dempsey working with Shutesbury's department. Burgess, noting that Dempsey grew up in Turners Falls and is from a law enforcement family, requests Dempsey be appointed as part-time Shutesbury Police Officer. Farrell, along with April Stein, and George Arvanitis as part of the interview committee, was very impressed with Dempsey's level of maturity and confidence; having grown up with a father who is a police officer, she understands the job; the interview committee was enthusiastic about her appointment.

- Makepeace-O'Neil moves and Stocker seconds a motion to appoint Tarrah Dempsey as a part-time Shutesbury Police Officer. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Burgess: the Department was approached by Benjamin Jankowski about the Happy Valley Rally Race Weekend, all day 4.2.22 from 8am-4:30pm, to begin and end in Shutesbury; Jankowski is also working with Leverett; road marshals and detail officers will be provided; the Amherst ambulance will be present; Fire Chief Tibbetts is a consultant. Per Burgess, Jankowski has a certificate of liability; she has reviewed safety and road plans; it will be a fluid event; during the time trial, Lakeview Road to Cave Hill Road in Leverett will be shut down for no more than one hour; during the event, road marshals will follow the cyclists who will follow the two abreast rule and stay in their lane. Burgess: about 300 cyclists, who will be arriving in groups, are expected; Jankowski is working with the Department of Conservation and Recreation to open the backlot, the front lot and allow parking on the hill's grassy area at Lake Wyola State Park; the restrooms will be open for the day; they may also reach out to Pine Brook for additional parking; no parking will be allowed on the roadway. Burgess, as a former

cyclist, is very familiar with the needs of the race and is confident the Police Department can provide security and the event will not interfere with local residents; Jankowski has a lot of experience and as well as the other organizations involved; the races will be time trialed which will allow traffic flow; there will be signage and, with Select Board approval, a Town Announce will be sent; UMass Collegiate students will be posting flyers this weekend.

- Makepeace-O'Neil moves and Stocker seconds a motion to approve the "Special Event Notification Form". Farrell requests the event be as broadly communicated as possible. Burgess will obtain the other necessary signatures before the Select Board signs the form. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

4. Energy and Climate Action Committee Candidates: Farrell: the "Energy and Climate Action Committee (ECAC) shall make recommendations to the Select Board on ways for the Town to meet its climate mitigation and resilience goals as detailed in the Town's 2020 Municipal Vulnerability Plan (MVP) and the 2021 Hazard Mitigation Plan (HMP)". The six candidates for the seven member committee are welcomed and offered the opportunity to speak about their interests in serving; Gary Rehorka is no longer available to serve on the committee.

Miriam DeFant is excited and happy the ECAC is starting; as a member of the Conservation Commission, the timing is good regarding stormwater management and how communities can adapt to climate change; she is interested in green energy and helping the Town develop a forward thinking strategy.

Zoe Weizenbaum is very excited; as a farmer on a small permaculture farm, she wants to contribute to the conversation; climate change has a direct influence on how food is grown and she works with natural forces every day; she offers a young person's perspective and is looking forward to learning about issues the Town is considering regarding resource management and climate change.

Michael DeChiara is excited about the opportunity to serve; climate change is his number one passion; he wrote the MVP planning grant and will help with the MVP action grant application; he thanks the Select Board for creating the ECAC.

Leslie Cerier: this is her first time, in over 30 years living in Shutesbury, to serve on a committee and it is time; she was the contractor for her natural home and has a reputation for making climate change fun and delicious.

Nate Heard, having recently moved to Shutesbury, is delighted to be here; professionally, he uses GIS to study health and well-being in the natural and built environments; adaptation will go best if it is guided; a group is needed to keep up with data and to make recommendations to the Select Board; his background in GIS analytics has overlap with the ECAC's work; he read about the ECAC in *The Reminder*. Doc Pruyne/*The Reminder* is acknowledged for his article about the ECAC.

Graeme Sephton: this is an exciting challenge and is the most compelling matter in our lifetimes; he is a retired electrical engineer; has worked in power systems and serves on the MLP/Broadband Committee therefore knows the Town can do successful local work; wants to find a way to get Shutesbury to zero carbon output.

