

Shutesbury Planning Board Meeting Minutes (Joint Meeting with Select Board)
October 12, 2021 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
Planning Board members present: Deacon Bonnar/Chair, Jeff Lacy, Michael DeChiara, Linda Rotondi, Nathan Murphy, Robert Raymond and Steve Bressler
Other Staff present: Miriam DeFant/Conservation Commission
Guests: Wm Levine, Marlana Fontes, Rob Kibler and Ken Holt
Farrell calls the meeting to order at 5:31pm.

Planning Board Associate Members: At 6:25pm, Deacon Bonnar calls the Planning Board to order and reads the statement about virtual meetings into the record. The Planning Board joins the Select Board meeting to consider the appointment of two associate members. It is noted that in their 9.29.21 letter, the Office of the Attorney General approved Article #14 citing that statute only authorizes the service of associate planning board members when a planning board is serving as a special permit granting authority. It is also noted that anticipation of special permit applications (large-scale solar) is the main reason for the Planning Board to seek associate members and that special permit decisions require a super majority.

Bonnar: the Planning Board voted to recommend two candidates, Ken Holt and Rob Kibler; suggests each make comments about their reasons for seeking associate membership.

Candidate Rob Kibler: solar projects are a big issue for Shutesbury; although they are allowed by law, we need to be careful in how they are permitted, i.e., are they in the best interest of town environmentally and financially. Kibler's background is as an engineer with forty plus years of experience primarily in the water industry; he is philosophically opposed to large scale solar installations however they are allowed by law.

Candidate Ken Holt: he is interested in the decision process being done with due diligence for the Town; this is a big decision (large-scale solar) and needs to be as done as objectively as possible; scientific data as well as the psychological and social effects need to be obtained objectively.

Stocker agrees with Holt's statement that "feelings need to go away" during the special permit process. Farrell: by law, the special permit process is the responsibility of the Planning Board. Bonnar: of the three candidate applicants, only two could serve; Attorney Michael Pill could not serve.

Jeff Lacy states that he voted nay on all three candidates; the biggest concern is that special permit decisions are discretionary and both Holt and Kibler are known partisans on the issue (large-scale solar). Lacy continues: Kibler's wife, Miriam DeFant, is also a known solar opponent who testified against the Wheelock project and serves on both the Conservation Commission and Historical Commission; if Kibler were to serve on the Planning Board, there would be too much concentrated power in one household; Holt is an abutter to one of the proposed sites and has written impassioned op-eds prior to any new project applications being submitted. Lacy is not convinced both can be impartial though welcomes either or both to run for election to the Planning Board. Lacy suggests the focus be on Lake Wyola representation and recommends taking time as there are no applications pending at this time. Michael DeChiara states that he is convinced that both Holt and Kibler can "put on the hat" of the official role and make fair and balanced decisions with responsibility to broader community and the integrity of the role.

Robert Raymond notes that both candidates have strong opposition to cutting down trees for solar and asks both to what extent they can move beyond this as an associate member and have projects move forward. Holt: in his work as a scientist, a hypothesis is formed and when the data comes out, he goes with the bottom line because information goes beyond belief system or bias; believes he can be objective. Kibler: perhaps no one here prefers cutting the forest over placing solar in parking lots; he spoke out against shoddy engineering for the SB 211012 4

Wheelock project, i.e., one detention pond is flooding when it is supposed to be empty; the role of the Planning Board is to speak to the data; yes, it is discretionary and he has the integrity to vote with the facts and the law.

Makepeace-O'Neil asks each for an example of when they went against their personal philosophy. Kibler cites a workplace example when he reported the inappropriate behavior of a peer and was ultimately fired for doing so. Holt: on a number of occasions when data evidenced the facts, he was able to admit his hypotheses were wrong. Makepeace-O'Neil: in thinking about applying, were the applicants approached by the opposition or a board to serve? Holt: no. Kibler: yes, his wife who is more attuned to town politics. Stocker acknowledges Lacy's point that the two applicants have a known position and is concerned about this; he is on the fence and asks if the appointment decision could be extended. Steve Bressler: each Planning Board member has a different bias however the law and bylaw must be upheld as objectively as possible; associate members biases are parked at the door; once on the Planning Board, members cannot shirk regulatory responsibilities. Nathan Murphy notes that he voted yes for Kibler because he acts independently from DeFant and has relevant work experience; he voted against Holt because his writings (on large-scale solar) were based on fear. Murphy is concerned about Holt's ideological slants; there is more at stake than one particular project, the Board needs to be very careful with its decisions, i.e., revenue that is not residentially based. Murphy needs to recuse himself from any energy related project due to his employer's code of conduct; due to the importance of quorum and constructive grant concerns, he would not be opposed to punting as there are no projects pending at this time.

