

Shutesbury Select Board Meeting Minutes
July 21, 2020 Virtual Meeting Platform

Select Board members present: Melissa Makepeace-O'Neil, April Stein, and Rita Farrell
Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary
Guests: Police Chief Dan Fernandes, Michael DeChiara, Leslie Luchonok, Susan Rice, Kate McConnell, Paul Lyons/Town Moderator and Jeff Lacy

Makepeace-O'Neil calls the meeting to order at 5:39 pm.

Agenda Review: Torres: an update on plans for reopening the school is pending more information.

Public Comment:

1. Michael DeChiara apologizes for his 7.20.20 email exchange with Police Chief Fernandes and the Select Board and thanks Town Administrator Becky Torres for her support. Referring to (Chapter 41) Section 97A, DeChiara requests the posting of a policy regarding mask wearing by the Shutesbury Police Department.
2. Susan Rice appreciates the good communication during the 7.7.20 Select Board meeting, however, states that it bothered her that she could not see Chief Fernandes during the discussion (Fernandes did not use a camera). Rice emphasizes the importance of seeing the Chief during the forum.

Discussion Topics:

1. Public Police Forum: Police Chief Fernandes states he is pleased with the outline he and Torres created and their plan to talk with Town Moderator Paul Lyons about the flow for the forum. Torres: the general outline for the forum is to introduce the Police Department, to lay the ground work with a history of the Department, over the last thirty years, and how it went from a part-time department to one with three full time officers and, based on history, the Select Board has been very conscious about hiring, i.e. during former Chief Tom Harding's tenure, confidence and trust in the Department was regained and Fernandes is following in Harding's footsteps. Torres continues: due to current circumstances, the Department has higher visibility now; mask wearing is situational for the officers and it is hard for the public to know these situations; officers are wearing masks in town hall and in other situations; their goal is to wear masks appropriately and keep our town safe. Fernandes: over the last few weeks there has been some communication back and forth regarding mask wearing by officers; the appropriate way to address concerns is via email or the office phone; online (social media) is not helpful; situations can arise where mask wearing is not possible for officers. DeChiara understands mask wearing by officers is situational; the police have a special role and modeling matters; people look to the Police Department and are looking for guidance by action, i.e. mask wearing; suggests modeling as a balance to practicality. Torres: the next step in the forum is to discuss the Police Department's authority, i.e. what a strong chief means and the Select Board's role, and mentioning the ride-along and body camera policies adopted in Fall 2018. Torres continues: the forum will continue with a description of regular Department activities and a typical day, i.e. patrols and examples of

situations the officers address; then community policing will be explained and examples provided on how officers build ties within the community and communicate with the public; questions will be asked for ahead of time; Paul Lyons will moderate the forum. Stein recommends limiting the forum to two hours. Fernandes: this is just a starting point as he anticipates future meetings on other topics, i.e. use of force. Torres to Lyons' question: questions will be submitted in advance of the forum; the Moderator will be able to see the name of the questioner. DeChiara notes the need for a safety valve for real time questions to avoid people feeling closed down. Fernandes to Lyons' question: he has yet to reach out to the officers to see if they want to be involved; as Chief, he will answer questions on behalf of the Department. Stein: it will be helpful to have the officers introduce themselves. Fernandes to Lyons' inquiry about boundaries for questions: the goal is to be productive; attend to questions with good will versus those that may be non-productive. Farrell suggests Fernandes and Lyons review the questions in advance of the forum and for Lyons to relay the questions during the forum. Makepeace-O'Neil: if time allows, there could be some real time questions at the end. Torres: the forum will take place in an open Zoom meeting; Lyons will have those questions submitted in advance and real-time questions will be submitted via chat. Lyons agrees to using the chat function and managing questions submitted in advance. Torres: the Town Announce will allow 1.5 hours for the forum; the first 30 minutes will be for the presentation by Torres and Fernandes. It is agreed to have questions submitted by 8am 7.27.20; during the forum, 40 minutes will be allocated for submitted questions, then if time permits, real time questions may be considered. Leslie Luchonok: it is important to remind people that this is the first forum and there will be a follow-up meeting. At this point, Chief Fernandes leaves the meeting. Stein states that she does not see this as the Town's only response to Black Lives Matter and would like to plan a time to brainstorm about what will help, i.e. a reading group about the history of racism in United States. Makepeace-O'Neil suggests that other departments may want to hold a forum to enhance understanding of their roles in the community. DeChiara recommends the forum be recorded and posted online for those who cannot attend. Lyons notes the need to avoid controversial questions during the first meeting. Makepeace-O'Neil: it is important to have a sense of where/how the next conversation will take place. Farrell: it needs to be stated that this is not a comprehensive examination; there will be follow-up. Stein: this will give us a sense of how the Town is feeling. Torres: there were no questions about the Department's budget during the annual town meeting budget review; earlier 7.21.20, Torres received an email stating "please do not slash our police department budget". Makepeace-O'Neil: the budget topic could make its way into the questions as some communities are defunding their police departments. Lyons: a statement defining the questions will be helpful. DeChiara suggests a values and budgeting conversation with the Department and Select Board. Luchonok: just because Department budget questions did not come up at annual town meeting, it does not mean it is not a concern. Torres: Lyons will need to have clear guidance. Makepeace-O'Neil would not want to take a topic off the table; it is only that some questions will not be answered during the first forum. Lyons: the Town Announce will define the event with a clear statement that the main purpose of the forum is "to get to know your Police Department".

