

Shutesbury Select Board Meeting Minutes
July 10, 2018 Shutesbury Town Hall

Select Board members present: Melissa Makepeace-O'Neil, Elaine Puleo and April Stein
Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary

Guests: Penny Kim, Susan Millinger, and Joan Hanson/Women of Positive Presence; Police Sergeant Wendy Masiuk/Police Chief Candidate, Jamie Berger/Police Chief Candidate, Russ Mizula, Leslie Luchonok, and Myra Iozzo (non-resident)

In the absence of a chairperson, Torres calls the meeting to order at 6:30pm. April Stein is welcomed as the newest member of the Select Board.

Public Comment: Leslie Luchonok/61 West Pelham Road reads a letter, dated 7.10.18, from himself and his wife Jill Marland into the record. Luchonok states he has lived in town for twenty-eight years and cannot remember a time when he was as upset as he is now; asks if there is a timeframe for the Select Board's response to the citizen petition for a special town meeting. Torres: the Select Board will officially receive the petition later in the meeting.

Discussion Topics:

1. Election of Select Board Officers and Assignments: Puleo nominates and Stein seconds a motion for Makepeace-O'Neil to be the Select Board Chair. Makepeace-O'Neil acknowledges that she is not easily available weekdays between 8am -5pm. Both Puleo and Stein are accessible and available weekdays. Puleo and Stein support the motion; Makepeace-O'Neil abstains; motion carries. At Torres' suggestion, the Board agrees to have a vice-chair. Makepeace-O'Neil nominates Stein to be Vice-Chair; Puleo seconds the motion that passes unanimously. Select Board representative responsibilities are considered. Makepeace-O'Neil moves and Stein seconds a motion that Makepeace-O'Neil continue to serve on the Personnel Board and that Puleo will serve on the Community Preservation Committee and as liaison to the SES School Committee; the motion is unanimously approved. Makepeace-O'Neil moves and Puleo seconds a motion that Stein serve on the Water Resources Committee and the Lake Wyola Advisory Committee; motion is unanimously approved. All members of the Board will serve on the Emergency Management Team. As Town Administrator, Torres is the liaison to the Finance Committee. Torres: Ellen McKay has served as the Town representative to FRCOG for 26 years and is willing to continue to do so. Makepeace-O'Neil moves Ellen McKay remain the Franklin Regional Council of Governments/FRCOG representative with Puleo serving as the alternate; Stein seconds the motion that is unanimously approved. Makepeace-O'Neil moves and Stein seconds a motion for Torres to continue as the Select Board representative to the Franklin Regional Transit Authority/FRTA and Franklin Regional Planning Board/FRPB and for Jeff Lacy to serve as the Planning Board representative to the FRPB; Puleo seconds the motion that passes unanimously.

1. Police Chief Hiring Update: Torres met with the outside investigator, Paul L'Italien hired to complete the background checks on the candidates, to go over the original report; some

additional work has been completed and was emailed to her earlier today, however, the Select Board has yet to have time to review the information. Police Chief candidate Jamie Berger expresses his continued interest in the position. Police Chief candidate Wendy Masiuk appreciates the continued work of the Select Board; as Officer in Charge, she has taken over most of the Chief's responsibilities and the department is running smoothly. Torres explains that an executive session needs to be posted 48-hours in advance with the applicants requiring the same notice. An executive session is scheduled for 7.17.18 at 6:00pm. To Penny Kim's question about process, Torres explains that a candidate is selected then contract negotiations begin. To Puleo's question about updating the town website, Torres suggests waiting until 7.12.18 when more information is available as to the process, i.e. executive session. Russ Mizula asks if the Police Chief Hiring Committee be notified as to the decision. Makepeace-O'Neil asks Torres to inform the Committee members about next steps and the decision.

2. Budget Review and Year End Transfers: Torres: the budget review and year end numbers are not yet complete; the expectation is that they will be available for FinCom review on 7.12.18; the elementary school may need additional funds; if this is the case, the Select Board can consider the matter 7.17.18.
3. Open Select Board Issues: Makepeace-O'Neil reads the draft charge for the new Public Engagement Committee. Torres: in the spirit of this Committee, Makepeace-O'Neil and DeChiara decided to purchase two picnic tables from the Select Board expense line; the tables have been ordered and will be placed on the Town common near the library. Stein and Puleo ask how this Committee is different from the newly reformed Recreation Committee. Makepeace-O'Neil: there is some overlap. Puleo: we have trouble filling the committees we already have; the COA, Rec. Committee and Library already plan events. Makepeace-O'Neil: the concept for this Committee came from the ideas for a gazebo; suggests tabling the Public Engagement Committee for the time being. It is noted that a standalone gazebo is not eligible for Community Preservation funding. Puleo suggests reaching out to the folks who proposed the gazebo, Anne Kennerson and Paul Lyons, and ask them to bring the project proposal further along. The Board asks Torres to invite Kennerson and Lyons to a future Select Board meeting.
4. Review Select Board Meeting Calendar: Makepeace-O'Neil will set up a list of meeting dates for FY19.
5. Perpetual Calendar: The Select Board Perpetual Calendar is reviewed; the need to schedule the tax classification discussion with the Assessor and review any reserve fund transfers with the FinCom are noted. Both Puleo and Stein will need the Lake Wyola Emergency Action Plan and the Shutesbury Emergency Management Plan; both Puleo and Stein previously completed their Emergency Management certifications. Makepeace-O'Neil asks Puleo and Stein if they have any thoughts about Select Board Goals and Priorities:
 - a. Puleo suggests using her training in statistics to collate community data and create a report for the Select Board to use to identify goals and priorities related to population. Torres: the Town Clerk will be able to provide guidance on what town lists are

