

Shutesbury Select Board Meeting Minutes
August 22, 2017 Shutesbury Town Hall

Select Board members present: Michael DeChiara/Chair, Melissa Makepeace-O'Neil, and Timothy Logan

Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary

Guests: Gayle Huntress/MLP Manager, Linda Seidman and Susan Millinger/Positive Presence, Janice Stone, Rolf Cachat/Native American Intertribal Council of Western MA

DeChiara calls the meeting to order at 6:32pm.

Agenda Review: No changes.

Public Comment Period: None offered. DeChiara: the Conway School of Landscape Design students are interested in climate change projects, i.e. water flow; he is willing to talk with one of the school's professors and bring information to a subsequent meeting.

Unanticipated Item:

1. Gayle Huntress/Municipal Lighting Plant (MLP) Manager: pole applications for the 1,508 poles located in Shutesbury have been submitted to the three utility companies (Verizon, National Grid, and Eversource); license agreements have been signed with each of the companies, however, because of surety bond and insurance requirements these agreements were signed as the "Town of Shutesbury"; the problem is that the Town holds the surety bond and insurance and the MLP does not; with legal guidance, the solution is to have the agreements in both names, the Town of Shutesbury and the MLP; this evening, the agreements with National Grid and Eversource need to be resigned by the Select Board. Makepeace-O'Neil moves the Select Board re-sign the license agreements with National Grid and Eversource in the name of the Town of Shutesbury and the Municipal Lighting Plant; Logan seconds the motion that passes unanimously. Per Huntress, Verizon is not requiring their license agreement to be resigned; she will ensure a paper trail is maintained.

Discussion Topics:

1. Poll Worker Appointments: Makepeace-O'Neil moves the Select Board approve the revised "Appointed Election Workers for 2017-2018"; Logan seconds the motion that passes unanimously.
2. Audit Follow-up: Per Torres, the 2016 3-year audit has been completed; the next audit will be done for FY18. Torres refers to the "Current Year Comments and Recommendations" portion of the "Town of Shutesbury, Massachusetts Management Letter for the Year Ended June 30, 2016" by Scanlon and Associates and goes over the italicized explanations in "Review of Management Letter by Town Administrator August 2017". Logan requests verification that the Town will develop a policy of internal controls. Per Torres, review of the Town's

Internal Controls is part of the work with Joe Markarian/FRCOG Financial Consultant; if asked, the auditor is available to meet with the Select Board. Logan asks if concern #4 (under "Other Areas") is a non-repeating problem. Torres: yes.

3. Select Board Resolution/Native American Preservation: DeChiara: the Select Board will be considering two draft "Resolution on Native American Preservation" statements: "General Statement" and "Statement Based on 2009 Federal Designation". Rolf Cachat refers to Bettina Washington's/Tribal Historic Preservation Officer (THPO) Wampanoag Tribe of Gay Head 8.15.16 letter. Logan suggests the "Statement Based on 2009 Federal Designation" be forwarded to Town Counsel Donna MacNicol for review; the document could then become a petition to town meeting. Makepeace-O'Neil agrees with the suggestion to confer with town counsel. DeChiara agrees with the recommendation for review by town counsel and recommends the Select Board subsequently create a warrant article. Logan: the Select Board would finalize the resolution via town counsel particularly regarding "The Select Board will also take reasonable action to have these sites recognized by the Commonwealth of Massachusetts and the U. S. government as Registered Historic Places" then move toward the petition process for town meeting. DeChiara clarifies that the Select Board will create a town meeting warrant article to be voted on by a town meeting. Makepeace-O'Neil recommends the warrant article be prepared for annual town meeting. Logan emphasizes the need to have more clarity about what the state can do. Cachat: Hampshire County is sponsoring legislation designed to address the understudied areas of the valley and could be used as a model; another way to consider the issue is to look at the deficiency in the study/protection of ceremonial lands. Cachat states his agreement with the warrant article recommendation. DeChiara: from previous conversations, in terms of Cachat's and Logan's recommendations, the National Park Service recognizes ceremonial sites as National Historic Places however Massachusetts has yet to recognize ceremonial sites; placing an article on the warrant will give the town the opportunity to recognize that Native American ceremonial sites exist in Shutesbury. Logan agrees with DeChiara, however, recommends the Select Board receive Town Counsel guidance. Cachat: there are experienced individuals who can explain and make recommendations regarding the State's position, what the dynamics are, and what needs to happen. DeChiara recommends the draft resolution be sent to Town Counsel for review of the legality of the content, subsequently, the individuals identified by Cachat will be contacted for guidance. Logan suggests Town Counsel be the one to contact the persons, to be listed by Cachat, for guidance. Janice Stone asks what the federal designation means. Cachat: the federal designation, done in 2008, overruled the Mass Historical Commission; any site within the Turners Falls Sacred Ceremonial Hill district, that is confirmed by a THPO from a Federally recognized tribe, could be recognized as a supporting element. DeChiara explains the Select Board's creation of the Native American Preservation Working Group charge to inventory the sites and that the group has yet to be appointed; the THPO will acknowledge which sites will be submitted into the validation process. Stone confirms that the inventories will take place on town owned land. DeChiara: yes,