2. Open Space Committee/FRCOG Open Space Plan: Torres: the current Open Space Plan, which took eight years to write, is expiring; a \$6,000 grant for FRCOG support will help with the rewrite; the funding expires 12.31.20; Penny Jaques expressed interest in serving on a new Open Space Plan Committee; Veronica Richter is the only remaining member of the former committee. Stein moves and Farrell seconds a motion to appoint Penny Jaques as the first member of the new Open Space Committee. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.
3. Timing for Reopening Town Hall: Torres: the reopening of Town Hall topic will stay on the agenda moving into the Fall; Zoom meetings will continue; Town Hall remains closed to the public with staff only taking outdoor appointments. Torres continues: the Historical Commission requested to hold an outdoor meeting, however, per the Town Clerk and Catherine Hilton/Board of Health, the current standing policy is Zoom meetings only; a secure meeting space cannot be provided outside; the amount of work for annual town meeting was extraordinary. Torres continues to feel it is best to hold to Zoom meetings; access via phone is possible for those that do not use computers. Torres notes that the Historical Commission's virtual meeting was productive with 100% attendance; Town Clerk Grace Bannasch did a great job providing support for new users of Zoom. Makepeace-O'Neil asks Torres if it is her sense to not make any changes at this time. Torres: yes, outdoor appointments are working and Bannasch is providing Zoom support; one consideration is how the Conservation Commission ANRAD public hearings will be handled. Per Scott, the ANRAD public hearings scheduled for 7.23.20 will be continued; the peer reviewer and applicant's representative have not finished their work. Torres: a few times a week, Scott is doing some work in Town Hall and Leslie Bracebridge is back in Town Hall for her regular Assessors' Clerk hours; all Town Hall staff have been healthy. Makepeace-O'Neil: the topic will be reconsidered on the next meeting's agenda.
4. Personnel Action Forms (PAFs): Torres: several previously approved PAFs had typographical errors; the corrected versions will be placed in the Select Board mailbox for Makepeace-O'Neil's signature.
5. School Reopening Plans: This topic will be carried over to a future meeting.
6. Upcoming Events: Per Torres, the Municipal Vulnerability Preparedness Listening Session is planned for 7.30.20 via Zoom with time for questions/comments; participants have received a copy of Fuss & O'Neil's report and been asked for their feedback; the Locks Pond Road/Sawmill River culvert replacement presentation by Nitsch Engineering is scheduled for 8.6.20; they will go through the plans and timeline for construction which is expected to begin next year; the documents will be online for review. Torres explains that an easement from an abutter may be necessary in order to fill the slope with large rocks; there will need to be a conversation about funding the project.
7. Town Administrator Updates:
 - a. Town Hall activity is quieter after the influx of folks needing to be sworn in after annual town meeting; demolition in the Town Administrator's office has begun with help from

