

Shutesbury Planning Board
Minutes – August 27, 2025
Approved – September 8, 2025
Virtual Meeting

Board Members Present: Michael DeChiara, Tom Siefert (Associate Member), Ashleigh Pyecroft, Steve Bressler, Keith Hastie, Nathan Murphy (Chair), Jeff Weston

Board Members Absent: Deacon Bonnar

Other Staff Present: Matteo Pangallo (Land Use Clerk)

Others Present: Cinda Jones, Liz Good, James, Jenny Kallick, Rinky, Susan Millinger, Meryl Mandell, Genny Beemyn, Jane Urban, Gill, Michael Lipinski, Sharon Weizenbaum, James Bradbury, Diane, Jill Buchanan, Penny Jaques, Elizabeth Fernandez O'Brien, Henry Geddes, Mary Lou Conca, Leslie Bracebridge, Sanford Lewis, Laurel Facey, Gail Fleischaker, R. Kenneth Lindsay

Call to Order: 6:02pm

The meeting is being recorded and all members are participating remotely.

Comments from the Chair

Murphy designates DeChiara as Chair for this meeting.

DeChiara reminds the Board that information from executive sessions and mediation cannot be shared during the meeting. He asks members of the public who wish to speak to identify themselves and whether they are a resident of Shutesbury.

DeChiara explains that he will provide an update on the lawsuit and allow members of the Board to speak, and then he will open the floor for questions from the public.

Review and discussion of developments and the status of the solar lawsuit against Town of Shutesbury brought by plaintiffs W.D. Cows, Inc, ASD Pratt Corner East Ma Solar LLC, ASD Pratt Corner West Ma Solar LLC, ASD Leverett West Ma Solar LLC, and ASD Montague Ma Solar LLC

DeChiara explains the timeline for the request from both Cows' and Puresky's attorneys for a dismissal without prejudice. He explains the nature of the lawsuit that was brought against the Town and the Planning Board's role in the process. The Select Board, being the party under suit, accepted the offer of dismissal without prejudice. He explains the Joint Stipulation of Dismissal that was then signed by all parties on August 14, which is when the case was closed. DeChiara

explains that a dismissal without prejudice means the parties can refile in the future. He notes that it is possible that Puresky or Cowlis might refile but if the plaintiffs want to refile they would have to start the litigation all over again; they would not start where they left off.

He explains that the attorneys were not told why the plaintiffs agreed to dismiss but he suspects the shift in federal policy and the State's new Smart Regulations would render two of the sites ineligible and thus make it no longer a viable business venture, and the State's new clean energy regulations going into effect March 1, 2026 are close to Shutesbury's bylaw in their strictness.

He explains that since the case was dismissed, the 2021 bylaw remains in effect. He notes that under the new DOER rules, anything not controlled by the State's regulations would be controlled by the Town's bylaw.

He adds that the Board will seek the guidance of Town Counsel about when the minutes from the executive session can be released. Because the case was dismissed without prejudice and so the Town could be sued again, there is content in the minutes that might need to remain confidential.

DeChiara invites comments from the Planning Board and there are none.

Public Questions and Answers (at the Chair's discretion)

The Chair recognizes Mary Lou Conca who asks why the vote to accept the dismissal with prejudice was made by the Select Board and not the whole town. DeChiara notes that the Select Board is the executive body for the Town and they were the ones who were sued, which is why they had the authority to vote on accepting the dismissal offer. He adds that the offer could have been accepted as-is or responded to with a counter-offer, which could have jeopardized the offer.

Conca asks who was in the executive sessions. DeChiara answers that it was the Planning Board on its own, the Select Board on its own, and sometimes the two in joint meetings.

The Chair recognizes Jill Buchanan who expresses gratitude to DeChiara and the Board for following through on this whole process and who notes that other towns in the region may be facing this same challenge and this is a good example for them. She asks what the implications of this decision might be for other communities facing solar projects like this. DeChiara notes he can only speculate because the Board does not know the precise reason for the offer to dismiss but he thinks that the changing policy landscape may have impacted the business plan or financial viability of the projects. He notes that the Planning Board never received a special permit application. This would be different for other towns which might be facing an actual project proposal. DeChiara adds that in places where the new DOER regulations do not conflict with the local bylaw, the local bylaw can be implemented. He notes that the basis of the lawsuits

was that Shutesbury violated the Dover Amendment but that projects regulated consistent with the new DOER regulations would be exempt from such a suit.

The Chair recognizes Sharon Weizenbaum who expresses appreciation to DeChiara and the Board for the time they put in and suggests their preparation for trial may have discouraged the plaintiffs. She speculates about whether there was pressure on the Planning Board to make concessions and expresses her gratitude that the Board did not succumb to that pressure.

DeChiara notes that the Clean Energy regulations are moving closer to Shutesbury's bylaw, which is a good sign for the future and suggests the State is moving in the right direction.

DeChiara points out that Town Meeting's vote for the additional legal fees to fight the lawsuit sent a clear signal that the Town stood behind its solar bylaw and that might have had an effect on the plaintiff's decision to request the dismissal.

DeChiara reminds the Board of its next regular meeting on September 8.

Weston thanks DeChiara for his leadership guiding the Board through this process. He also thanks the Select Board for their support.

Murphy thanks DeChiara for serving as the acting Chair throughout the solar lawsuit meetings.

Adjournment

Motion to adjourn: Murphy; second: Weston. Vote: Pyecroft – aye; Weston – aye; Hastie – aye; DeChiara – aye; Murphy – aye; Bressler - aye. Motion approved unanimously.

Adjourned: 6:29pm

List of Documents Used:

- Case dismissal record for Docket Number 23MISC000140
- Joint stipulation of dismissal without prejudice for Docket Number 23MISC000140