private land can be accessed on a volunteer basis with prior written permission. Stone asks about the levels of protection and inventorying process related to the federal designation. Torres: the 2008 Determination of Eligibility Notification (for the Turners Falls Sacred Ceremonial Hill Site) allows sites within the 16-mile radius to be eligible; this would be proactive on the town's part. Stone asks if the 16-mile radius includes the entire town. Torres: most of the town is included. Cachat: eligible sites become a public property and the same rules apply. Stone: what have other towns done, i.e. Deerfield? DeChiara: Deerfield has a zoning bylaw; the working group will identify sites in Shutesbury and provide education. Cachat: Gill preserved a burial site. Next steps: Cachat will provide Torres a list of knowledgeable individuals and Town Counsel MacNicol will review the draft resolution "Statement Based on 2009 Federal Designation" that will subsequently become a warrant article.

4. Cell Tower Project Update: Torres, regarding the Select Board goal to increase cell service for Shutesbury residents, refers to a map of cell towers in the area, and notes that there are no towers in Shutesbury; there are towers in Wendell, Pelham, Montague and Erving. Per Torres, in the past, the town unsuccessfully attempted to have a cell tower installed; Cinda Jones/Cowls tried, as well, with no success and the serious cell tower offers for another private property also failed; due to proximity to Route 202, the town had some interest but the proposal was dropped; it is a buyers' market and the town would be the seller; Town Counsel MacNicol is working on projects with Northfield and Deerfield and has reached out for contact information that may have potential. DeChiara: the only viable spot for a tower seems to be behind town hall as the site is high and proximal to Rt. 202. Makepeace-O'Neil: is there a town owned parcel near the lake that could site a repeater? Logan: are several repeaters without a tower a viable option? Torres: per Craig Martin/Broadband-MLP, the new technology is Wi-Fi mobile phones that require less cell tower and more broadband use. Stone: the South Brook Conservation Area cannot be used as a cell tower site because Self-Help grants do not allow utilities. Torres: for two years the Lake Wyola Advisory Committee tried to get a tower at the lake. DeChiara: the zoning bylaw is not tower friendly (Section 8.7 Wireless Communication Facilities); the attitude toward mobile phone use has changed significantly since the bylaw was authored; recommends a meeting with the Planning Board to reconsider the bylaw in tandem with tower research. Stone: does the Master Plan address cell service? DeChiara: the Select Board is looking for a win-win project to address an unmet needs, i.e. public safety. Torres will prepare an update for the next meeting.
5. Select Board's Role in Responding to Notable Events: DeChiara: the events in Charlottesville are the inspiration for this agenda item; the concern is, as a municipality, what does one do in extreme situations? DeChiara reads into the record "First They Came for the Jews" by Martin Niemöller and the following Martin Luther King, Jr. quote "Our lives begin to end the day we become silent about things that matter". DeChiara continues: the Select Board is the town government leadership body; we need to say something to affirm that all people

are welcome Shutesbury, i.e. make a resolution, hang a sign outside the building stating “All are welcome in Shutesbury”, there are little things we can do. Makepeace-O’Neil cites the first amendment right of freedom of speech and notes that she thought about “First They Came for the Jews” as well. Makepeace-O’Neill continues: all being welcome includes all persons; criminal acts and violence need to be handled accordingly, however, we need to stand up for the right to peacefully protest and not call out any particular side. DeChiara states that his goal is to bring the topic to the table. Logan reads “Statement from Timothy Logan regarding the Select Board of Shutesbury responding to public events August 22, 2017” into the record and states his belief that his personal opinions are not relevant and if further clarification on the Board’s role is needed, guidance from town counsel is recommended. Torres: per Town Counsel MacNicol, the Select Board can make any proclamation they choose to; this is a political issue not a legal issue; MacNicol, however, advises against it because the public can misinterpret what is said. Logan is concerned about any political statements coming from town officials. DeChiara: many things the Select Board does could be considered political, i.e. cell towers, broadband; a discussion was necessary because we cannot ignore the moral issues. Linda Seidman states that she felt threatened by the chants that went on in Charlottesville and notes that the resolution voted upon by the May town meeting helps her feel safer and recommends the resolution be made more prominent. DeChiara recommends two actions: insert the resolution “Honoring Our Differences in a Safe Community” in the issue of the *Our Town* newsletter and place “All are Welcome” on the exterior signboard. Makepeace-O’Neil suggests putting the resolution on the town website home page and DeChiara will do so. Susan Millinger suggests the resolution insert include a short introductory statement by the Select Board. Logan will draft a short introduction. Logan: a local incident would require a fast paced response. Torres: in such a situation, the town would look toward the Select Board for leadership. Stone recommends caution in making political statements on behalf of the town; supports the decision to focus on the resolution. All Select Board members agree for the signboard to say, “All are Welcome” for two weeks.