available to the public. Kim offers to be of assistance as she has done some Shutesbury population data research. Kim and Torres concur that income data is difficult to find however some is available through the Department of Revenue. Puleo: let's start a discussion based on data and develop long term goals for the town. Makepeace-O'Neil: the COA and Village Neighbors may be resources.

- b. Stein wishes to revisit the Lot O32/Leverett Road landscape study concept and suggests inviting interested parties to a meeting. Makepeace-O'Neil: the Select Board decided not to accept the grant for the feasibility study. Torres: we have been looking at using the funds for climate mitigation studies; FRCOG is working on a proposal for using the funds in a new way. Puleo asks to see the original grant. Torres: the Select Board did not sign the grant contract; the grant was awarded however there was a change in direction by the Select Board; the Conway School of Landscape Design was notified and when EOEEA was notified, we were told that the funds could be used for another project. Torres: the original grant was for \$10,500 with a match of \$3,750 that would have been achieved using Jeff Lacy's "in kind" hours. Torres will provide the Select Board with the grant documents.
- c. Stein suggests using the round table to increase communication; all agree to try this for the next meeting.
- d. Makepeace-O'Neil suggests putting postings on NextDoor Shutesbury that link to the official Town website. Both Stein and Puleo have reservations about the use of NextDoor Shutesbury. Puleo: the Select Board cannot respond to posts on NextDoor that contain errors and misinformation about Town municipal matters and then the Select Board is "bashed" harder for not responding on NextDoor; we need to use the Town website. Stein: NextDoor is a private company that mines our data therefore she is uncomfortable using it for town information. Makepeace-O'Neil suggests providing more information on the Town website, i.e. the financial work done by Joe Markarian/FRCOG. Puleo: we need to provide more information about how town government works; many of our constituents do not know how their town works. Stein: it was intense to hear our neighbors and friends share in a heartfelt way during the 6.26.18 open session and to have the Select Board be unable to respond in order to maintain the confidentiality of negotiations. Puleo: folks do not understand the contract process. Makepeace-O'Neil: the priority is to get information out. Puleo suggests that the Board take turns writing a monthly topical report for the community. Russ Mizula: the posting of road closures on NextDoor is helpful. Puleo emphasizes the need to promote use of the Town website.
- e. Torres: approval of the proposed financial policies needs to take place. Makepeace-O'Neil suggests scheduling a "policy only" meeting in August.
- f. Puleo notes the need to acknowledge the sustained work of the Broadband Committee and suggests holding a Broadband "light up" party.
- g. Puleo suggests having a potluck for the All Boards October meeting and focusing on how groups can work together. Makepeace-O'Neil reports that last year's All Boards meeting consisted of a brief sharing followed by a dessert social.

6. Town Administrator Updates:

- a. Torres presents the citizen petition that was received by Town Clerk, Susie Mosher, on the evening of 7.5.18, reviewed 7.6.18 by Mosher and the Certificate of Names

completed 7.9.18. Per Torres, in Mosher's absence, she explained to Lee Elder that a vote could be done as a special town meeting and emailed him the statutes that explain the special town meeting requirements. Torres suggested Elder see the Town Clerk for instructions, forms and information about a citizen petition warrant article; Elder however did not consult with the Town Clerk. Kim notes that all of the forms and instructions are on the Town website.

Makepeace-O'Neil reads Article #1 into the record: "To see if the Town of Shutesbury will vote to transfer from available funds to meet the salary of \$65,000 of Shutesbury Fire Chief/Emergency Management Director/EMT Director/E-911 Coordinator/Forest Warden/Cemetery Commissioner, Walter Tibbetts, for the fiscal year beginning July 1, 2018." Torres: at this point, the wording of the warrant article cannot be changed; not all of the petition signature pages contain the warrant article language; this is required so that each potential signer is given fair warning regarding the purpose of the petition; this would not have happened with petition forms prepared by the Town Clerk. Torres: per Attorney Maser/KP Law, the incorrectness is grounds for nonacceptance by the Select Board, however, the intent of the community is clear as evidenced during the 6.26.18 open comment session. Per Torres, warrant article language can be amended on the floor of town meeting and/or the Select Board could write a warrant article. Puleo: did Mosher inform the petitioners that the vote does not affect contract negotiations. Torres: the originators of the petitioner did not confer with Mosher. Kim: I believe people understand the vote is advisory.