- Torres' family and there is a contractor available to do the finish work; the goal is for Torres to be back in her office in a few weeks.
- b. Trash bag distribution is taking place every Monday afternoon with Torres doing some distribution during the Saturday Farmers Market.
 - c. There were four vendors at last Saturday's Farmers Market which is doing very well.
 - d. The library's curbside pickup of materials is working. Torres recommends coordinating the reopening of town hall and the library.
 - e. Al Werner has had UMass students doing testing on the monitoring wells.
 - f. The Fire Department had their pressurized equipment tested 7.21.20.
 - g. Closing out FY20 is in process; there will be clarity about underspent accounts in mid-August.
 - h. The Police Department is actively spending time doing patrols and controlling crowds at Lake Wyola; DCR plans to open the rear parking lot in two weeks and begin charging fees; complaints have been received about the number of people on the beach and the lack of mask wearing. Torres to Farrell's question: DCR is not enforcing mask wearing; there are signs. Stein: DCR staff are usually gone by 4:30pm. Torres reports receiving a letter from Howard Kinder/Gate and Dam Keeper stating his concern about activity taking place at the dam, specifically, unattended small children jumping into the water; swimming in this area is not prohibited. Farrell: this is safety issue on Town owned property. Torres: the whirlpool is a safety concern. Stein: there are markers around the whirlpool area. Makepeace-O'Neil: this is an ongoing issue; there is a sign about not throwing rocks. Per Torres, Town Council Donna MacNicol suggested a "no swimming" sign in this area; some people do fish from the dam and, in the past, the Select Board has not banned swimming at the dam. Torres suggests the Select Board consider the swimming question and whether to change their policy. Stein: there would be a backlash from the dam swimmers if swimming is prohibited in this area. Makepeace-O'Neil will reach out to Howard Kinder to learn about his observations and requests this topic be on the agenda for next meeting. It is noted that the current signs state "swim at your own risk". Liability questions are considered. Stein: some of the activity is overflow from the State beach which is being stressed out. Stein will check in with Chief Fernandes about his experience with activity in the area of the dam.
 - i. Torres acknowledges Anna Aaron's resignation from the Personnel Board and the need for a new member.
8. Broadband Debt w/Finance Committee & Municipal Lighting Board: Torres: per Town Counsel MacNicol, how the \$312,000 Drop Grant funds will be applied is a Select Board decision; the options are to apply to it to construction debt or return it to the general fund. Torres to Farrell's question: this year, the amount of debt required to be paid is \$105,000 Farrell: at some point, the MLP debt service will show up in the operating budget. Torres: there is the interest on the BAN (bond anticipation note) and the pay down on first loan. Farrell: the MLP is operating with a surplus so it could support more debt. Torres: the MLP can pay down debt once their FY20 unexpended funds are certified by DOR as retained earnings.
- At this point, the Select Board joins the combined Finance Committee/Municipal Light Plant Board meeting. Finance Committee members present: Jim Walton/Chair, Bob Groves, Jim Hemingway, George Arvanitis, Susie Mosher, and Melody Chartier.

Municipal Light Plant Board members present: Gayle Huntress/MLP Manager, Steve Schmidt and Jim Hemingway. Additional guests: Diane Jacoby, Jeff Lacy, and Mike Vinskey

Walton calls the FinCom to order; introductions are made.

