

Shutesbury Select Board Meeting Minutes
December 22, 2020 Virtual Meeting Platform

Select Board members present: Melissa Makepeace-O'Neil/Chair, April Stein, and Rita Farrell
Staff present: Becky Torres/Town Administrator; Linda Avis Scott/Administrative Secretary
Guests: Kevin Rudden/Administrative Assessor; Michael DeChiara/Planning Board

Makepeace-O'Neil calls the meeting to order at 5:30pm.

Agenda Review: No changes are indicated.

Public Comment: None offered.

Discussion Topics:

1. Personnel Action Forms & ConCom Resignation: Stein moves and Farrell seconds a motion for the Select Board to approve and sign the Personnel Action Forms for the new firefighters recommended by Fire Chief Walter Tibbetts. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.
Farrell moves and Stein seconds a motion to regretfully accept Penny Jaques' resignation from the Conservation Commission effective 12.31.20. The Select Board and Torres recognize the extraordinary achievements Jaques accomplished during her many years of service on the Commission. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries.
2. Broadband Last Mile Project Closeout: Torres, referring to "Exhibit D Shutesbury Project Closeout Certification", notes that the certification is the official closeout, of \$25,500, from the State award. Makepeace-O'Neil reads the 12.11.20 email from Gayle Huntress/Municipal Light Plant Manager "Final Last Mile Broadband Grant Amount" into the record. Stein moves and Farrell seconds a motion for the Select Board to approve and sign the "Exhibit D Shutesbury Project Closeout Certification" for broadband. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O'Neil: aye; the motion carries. Torres notes that the first Broadband Committee was appointed by the Select Board in 1998.
3. Review Meeting with Evan Turner & Amp Energy: It is noted that Farrell attended in Makepeace-O'Neil's absence for the first hour of the 12.16.20 virtual meeting then Stein attended the remainder of the meeting. Per Torres, the other meeting participants included Evan Turner/Aires Power Systems consultant for Amp Energy, Lee Morrison and Brendan Mooney/Amp Energy, Attorney Thomas Reidy representing W. D. Cowls, Inc., and Cinda Jones and Shane Bajnoci/W. D. Cowls, Inc. Torres: the purpose of the meeting was to talk about potential solar projects on Cowls' properties; Jones has been working on developing income potential for the conservation restriction zones Cowls has been putting in place and has been looking at solar farms as a potential income source for more than a decade. Torres continues: currently, there are five sites under consideration each of which have an ANRAD (Abbreviated Notice for Resource Area Delineation) submission active with the Conservation Commission with one ORAD (Order of Resource Area Delineation) issuance; to date, no applications have been received by the Planning Board. Per Torres, the visitors wanted to talk about their hopes for solar farm projects, i.e., the

benefit that using 130 acres for solar installations could preserve 2,000 acres for recreation. It is noted that the potential locations include a parcel off Leverett Road, the Wheelock parcel, a parcel near January Hills, another near Poverty Mountain, and one off of Montague/Carver Roads; at this point, the parcel off Baker Road is not being considered due to its proximity to abutters. Torres advised the 12.16.20 visitors that the Select Board does not have any authority over the Planning Board and that Amp Energy will be responsible for the required ten-twelve million dollar upgrade to the National Grid substation. Farrell: the development plan is ambitious, however the (special permit) applications are dependent upon the granting of significant waivers from the Planning Board. Stein: the feedback received from the Attorney General's office (regarding the revisions to Section 8.10 Ground-Mounted Solar Electric Installations) needs a more careful review, i.e., what the legal risks and challenges might be. Farrell notes that the applications are not yet before the Planning Board and a decision on the upgrade needs to be made by a March 2021 due date. Torres, referring to the "Solar Proposal for the Town of Shutesbury", notes that the applicants are requesting a non-binding agreement stating that the Town is committed to the project(s) and that without this clause they would not commit to National Grid for the substation upgrade. Makepeace-O'Neil: all five of the potential solar projects could not be done without the upgrade. Torres: the upgrade is critical as the applicant's financial gain is dependent on the State programs in place at the time of application; the "Solar Proposal..." includes a potential scope of work for the Town including security, maintenance, and snow removal. Per Kevin Rudden/Administrative Assessor, there will be a PILOT (payment in lieu of taxes) for each project, the value of land under the panels is assessed as industrial property, and there will be net revenue for maintenance resulting in the benefit of a lower tax rate. Next steps are for the applicants to answer the questions outlined by Farrell, to provide the map and lot numbers for the relevant parcels, for Attorney Reidy to provide a list of the bylaw waivers to be requested, and for Jones to provide a map of Cowsls' conservation restrictions. Rudden: the applicants also need to provide the approximate acreage and megawatts for each site; their goal is to site as far from neighbors as possible; one of the sites will require a wetland crossing. The plan is to hold a meeting in January 2021. Torres to Farrell's observation: Deacon Bonnar/Planning Board Chair was unable to attend the 12.16.20 meeting and there was not enough notice to ask another member to attend. Stein: it seems premature to consider a non-binding letter. Rudden notes the need for specific information on the sites and the locations of the solar farms before the Select Board considers a non-binding letter. Farrell is concerned about the Select Board getting ahead of the Planning Board. Torres: the Select Board has no authority over the Planning Board special permit process, however does have authority over PILOTs. Because residents will be interested in the potential solar farms, Rudden recommends creating a fact sheet to inform people about the process and serve as a central place for information about what is being talked about. Torres, Stein, and Farrell agree with the suggestion for a general information sheet. Michael DeChiara supports Rudden's idea though suggests that to reduce confusion, the type of meeting held on 12.16.20 be avoided. Torres disagrees with DeChiara's observation and notes that Bonnar was unable to attend on 12.16.20; Town officials are being confronted with a proposal that is confusing; the 12.16.20 meeting has been reviewed in detail during this meeting and the minutes for this meeting will include a summary of the 12.16.20 meeting. Rudden volunteers to draft a

fact-based summary for review by the Town Administrator and Select Board. Rudden notes that the operators of the proposed cell tower will soon own the property on which the tower will be sited and that the potential upgrade to the substation on Pratt Corner Road would also be a potential source of personal property tax revenue.