6. Celebrate Shutesbury Plans: Select Board logistics are reviewed.
7. Select Board Energy Priorities: DeChiara: the Energy Committee may have opinions on topics of interest to the Select Board; how do we want to proceed timing wise, i.e. do we wait until the 11.14.17 meeting? Logan: the first topic the Master Plan Working Group (MPWG) will address is the use of Lot O32; the Energy Committee may consider an energy project for this site keeping in mind the use of the parcel for buildings, i.e. community hall, senior housing; perhaps there could be coordination between committees. The other topics to confer with the Energy Committee on include electric car charging stations and the use of Tesla tiles on the roofs of town buildings. Logan: the MPWG second round of meetings will focus on “low hanging fruit ideas” and the topic for the third round is financial stability; his idea would be to wait for the results of these meetings prior to a Select Board meeting with the Energy Committee. DeChiara affirms the

need for coordination. Logan will share the ideas for the use of Tesla tiles and charging stations with the MPWG. Makepeace-O'Neil suggests the Energy and Building Committee collaborate on solutions for atmospheric control in town buildings. Torres: the Energy Committee recommended heat exchangers/mini-splits for both downstairs rooms in town hall; the Building Committee did not support this recommendation. DeChiara: in general, there is support for green energy projects; suggests Logan request the MPWG bring items for discussion to the Select Board in advance of the need for these items to be voted upon. It is anticipated the MPWG will meet with the Select Board in November.

8. Committee Reports:

- a. Emergency Management Team: Per Makepeace-O'Neil, during the 8.21.17 meeting, Tibbetts provided the Morris Root/Root Engineering dam inspection report that includes recommendations for repairs to prevent leaking and to replace the weir. Per Logan, the repairs may cost ~ \$40,000 and a drawdown may be required.
- b. Building Committee: Per Torres, the Committee is in need of members; the next meeting is scheduled for 8.23.17.
- c. Regional Assessment Working Group: Per DeChiara, the main issue is how the four towns will define wealth and how the wealth factor will work into the formula – other factors include EQV (equalized property value), enrollment, and the state formula requirements; objectively, per the consultant, Pelham and Leverett have more wealth than Amherst and Shutesbury; the towns are continuing to work together and progress is being made; a special town meeting in the fall may be needed.

9. Town Administrator Updates:

- a. Dog matters: Torres called Lori Saleem/323 Locks Pond Road and left a message re: the dog hearing scheduled for 9.19.17 at 8:00pm; a written letter will be sent to Saleem. Nancy Long/Dog Officer is available on 9.19.17; Police Chief Harding's availability is pending. At 7:30pm the same evening, there will be a second dog hearing on the Carey case related to a dog located at 343 Locks Pond Road. Long has another dog bite issue on the other side of the lake and Chief Harding is aware that the owners of the dangerous dog are in the process of moving in.
 - b. Town Hall upstairs bathroom is closed and repairs are pending.
 - c. Microphones: an amplifier with more than one output is needed.
- A. Future Agenda Items: Torres: Penny Kim is compiling information on tax breaks for people in need and requests time on a future agenda. This item will be on either the 9.5.17 or 10.3.17 agenda. DeChiara reviews future items.

Administrative Actions:

1. The Select Board will sign vendor warrants totaling \$113,625.92.
2. The Select Board will sign payroll warrants totaling \$76,598.82.

3. Select Board Meeting Minutes:
 - a. Makepeace-O'Neil moves the Select Board approve the 7.25.17 meeting minutes; Logan seconds the motion; the 7.25.17 minutes are unanimously approved as amended.
 - b. Makepeace-O'Neil moves the Select Board approve the 8.8.17 meeting minutes; Logan seconds the motion; the 8.8.17 minutes are unanimously approved as amended.

At 9:20pm, DeChiara moves the Select Board go into executive session for reasons 2 & 3/preparation for contract negotiations and not to return to open session; Makepeace-O'Neil seconds the motion; DeChiara: aye, Makepeace-O'Neil: aye and Logan: aye.

Documents and Other Items Used at the Meeting:

1. "Appointed Election Workers for 2017-2018"
2. "Town of Shutesbury, Massachusetts Management Letter for the Year Ended June 30, 2016" by Scanlon and Associates
3. "Review of Management Letter by Town Administrator August 2017"
4. 8.22.17 "Draft Resolution on Native American Preservation"
5. 8.22.17 email from RG Cachat: "THPO of Federally-Recognized Aquinah Wampanoag States 'Suspected Burials are burials' with attachment titled "Shutesbury Planning Board 081516" by Bettina M. Washington
6. National Register of Historic Places "Determination of Eligibility Notification 12.11.2008 for "The Turners Falls Sacred Ceremonial Hill Site"
7. Map of regional cell tower sites
8. "Shutesbury Zoning Bylaw: Section 8.7 Wireless Communication Facilities"
9. "First They Came for the Jews" by Martin Niemöller
10. "Statement from Timothy Logan Regarding the Select Board of Shutesbury Responding to Public Events August 22, 2017"
11. May 6, 2017 "Honoring Our Differences in a Safe Community"

Respectfully submitted,
Linda Avis Scott
Administrative Secretary