Gayle Huntress/MLP Manager reviews the “Principal Payment Possible Sources – Shutesbury Broadband/MLP BAN due 8.21.20” spreadsheet via screenshare: the current principal balance is \$793,000; how to allocate the \$312,000 in “State Drop Contingency Grant” funds is a Select Board decision; there are some excess funds; Section A lists the sources for available funds that could be applied to the debt balance – a MLP debt budget of \$25,000, unexpended construction funds minus project manager and construction bills equaling \$205,129.52 plus the \$312,000 Drop grant totaling ~\$517,000 in current available funds. Huntress continues: next year, the final 5% of the construction grant of \$25,000 and \$123,363 in retained earnings will be available after certification by DOR; use of these funds requires an annual town meeting vote. Per Huntress, the MLP has been very conservative with their operating budget and the number of subscribers is beyond what was expected; next year, there will be \$248,863 to apply to the debt budget. Steve Schmidt: in order to use these funds to pay debt, they have to be budgeted as debt repayment. Huntress: the coming year is unknown especially in terms of the excess number; there could be enough to eradicate the remaining debt. Schmidt: by the time the MLP creates the FY22 budget, there will be enough information to know how much to put toward debt repayment. Groves: can the BAN be organized so that it is due after DOR certification? Ryan Mailloux/Treasurer: there is no ability to change the 8.21.20 due date for the current BAN. Mailloux to Groves’ question about term: a BAN must be for 12 months even; for long-term financing, there are other options. Arvanitis: in a year, we will have an idea what the excess will be. Mailloux emphasizes the need to have instructions about how the Town is proceeding by the end of July; in two weeks, the balance to be financed needs to be known and whether it will be for one year or long-term. Torres to Farrell’s question: retained earnings can be used to pay debt if an annual town meeting vote approves the use of the retained earnings for debt. Huntress: because the MLP is operating as an enterprise fund, it cannot give excess funds to the Town for non-MLP expenses; if the MLP converts to Chapter 164, there will be a mechanism for pass-throughs. Huntress reviews “Other Potential Uses for Grants and Unspent Funds”: what if the MLP did not apply the \$312,000 to the principal balance and returned it to the Town? Schmidt: the MLP projected repaying borrowed funds based on subscriber fees and planned on \$100,000 in debt payment/year for ten years; to give the Town \$312,000 and increase the debt payments to \$200,000/year would be more than budgeted. Torres to Groves’ suggestion: per Town Counsel, it is the Select Board’s decision on how to apply the funds; they can be returned to the Town or be applied to construction costs. It is noted that the MLP made a recommendation for how to apply the \$793,000 coming due and how to handle the \$250,000 in the future. Huntress: the MLP would prefer to be in less debt; it is appealing to think that the debt could be eradicated in two years. Schmidt notes that allocation of funds was not unanimous among the MLP/Broadband Committee; a number of members were interested in repaying the Town; converting to Chapter 164 in the future would allow use of revenue to pay back the Town. Farrell: it is her understanding that if the MLP could, they would pay these funds back; the \$274,000 was taken from capital stabilization; whether this was a loan or a grant was never discussed.

Groves: to make installation more democratic was voted by special town meeting and was never considered to be a loan; the MLP is the only department that is expected to return funds to the Town. Huntress: the objective is for the \$1.7 million borrowed for construction to not be included on the tax roll. Huntress to Farrell's question: returning funds to the Town was discussed, not promised; the question is whether the Town wants to be paid back and, if so, now or later; or does the MLP pay debt down now and pay the Town back later. Torres to Farrell's question: it is unclear if converting to Chapter 164 is a town meeting vote and/or a project with DOR; the key point is that converting to Chapter 164 would separate MLP finances from the general ledger to be managed separately and not by the Town Treasurer and Town Accountant. Mosher: the Town fully supported broadband and, when it was seen to be self-sustaining, it could pay back the Town; the Town supported the drops and the MLP figured a rate people are happy to pay; the MLP is self-sustaining and, because the \$312,000 was a grant to the Town, it should go back to capital stabilization; the MLP can carry debt a little longer. Torres to Walton's question: there is no other debt, however, there are two major projects coming up – replacing the school roof and the Locks Pond Road culvert. Mailloux confirms that currently there is only the broadband debt. Arvanitis notes that there are also OPEB payments and, appreciating Mosher's point, recommends not using the \$312,000 for debt service and returning it to the Town. Torres confirms Mailloux's suggestion that if the \$312,000 is moved to the general fund, it could be used to pay debt next year. Groves: if the money goes into the general fund, it will be difficult to get it out; for the Town to take money now, is an additional tax; the Town overwhelmingly supported the network therefore he supports using the funds to bring the rate down. Huntress to Stein's question: the bundle price refers to the MLP operating budget approved at annual town meeting which would reduce the price by a couple of dollars per subscriber. Schmidt: if the Town applied all the grant funds to debt now and, in the future, the MLP had a structure to pay back the remaining debt over 10 years, there would be a \$4/month reduction per subscriber. Mike Vinskey states that the funds for the MLP drops were not a loan to be repaid and notes that he is impressed with the MLP budget to pay off debt which leads to reducing the subscriber rate; this is all Shutesbury money therefore he supports instituting the MLP plan. Chartier: are there stewardship requirements for grant funds? Mailloux: they must be kept in a noninterest bearing account. Torres: the requirements for the grant have been met; the funds are to go toward construction debt or be returned to the Town. Hemingway: it is highly appropriate for the \$312,000 to reduce debt load. Torres: \$274,000 was transferred out of capital stabilization and the State grant is for \$312,000; the funds can go toward construction debt or returned to the town. Arvanitis, noting that the \$312,000 came in after the project was done, wonders if the \$274,000 would have been used if the Town knew the \$312,000 was coming; why not take back \$274,000 and use it to pay for the school roof? Luchonok supports Vinskey's suggestion and would like to have the subscriber rate decreased. Identifying the MLP/Broadband Committee, Luchonok notes that he cannot think of a better operating committee and supports their plan. Groves: we need to continue to address the debt and reduce subscription costs. Huntress, noting the stalemate, suggests a compromise to pay back the \$274,000; the most important decision is to rollover the BAN and ensure we pay back the debt early. Farrell supports Huntress' suggestion. Walton: to do so would delay a reduction in subscription rates. Mailloux to Mosher's question: the Select Board makes their decision