4. Planning Board Associate Members: DeChiara: the Planning Board would like to move forward on having two associate members, which according to Chapter 40A Section 9, requires a town meeting vote to decide on the process for filling associate positions; most towns fill the positions by appointment either by the Planning Board or both the Planning Board and Select Board; currently the Planning Board is of two opinions, one that the Planning Board make the appointments and the other that they be done jointly with the Select Board therefore the members decided to ask whether the Select Board has a strong opinion on the matter because, unless otherwise statutorily required, the Select Board makes all appointments. DeChiara to Farrell's question: because multiple special permit applications are anticipated, there will be recusals from participation in the public hearing process, i.e. DeChiara as an abutter to projects located off Pratt Corner Road, Bonnar for a project off Leverett/Montague Road and Nathan Murphy, because of his employer's relation to electric utilities, has to be recused from all of the solar project applications; a member can miss one public hearing therefore, with two recusals, those that are not recused have to have perfect attendance. DeChiara continues: the associates "sit on the bench" and the chair decides when an associate is needed to make quorum; the Planning Board will need to consider the charge for an associate member; per statute, they can participate in the process for special permits and site plan review cases and act in the case the need for quorum. Torres notes that Town Counsel Donna MacNicol and another attorney challenged how the Zoning Board of Appeals Chair uses the role of the alternate therefore MacNicol's guidance will be needed for how to properly and legally use associate members. DeChiara: Chapter 40A Section 9 applies when a planning board has been designated as the special permit granting authority. DeChiara, noting that he has been charged by the Planning Board to develop the proposed bylaw, the question is whether the Select Board wants to participate in the appointment process and how. Makepeace-O'Neil observes that the Planning Board is an elected Board and may want to do the appointments. DeChiara: because the Planning Board is elected, input on the associate positions is needed. Farrell and Stein support a joint process. Torres recommends the associate positions be elected to avoid appointing an individual who may favor a position. DeChiara notes the time constraints of an election and the need for timeliness due to the anticipated projects. Stein suggests initial appointments then providing for election in the future; joint appointments provide more of a safeguard. DeChiara notes the need for a defined process for filling the openings. Farrell and Makepeace-O'Neil propose an open process. DeChiara concludes that the Select Board supports the joint appointment of associate Planning Board members and an open process for the filling the positions.

5. Town Administrator Updates:
 - a. Thank You Letter: The letter “Thank you to the Boards and Committee, Department Heads and Town Employees and Volunteers” composed by Stein and Torres is reviewed via screenshare and edited. Torres will distribute the letter via Town Announce.
 - b. All Boards Meeting: The announcement is reviewed; Torres will send to all relevant parties by email.
 - c. Lake Wyola Advisory Committee Proposal: Per Torres, Stein and herself had a long discussion about the response letter to Mark Rivers/Lake Wyola Advisory Committee (LWAC). Torres appreciates Stein’s concern about the health of the lake however, these are private roads and the Town has no legal standing to work on these roads as proposed by the LWAC. The plan is for Torres to request Town Counsel MacNicol to review the proposal, consider statute and provide guidance for the 1.5.21 meeting. Torres continues: it is more appropriate for the Lake Wyola Association to form such a committee; the runoff problems need to be handled by the owners on the roads. Stein affirms that the lake residents need to be responsible for the care of their roads. Torres: this issue will come up again with the Municipal Vulnerability Preparedness proposal for a public-private partnership.

Administrative Actions:

1. Select Board members will sign vendor warrants totaling \$116,690.44.
2. Select Board members will sign payroll warrants totaling \$107,338.06.
3. Farrell Moves and Stein seconds motion to approve the 12.8.20 meeting minutes. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O’Neil: aye; the 12.8.20 minutes are approved as presented.

At 7:04pm, Farrell moves and Stein seconds a motion to adjourn the open session and enter executive session for reason #3, Pill/Watkins/Cowls land swap, to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. Roll call vote: Farrell: aye, Stein: aye, and Makepeace-O’Neil: aye; the motion carries.

Documents and Other Items Used at the Meeting:

1. 12.9.20 Letter of Resignation from Penny Jaques
2. 12.11.20 Huntress email “Final Last Mile Broadband Grant Amount”
3. “Exhibit D Shutesbury Project Closeout Certification”
4. “Solar Proposal for the Town of Shutesbury” & “Public Entity Solar Operations Structure and Cash Flows” by Amp Energy
5. “Thank you to the Boards and Committee, Department Heads and Town Employees and Volunteers” letter and “All Boards Zoom Meeting” announcement

Respectfully submitted,
Linda Avis Scott
Administrative Secretary