

Shutesbury Planning Board
Minutes – August 10, 2026
 Approved – September 14, 2026
Hybrid Meeting

Board Members Present: Nathan Murphy (Chair), Keith Hastie, Steve Bressler, Michael DeChiara, Tom Siefert, Jeff Weston, Carl Lounder (Associate Member), Dean Gendron (Associate Member)

Board Members Absent: Ashleigh Pyecroft

Other Staff Present: Matteo Pangallo (Land Use Clerk)

Others Present: Mark Olszewski, Richard Lawlor, Tracy McNaughton, Elizabeth, Michael McDuffie

Call to Order: 7:00pm

The meeting is being recorded and held in hybrid format with Weston and Gendron participating remotely.

Public Comment

The Chair recognizes Tracy McNaughton who shares her views regarding the Board's deliberations of an Approval Not Required (ANR) that included the Shutesbury Athletic Club (SAC). She thinks the agenda of the previous meeting should have been written to indicate that the Club was one of the parties in the ANR.

The Chair recognizes Tom Siefert who shares an email he received from the Assistant Attorney General expressing her hope that granting an extension to the Board's response to Siefert's July 17, 2026, Open Meeting Law (OML) complaint against the Board would allow time for the parties to reach a mutually agreeable resolution. Siefert explains that he considers the email contrary to a determination by the Chair that Siefert would not participate in the deliberation about responding to the OML complaint he had filed. He explains his hope that the Chair will allow him to participate in the deliberation about the response to his complaint.

Landowner Education and Guidance

There is no request for education or guidance.

Acknowledge and respond to Open Meeting Law complaint filed by Tom Siefert on July 17th

Murphy acknowledges the Board's receipt of an Open Meeting Law (OML) complaint against the Board from Tom Siefert on July 17, 2026. He reviews the regulations for receiving and responding to OML complaints and the complaint.

Murphy thanks Siefert for raising his concerns and notes the importance of complying with OML. He invites Board members to share their thoughts about a response to the complaint.

DeChiara expresses his view that there was an OML because he thinks there were two separate ANRs and that fact was not clear on the agenda as written. He thinks the reasons for the vagueness on the agenda were not deliberate. He suggests clarifying the ANR process, particularly in the event of an application with two parties.

Bressler reminds the Board that ANR means approval is not required and there is no role for the public in that process under statute. The Board's role is simply to confirm that the proposed changes do not create a subdivision, regardless of how many changes to lot lines are included in the proposed plan. He expresses his disappointment that the complaint seems to imply that the agenda was written in a misleading manner deliberately.

Murphy notes that Siefert is welcome to respond to Board members regarding their comments but that Town Counsel advised that, as the complainant, he should not participate in developing the response. He adds that the Board can also take up to ten days to request additional information from the complainant, though the complainant does not have to respond.

DeChiara asks Siefert if he feels he has made his motivations clear in his opening statement. Siefert notes that his concern is making sure the regulations regarding agendas and OML are upheld but he is unclear about whether he should be responding or not.

Louder asks Siefert what he feels unclear about and Siefert explains he is unclear if he should be speaking. Louder asks if Siefert was unclear about what he was voting on at the July 13 meeting and Siefert says he was. Louder says he is puzzled that Siefert would vote on something without knowing what it was he was voting on. DeChiara states that he was also unclear but he did not realize what he was missing from the application until later. He says he did not realize at the time that the SAC was another applicant. Louder indicates that he found the application clear. DeChiara agrees that the application was clear but that the process was not.

Murphy explains that Siefert is welcome to respond but at the Chair's discretion, like a member of the public who submitted a complaint.

DeChiara asks what Town Counsel advised about remediation if the Board decides there was an OML violation. Murphy thinks that the remediation that would likely be required by the Attorney General would be about changing the Board's practices going forward.

Weston states that he does not think anything nefarious was intended if there was a violation but he does not think there was a violation. He suggests the Board decide to fix its practices going forward and move on.

Hastie agrees with Weston that nothing nefarious seems to have been intended and reiterates Bressler's point that it was not a public hearing. He notes that having the agenda written to indicate two ANRs would not have likely changed the Board's vote on the applications. He does not think that re-opening the ANR at this point would be possible.

Murphy reviews the OML requirements regarding the wording of meeting notices. He notes that the question for the Board is whether the agenda was written in a way that reasonably informed the public about the issues to be discussed at the meeting. He shares the agenda from the July 13 meeting and asks if it seems to reasonably inform the public. DeChiara thinks that it clearly indicates there are two lots under discussion but not that there are two applicants.