regarding the debt then it is decided whether to rollover the BAN or do long-term financing. Mailloux notes that he does not see any logic to long-term financing at 3.5% when the BAN is 1.75%. Huntress agrees and wants to have flexibility to pay down debt. Farrell suggests the Town retain \$200,000 and use \$112,000 to reduce MLP debt. Makepeace-O'Neil supports a split. Huntress: with \$450,870 in funds available, the debt could be paid off in three-four years. Mailloux: the interest cost would be ~ \$8,000; if the goal is to pay down the debt in in three to four years, it may be logical to do a BAN each year. Huntress: this makes sense and notes that it is not known what maintenance costs will be. Groves suggests \$156,000 each. Huntress notes that another advantage to a compromise is that conversion to Chapter 164 will not be necessary and suggests a decision be made that the MLP not funnel any other funds back to the Town. Makepeace-O'Neil supports the compromise. Huntress asks for comments from the fiscal conservatives and if they can live with the proposed plan. Vinsky states he is embarrassed that the MLP is turning into a cash cow for the Town which has a lot of cash to use for a roof or culvert. Hemingway would like the \$312,000 applied against debt; it is a very good idea to get out of debt as this is a competitive business. Groves, in addition to the position he stated earlier, agrees with Hemingway; we have an ethical reason to reduce debt therefore recommends the Select Board leave the \$312,000 with the MLP. Luchonok agrees with Hemingway and Groves: use the entire \$312,000 to pay down debt. Diane Jacoby: broadband is a huge success; it makes most sense to use the \$312,000 to pay down debt. Chartier: the MLP should retain most if not all of the grant. Mosher: the debt is for those who live in Town now and over time and who will contribute to paying down the debt. Arvanitis supports the compromise noting that it provides a benefit to those who do not subscribe to broadband. Groves: broadband increases the value of homes. Hemingway suggests voters would apply the \$312,000 to debt because doing so would increase the chances of reducing the subscription rate; getting out of debt in times of economic uncertainty is necessary. Groves moves the FinCom support the MLP's recommendation, as per the original spreadsheet, to apply \$312,000 to debt. Hemingway seconds the motion. Roll call vote: Arvanitis: nay, Groves: aye, Hemingway: aye, Chartier: aye, Mosher: nay, and Walton: nay. Stein appreciates the spirit of a 50/50 compromise allowing debt reduction and the return of funds to the Town. Walton thanks Huntress and Schmidt for their clear presentation. Makepeace-O'Neil asks for a motion from the Select Board. Farrell moves the Select Board apply \$156,000 to reduce the MLP debt and return \$156,000 to free cash. Stein seconds the motion. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries. Mailloux appreciates the compromise. Huntress: per Mailloux's recommendation, the BAN will be rolled over for one year.

Administrative Actions:

1. Select Board members will sign vendor warrants totaling \$715,429.67.
2. Select Board members will sign payroll warrants totaling \$96,194.10.
3. Stein moves and Farrell seconds a motion to approve the 7.7.20 meeting minutes. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.

At 8:45pm, Farrell moves and Stein seconds a motion to adjourn the meeting. Roll call vote: Farrell: aye, Stein: aye and Makepeace-O'Neil: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. 7.20.20 email from Michael DeChiara "Requesting that Shutesbury police wear masks"
2. "Principal Payment Possible Sources – Shutesbury Broadband/MLP BAN due 8.21.20"
by Steve Schmidt

Respectfully submitted,
Linda Avis Scott
Administrative Secretary