Luchonok: no, they do not. Torres: Attorney Maser sent Fire Chief Tibbetts a letter, dated 7.2.18, clarifying that while the special town meeting can specify a dollar amount, only the Select Board can negotiate a contract so even with a special town meeting vote, the Select Board still has to negotiate a contract. Puleo: because people do not understand how negotiations work, the Select Board is being set up to appear obstructionist. Torres: through the special town meeting, the will of the petitioners is being expressed. Torres: on 6.27.18, I met with Tibbetts and he signed a letter from the Select Board agreeing to "continue in good faith, confidential negotiations"; with the Select Board's permission, she would like to talk with Tibbetts about Maser's 7.2.18 letter. Luchonok: the petition is a way for those who feel strongly about Tibbett's worth to make his salary right. Puleo: the Board heard the concerns; what did not get heard is that the Board has no issue with Tibbett's worth; prior to 6.26.18, the contract negotiating team had yet to formally report to the Select Board; we wanted to give the public the opportunity to express their concerns about losing the Fire Department; the Fire Chief is a contract employee – the negotiations were not complete and should have remained confidential; due to the constraints of confidentiality, the Select Board could not respond to questions. Luchonok: part of what was missed at last week's meeting (6.26.18) was a clear and thorough explanation of what you just explained. Stein: our intent on 6.26.18 was to open up as much as we could. Kim: as Town Moderator, she could have spoken more specifically however people would most likely not have taken in her explanation; Kim expresses her concern about a special town meeting: it has to be clear about what a vote would and would not do-the history of petitions is to be advisory; there has been a chance for residents to express themselves; if you are to go ahead with a special town meeting, there will be an expense for a mailing of the warrant that

includes an explanation of what a vote will mean; are the negotiations ongoing and is there a schedule for them? Torres: an executive session meeting of the Select Board and Negotiating Team without Tibbetts has been posted; the purpose is to strategize and plan a negotiating schedule. Stein: as the negotiations go forward, the employee does not attend the strategy sessions. Luchonok: the public needs to know that the buck stops with the Select Board; there needs to be better communication about the process; the best-case scenario is that the negotiations come to completion over the next few weeks. Torres: the special town meeting needs to be scheduled even though the petition did not follow proper procedure. Kim: amendments to the language can be made at the special town meeting. Torres: going forward, negotiations will be with both the Negotiating Team and Select Board; the usual process is that a team with the authority to negotiate provides the Select Board with a contract recommendation. Torres continues: at the same time the Fire Chief's contract was being negotiated, three other contracts were in negotiations; the police union contract is incomplete partly because of the time taken up by the Fire Chief's negotiations. Kim: this special town meeting can vote on a warrant article that is advisory; if Tibbetts speaks to the parties involved, it would be desirable for the petition to be withdrawn; recommends that Torres ensure that Tibbetts understands the vote is advisory. Torres: as per the Negotiating Team and Select Board, Maser's 7.2.18 letter was mailed to Tibbetts. Stein: we are trying hard and are bound by confidentiality. For the record, Torres notes that there are seventy-six employees in town that are impacted by this situation; town employees are an amazing collection of talented people. Puleo: the contract negotiation teams are made up of volunteers therefore scheduling of meetings can be a challenge. Luchonok asks Kim if she thinks citizens understand that they are voting on salaries when they vote on the budget at annual town meeting. Kim: people may not understand who has a contract and whether negotiations have been completed. Luchonok: there is a sense that we are voting on salaries therefore we have the right to vote on Tibbett's salary. Torres reads from Maser's letter: "The authority to negotiate and settle upon a salary with an employee lies within the Chief Executive powers of the Board of Selectmen and not Town Meeting". Kim: the public needs this information. Makepeace-O'Neil: when information is put out, it may inflate and/or squelch concerns; we need to provide the information we are able to. Torres: the vote will be advisory however the petitioners are putting pressure on the negotiations. Makepeace-O'Neil suggests scheduling the special town meeting for a date near the end of the negotiating period; we need to plan for both negotiations and a special town meeting. The Board asks Torres to request Tibbetts for available dates to continue negotiations. Torres: by the calendar, the earliest date for the special town meeting is 7.25.18 however due to scheduling conflicts the actual earliest dates are 7.30 and 7.31.18 and the latest date is 8.24.18. Torres: Tibbetts' retirement was not accepted by the Select Board; filing it with the Town Clerk formalizes acceptance of the retirement letter and that has yet to happen; one cannot be in negotiations and retiring at the same time. Luchonok: on 6.26.18, Tibbetts said he wanted to continue negotiations. Torres: because Tibbetts signed the letter agreeing to continue negotiations, this may take the 7.31.18 retirement deadline and the letter about resigning from the Fire Department out of people's minds. Makepeace-O'Neil: the Fire Department stated they will resign if a contract is not signed by 7.31.18. Torres,