Louder asks if the Board has ever encountered two properties in a single ANR. Murphy indicates that the Board has only ever dealt with ANRs involving a single property.

Murphy notes that the application was submitted by an engineer on behalf of the Plazas and the plan was drawn for the Plazas.

DeChiara indicates that the SAC is a 501(c)3 nonprofit run by a board and there was no indication from the board of the SAC that it agreed to the property transfer.

Murphy notes that the Planning Board knew since June that the SAC was one of the parties and there was a Form A signed by the President of the board of the SAC.

Bressler asks if the Board received two fees or one fee. Murphy explains that there was one ANR, prepared for the Plazas, though it involved two applicants who each submitted one Form A, and the Board received one fee for the ANR, covering the two properties belonging to the two applicants. He notes the Board voted on one ANR and the signed plan was prepared for and given to the Plazas, not the SAC.

Murphy notes that he has agreed with Siefert that including the names of both applicants on agenda items involving two parties in an ANR makes sense going forward.

DeChiara suggests the Board acknowledge that there may have been an OML violation and let the Attorney General decide.

Pangallo notes that the Board decides if there was a violation and, if so, how it will remediate the violation, and the complainant then has a set number of days to decide whether to appeal that decision to the Attorney General.

Bressler suggests that the safest course of action might be to re-vote on the ANR with a corrected agenda item. Pangallo notes that if the property transfer has already been completed and recorded then re-voting on the ANR could be legally problematic. Murphy indicates that he is opposed to re-voting on the ANR and thinks it would be inappropriate.

DeChiara wonders if a complaint can be retracted if the complainant feels the Board has had a productive discussion about changing practices going forward.

Bressler notes that deciding on whether there was a violation would not change the outcome of the ANR vote itself.

Murphy notes that he would be interested in knowing what the Attorney General would determine about the complaint.

Hastie feels that the agenda as written provided sufficient information for the public to understand what was going to be discussed.

Siefert points out that there were three buildable lots shown on the plan but the Board only received a fee payment for two lots. Murphy notes that the Board had previously determined that it would enforce the fee per new building lot even though the regulations do not state the lot needs to be new.

Murphy notes that the Board is required to take action on an ANR within 21 days or else it would be constructively approved, thus it is possible to get an endorsement on an ANR without even having it discussed in a public meeting.

DeChiara notes that the wording of the subdivision regulation does require a fee per a buildable lot shown on the plan. He explains that this is the conversation the Board should have had to clarify the ANR under consideration and thinks this is a part of the process going forward that should be clarified in the Board's ANR discussion later on the agenda.

Bressler observes that most ANRs are very straightforward but this is the strangest one that he has ever seen. He indicates that he thinks the fees were correct and this is not a substantive enough issue for such a prolonged discussion.

Murphy shares a draft response letter to the complaint and reviews it. The Board discusses the draft and revises it to reflect its decision that it is not clear whether there was a violation of OML and to describe its plan to improve its practices regarding meeting notices that include ANRs involving more than one applicant.

Motion to respond to Siefert regarding his Open Meeting Law complaint of July 17, 2026, indicating that the Board is not clear whether there was a violation of Open Meeting Law: Bressler; second: DeChiara. Vote: Bressler - aye; DeChiara - aye; Hastie - aye; Weston - aye; Murphy - abstain. *The motion is approved unanimously with one abstention.*

Motion to approve the response letter to Siefert: DeChiara; second: Hastie. Vote: Bressler - aye; Hastie - aye; DeChiara - aye; Weston - aye; Murphy - abstain. *The motion is approved unanimously with one abstention.*

The Chair recognizes Mark Olszewski who asks where this sits now that the deed has been recorded already. Murphy indicates he is not sure what the Attorney General's Office would determine if it decides there was a violation but Town Counsel has indicated that remediation requirements from the Attorney General are usually admonishments to avoid violating OML in the future. Olszewski notes that the SAC is not a 501(c)3, as a Board member had stated earlier, and they completed the Form A in accordance with Town Counsel's guidance. He notes that Siefert indicated he understood the ANR at the time he voted on it.

Siefert indicates he is shocked at the weakness of the letter and states that he did not indicate whether he thought the agenda was written in a way that was misleading deliberately. Several Board members point out that the wording of his complaint implies he thought it was deliberate. He says he should have been able to participate in the discussion about the response. He is glad the Board is reevaluating its notice practices but thinks the letter could have been stronger.