Farrell the inaugural ECAC slate is Miriam DeFant, Michael DeChiara, Zoe Weizenbaum, Leslie Cerier, Nate Heard and Graeme Sephton.

- Makepeace-O’Neil moves and Stocker seconds a motion to appoint the inaugural slate of candidates to the ECAC. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Farrell acknowledges the Select Board for the timely formation of the ECAC; she is thrilled by the diverse group of great individuals willing to serve; interested parties should put their name forward for the remaining opening. DeChiara is willing to coordinate the members to determine a time to meet. The current terms will end 6.30.22 and be reappointed for FY23.

5. Annual Town Meeting Warrants/Planning Board Update: Deacon Bonnar/Chair and Michael DeChiara represent the Planning Board. Per DeChiara, the Planning Board has three potential bylaw amendments:
  1. 10.3-1 Zoning Board of Appeals Establishment: this amendment is definite, it was requested by the Zoning Board of Appeals (ZBA) and is supported by the Planning Board; the amendment changes ZBA membership from three to five members to make the need for a super majority, now three, easier to achieve; Town Counsel and the ZBA have approved the language.
  2. New Section 3.3-7 “Commercial or Utility Scale Energy Storage System” as referred to in the 3.14.22 draft “Incorporating Energy Storage Use into Shutesbury Zoning”: the SMART program requires all installations receiving a subsidy have battery storage on site; this includes lithium battery and non-battery storage; the purpose of the amendment is to be prepared in case a special permit for a large-scale solar installation special permit is submitted; other towns have received requests for battery storage without systems; the draft language needs to be reviewed by Town Counsel.
  3. There are questions about the application and constitutionality regarding a proposed amendment to non-conforming structures in the Lake Wyola District related to the distance from sidelines and height; the ZBA brought this proposed change to the Planning Board. Town Counsel MacNicol cannot review the proposal because she owns property in the Lake District; she recommends Attorney Alan Sewald review the language; the Planning Board agrees with this recommendation however needs Select Board permission for outside counsel. Jeff Lacy and Chuck DiMare will represent the ZBA for the legal consultation; this amendment may not be ready for annual town meeting. Torres requests Sewald’s hourly rate; the Town has used KPLaw’s service therefore the request for a price comparison. It is noted that Sewald knows zoning and land use. Bonnar: DiMare wants to limit the consultation to two hours. Torres: the fees will come from the legal expense line; the Town is already part of KPLaw’s system; the Select Board could vote on the use of Sewald’s services which would allow the completion of necessary new account administrative tasks. Bonnar: there is sufficient time to report Sewald’s rates to the Select Board. Farrell recommends the Select Board defer the decision until it is known whether Sewald is available and able do the work in two hours. Torres confirms that the Select Board needs to know if Sewald’s rates are competitive before voting. The Select Board will do an initial review of the annual town meeting warrant at an upcoming meeting. It is agreed that the Select Board will review all Zoning Bylaw amendments at the same time.