Linda Rotondi: everyone comes with a bias/agenda/concern, i.e., the Master Plan process caused her to serve on the Planning Board; has seen Kibler in more meetings than Holt and feels Kibler can be objective and follow the guidelines.

Bonnar does not doubt the candidates could put their biases aside however he is concerned about appearances and appointing those with known positions. Holt notes that he read his opeds and letters to the Select Board and Planning Board carefully and his appeal is to find out objectively whether approval could go forward; he believes in his ability to be as objective as anybody else. Kibler agrees with Lacy on some points, i.e., the elected versus appointed member and the need to include all demographics, i.e., Lake Wyola which is a big part of the town; as a resident, he wants the two best persons to serve even if it is not him and suggests that if the Boards are not comfortable appointing now, they take time to repost. DeFant refers to her prior bias and notes that she is not involved in any political advocacy at this time; her position on large scale solar installations has evolved and she is now agnostic. DeChiara sees Kibler's recent statement as proof of his ability to be impartial; associate members are necessary due to the concern about constructive approval and the need for a super majority decision (5 out of 7) and Murphy will be recused; the associate member appointments are to 6.30.21.

Farrell: if special permit applications come in, and an associate member is in place, they cannot be replaced and will need to be reappointed after 6.30.21. Lacy: once the public

hearing is opened, there needs to be continuity through to the decision; both associate members will need to listen in and can only miss one public hearing. Lacy is concerned about how the associate member appointments will be seen and perceived and notes that the Wheelock site has generally performed well; the detention basin is simply not discharging all of its water which reduces its capacity and needs to be tweaked to work better. No other concerns are stated.

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- DeChiara moves that Rob Kibler be appointed as an Associate member of the Planning Board for a term ending 6.30.22; Raymond seconds the motion. Roll call vote: Raymond: aye, Bressler: aye, Murphy: nay, Rotondi: aye, DeChiara: aye, Bonnar: nay, Lacy: nay, Makepeace-O'Neil: nay, Stocker: nay, and Farrell: nay. Torres: six/no and four/yes; the motion fails.

- DeChiara moves that Ken Holt be appointed as an Associate member of the Planning Board for a term ending 6.30.22; Bressler seconds the motion. Roll call vote: Rotondi: aye, Bressler: aye. Raymond: aye, Murphy: nay, DeChiara: aye, Bonnar: nay, Lacy: nay, Makepeace-O'Neil: nay, Stocker: nay and Farrell: nay. Torres: six/no and four/yes; the motion fails.

Farrell thanks Holt, Kibler, and the Planning Board and notes the responsibility to have associate members who have not taken a strong position; optics are very important; broader outreach and members without public opposition/conflict are needed. The Planning Board is asked to do another search for candidates. Select Board members note that the difficult decision is not a reflection on either Holt or Kibler as individuals and that optics are a concern.

At 7:26pm, Makepeace-O'Neil moves and Stocker seconds a motion to adjourn the Select Board meeting. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

At 7:26pm, Murphy moves and DeChiara seconds a motion to adjourn the Planning Board. Roll call vote: Bonnar: aye, Bressler: aye, Murphy: aye, DeChiara: aye and Lacy: aye; Rotondi and Raymond departed before the motion to adjourn; the motion carries.

Note: These minutes were taken by the Administrative Secretary, Linda Avis Scott. They have been modified only to remove Select Board agenda items not related to the joint session with the Planning Board. No other changes have been made.

Approved by the Planning Board on 12/13/2021.

Respectfully submitted,
Nathan Murphy