ANR Process

Murphy explains Siefert emailed him with the idea of having a point person on the Board to handle ANRs and Murphy responded that he serves in that role as the Chair. Bressler indicates that he has confidence Murphy can handle ANRs but that the Board should review its ANR process. Siefert thinks it would be good to spread the labor to another Board member but agrees that fixing the process is a priority. Murphy indicates that there are likely other roles Siefert could serve in to help the Board.

DeChiara suggests that getting an ANR earlier and having a dedicated Board member digest it in advance and then explain it to the Board would be helpful.

Murphy agrees that the process for the Plaza ANR was not clear and that it would be good for such applications to be packaged in advance by a Board member who can help the rest of the Board understand them better.

Zoning Amendment Considerations

A: Changes to the Zoning Act (pending or enacted)

DeChiara notes that changes made to MGL Chapter 40A now make it easier for a developer seeking to develop housing to get a variance than a special permit or site plan review..

He observes further changes could be coming based on a bill now in conference committee that would allow duplexes by right on any single family building lot.

B: Clean Energy Regulations, Consolidated Permits

DeChiara reports on the Supreme Judicial Court ruling in the Sunpin v. Petersham case. Petersham had rejected a solar application and the rejection was appealed to the Court. The Court found that the town could not issue a blanket prohibition on solar in a forested area, only in a specific case based on particular data. He notes that the Court was broad in its understanding of public health as that term is used in Tracer Lane.

He adds that DOER has not yet issued the model bylaws.

He reports that the Senate version of the energy affordability bill included a provision allowing towns to use a 53G consultant to manage the Local Government Representative (LGR) process, but the House version did not include it so it is now up to the conference committee. He recommends revisiting application fees for large-scale solar and battery storage because if the 53G consultant option does not make it into the law the Town would have to pay for the consultant. In all likelihood, the Town does not have the personnel capacity to handle the LGR process without a consultant.

He reviews the new timeline that will be followed for consolidated permits. Hastie indicates he thinks the new timeline will be a high bar for most developers.

Bressler asks how the changes to SMART and its limitations on forested land will impact the new regulations. DeChiara thinks those combined with increasing costs and less federal support may still limit clean energy projects.

Siefert asks if there would be a different consultant for each application. DeChiara explains that under the new regulations, the Select Board is the LGR but they would be able to hire a consultant to do the research and either make recommendations to the Select Board or have decision-making authority on their own.

Murphy asks when the clock would start on a consolidated application. DeChiara states that it will be October 1, 2026.s

DeChiara notes that starting October 1, applicants can choose either the consolidated permit or the existing municipal permitting process. He reports that FRCOG is suggesting adopting a bylaw amendment that would limit applicants to just the consolidated permit pathway.

C: Discussion of Zoning District Changes or other changes, and consideration for economic development and rural character

DeChiara suggests the Board start by focusing on two of the four zones and take a month to review those zones' purposes, dimensional requirements, and so forth. Bressler says the idea is to parcel out discussion to make things as clear as possible for the public as well as the Board.

Murphy notes that the pending bills in conference committee could have a significant impact on that discussion. He thinks that waiting until those bills are resolved would make sense.

Murphy asks if the Board thinks it can have any amendments prepared for Special Town Meeting in the fall. DeChiara thinks that there is not enough time at this point but that in the spring there will probably need to be amendments regarding clean energy siting and permitting.

Murphy asks the Board to consider forming a subcommittee to focus on researching zoning district changes or other changes to encourage appropriate economic development.

Unanticipated Business

Hastie asks that the Board hold a meeting outside of the regular schedule specifically to review and approve Executive Session minutes. DeChiara will schedule it and explains to the Board how to access the draft minutes so they can come prepared. He notes that the Board will take two votes on each set of minutes: to approve them and to release them.

The Board discusses the date and location of the site visit to the Wheelock solar facility.

Adjournment

Motion to adjourn: DeChiara; second: Bressler. Vote: Bressler - aye; DeChiara - aye; Hastie - aye; Weston - aye; Siefert - aye; Murphy - aye. *The motion is approved unanimously.*

Adjourned: 9:17pm

List of Documents Used:

- Email of July 24 from Assistant Attorney General Elizabeth Carnes Flynn regarding Open Meeting Law complaint submitted by Siefert
- Email from Murphy to the Board regarding the procedure and materials for reviewing the OML complaint, including a draft response to the complaint
- Massachusetts Open Meeting Law regulations
- OML complaint filed by Siefert against the Planning Board on July 17, 2026
- Agenda for July 13, 2026, Planning Board meeting
- Draft response to the OML complaint received on July 17, 2026
- Summary of the Sunpin v. Petersham Supreme Judicial Court ruling, written by DeChiara