6. Building Committee Appointment: Farrell: per Bob Groves' 3.2.22 email "BC Appointment", the Building Committee voted 3-1 during their 2.24.22 meeting to recommend the Select Board appoint Mike Vinskey to the Committee. It is noted that the Building Committee was formed 34 years ago by a vague bylaw; per this bylaw, the Committee is to have at least three members appointed jointly by the Town Moderator and Select Board and is responsible for town buildings; this bylaw has not been updated in light of a more complex building code and that Town buildings are now older. Farrell will be bringing forth a detailed draft amendment to this bylaw including how the Committee is formed, how appointments are made and the group's roles and responsibilities.
  - Farrell moves and Makepeace-O'Neil seconds a motion to table the appointment of Mike Vinskey to the Building Committee. Stocker: during the 1988 annual town meeting, Article 13 forming the Building Committee included new construction and Article 15 established a special building committee for elementary school. Farrell will address the need for special building committees in bylaw amendment; the difficulty the current Committee has in meeting quorum can be addressed via reappointment and in the bylaw. DeChiara, noting the updating of the Energy Committee by forming the ECAC, commends revisiting the Building Committee's function. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
7. MBLC Small Library Pilot Program Update: Mary Anne Antonellis/Library Director: based on the 2.11.22 meeting, it was hoped we would hear from the MBLC today; no word or update from them means they are still waiting for information.
8. Select Board Appraisal/Ethics Commission Update: Makepeace-O'Neil: the MGL Section 23(b)(3) [Appearance of Conflict of Interest] form has been completed; once the appraiser's invoice is paid, the reports will be released and submitted to the Ethics Commission.
9. Fuel Bids: Torres screenshares the FRCOG gasoline and diesel bid documents: typically, the Town bids the same number of gallons each year and has not gone over; the relative departments have been not fully staffed as they are now; weather is also a factor. Torres recommends bidding the same amounts; if the allocations are used, market price is paid. Stocker recommends using the same numbers; there is a chance we will use less. Torres: there is a Capital Planning request for a new hybrid SUV cruiser.
  - Stocker moves and Makepeace-O'Neil seconds a motion for the Town to bid 5,500 gallons each for vehicle diesel and gasoline fuel. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
10. Town Administrator Updates:
  - a. Textile Recycling: per Gary Bernhard/Recycling Coordinator's 3.8.22 email, textiles will no longer be accepted at landfills or co-generation facilities; CMRK places textile recovery bins in municipalities and pays them 7 cents/lb./contents. The Select Board has questions about the size of the container, siting at the Highway Department, contaminated loads, and the frequency of pick-up. Additional questions

- will be sent to Torres. Plan: request Bernhard and a CMRK representative to attend the 3.29.22 meeting.
- b. Right of Way: the issue of string barriers along the edge of the roadway will be addressed via an educational article in the newsletter and a Town Announce; if the barriers are not removed, the property owners will be visited by Torres who will cite statute and the obstruction of the right of way; Highway Superintendent Tim Hunting has provided a straight forward description of the “right of way”.
  - c. Police Union Contract: the next meeting is 3.24.22; it may be ready for 3.29.22.
  - d. Bid for Hauling: the bid will not happen until after the 3.29.22 meeting; it will impact the budget.
  - e. Western Mass Select Board Conference: 4.9.22 in Easthampton; Board members are encouraged to attend.
  - f. MVP Update: DeChiara and Farrell continue to brainstorm about the action plan; Adam Smith/MVP contact is concerned that the Town focus on one specific project/location; the final document is due 5.6.22.

Administrative Actions:

1. Select Board members will sign vendor warrants #22-20 totaling \$242,569.18.
2. Select Board members will sign payroll warrants #22-20 totaling \$118,889.73.
3. Makepeace-O’Neil moves and Stocker seconds a motion to approve the 2.11.22 meeting minutes. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the 2.11.22 minutes are approved as presented.
4. Makepeace-O’Neil moves and Stocker seconds a motion to approve the 2.23.22 meeting minutes. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the 2.23.22 minutes are approved as presented.
5. Makepeace-O’Neil moves and Stocker seconds a motion to approve the 3.1.22 meeting minutes. Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the 3.1.22 minutes are approved as presented.

At 7:37pm, 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. Open Meeting Law Complaint Form submitted by Jeff Lacy and dated 2.28.22, 3.15.22 email from Lacy, “Lacy OML Complaint”, and 3.15.22 draft Select Board letter to Lacy
2. Resume for Tarrah Dempsey, Police Officer candidate
3. Special Event Notification Form for 4.2.22 “Happy Valley Rally Race Weekend”
4. Statements of interest from ECAC candidates; “Energy and Climate Action Committee Overview and Charge” December 2021
5. Zoning Bylaw amendment to Section 10.3-1 “Zoning Board of Appeals Establishment” and draft 3.14.22 “Incorporating Energy Storage Use into Shutesbury Zoning”
6. 3.2.22 email from Groves, “BC Appointment”
7. 3.8.22 email from Bernhard, “Textile Recycling”

Respectfully submitted,  
Linda Avis Scott  
Administrative Secretary