noting the need to let the public know the limits of special town meeting authority, suggests scheduling the special town meeting for 7.31.18. Makepeace-O'Neil: the public perception of the date is important. Luchonok: the perception that the Select Board is not dragging their heels is important; the formality of town meeting unifies clarity and can only help. Torres: at this time of the year, free cash has yet to be certified so it cannot be accessed and a 2/3rds vote is needed to access stabilization funds. Kim: there may be frustration about the limits of the vote therefore she recommends scheduling the meeting further out in order to provide more information and perhaps complete negotiations and the withdrawal of the petition. Luchonok: if Tibbetts acknowledges his willingness to negotiate publicly, it may take the sting out of the 31st deadline. Susan Millinger recommends allowing time for negotiations to take place; folks are not going to be interested in whose authority it is to negotiate a contract. Stein: Tibbetts could potentially diffuse some of this by communicating with those who are behind the petition. Puleo: the 31st will keep our feet to the fire. Torres: timing is of concern; to schedule for the 31st, a special town meeting warrant needs to be signed on the 7.16.18. Kim: the Moderator would prefer to allow more time so negotiations will make the special town meeting moot. Stein: the Select Board has a limited ability to communicate certain things; we are not the adversary. Kim: after the 7.11.18 meeting, a schedule for negotiations can be completed. Stein: we need to clarify with Tibbetts that his retirement letter is on hold. Kim restates her support for scheduling the special town meeting into August; she knows the Fire Department cares about the town. Puleo: the Select Board needs to schedule a meeting on 7.16.18 in order to plan the special town meeting date. Luchonok appreciates the discussion with the Select Board. Joan Hanson suggests Luchonok be part of communicating to others in the community. To Luchonok's question, Torres explains that the Fire Chief's job description is Grade 10; at first, this was not a contract position. Makepeace-O'Neil will review Torres' draft answers to the questions heard at the 6.26.18 meeting; they will be subsequently posted on the Town website.

- b. At this point, it is noted that the executive session previously planned for 7.17.18 will be rescheduled for 7.16.18.
- c. Per Torres, a new quote is being obtained for the town hall roof; the patch work on the SES roof leaked and is being redone; an appraisal for the complete replacement of the SES roof is in process. Hunting is considering a different type mower because of a price increase on the one approved at annual town meeting; he will be talking with the Capital Improvement Planning Committee.
- d. Stein moves the Select Board approve the Mass DOT Chapter 90 final report and Chapter 90 reimbursement request, dated 6.4.18, and filed by Highway Superintendent Tim Hunting; Makepeace-O'Neil seconds the motion that passes unanimously.
- e. Torres brings the 7.9.18 email from Ron Meck, "Loir (Lori) Saleem's Barking Dog" to the attention of the Select Board; Meck's complaint was confirmed by Police Officer Fernandes.

Administrative Actions:

1. Select Board members will sign vendor warrants totaling \$112,369.09.
2. Select Board members will sign payroll warrants totaling \$81,244.44.
3. FY19 Personnel Action Forms: Per Torres, completion of the FY19 PAFs is pending.
4. Select Board Meeting Minutes:
 - a. Makepeace-O'Neil moves and Puleo seconds a motion to approve the 6.26.18 Select Board meeting minutes; Puleo and Makepeace-O'Neil approve the minutes as presented and Stein abstains.
 - b. Makepeace-O'Neil moves and Puleo seconds a motion to approve the 6.29.18 Select Board meeting minutes; Puleo and Makepeace-O'Neil approve the minutes as presented and Stein abstains.

At 9:13pm, Makepeace-O'Neil moves and Puleo seconds a motion to adjourn the Select Board meeting; motion carries unanimously.

Documents and Other Items Used at the Meeting:

1. 7.10.18 letter from Jill Marland and Leslie Luchonok
2. Select Board perpetual calendar
3. 7.5.18 Citizen Petition for Special Town Meeting
4. 6.27.18 Select Board letter signed by Walter Tibbetts
5. 7.2.18 letter from Attorney Brian Maser/KP Law to Walter Tibbetts
6. 7.9.18 email from Ron Meck "Loir (Lori) Saleem's Barking Dog"
7. 6.4.18 Chapter 90 Reimbursement Request and Final Report

Respectfully submitted,
Linda Avis Scott
Administrative Secretary