

Shutesbury Select Board Meeting Minutes  
August 16, 2022 Virtual Meeting Format

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  
Other Staff/Volunteers present: Jeff Lacy/ZBA, Gail Fleischaker/Web Committee, Michael DeChiara/Planning Board, Janice Stone/Historical Commission, and Leonard Czerwonka/Fire Chief

Guests: Michael Pill, Mary David, & John Aierstuck/ZBA Candidates, Mary Lou Conca, Sharon Weizenbaum, Elizabeth Fernandez-O'Brien, Bert Fernandez, Sanford Lewis, Eric Bachrach, Robert Price, Katherine Powers, Sharon Raymond, Joan Hanson, Michael Vinskey, Tom Siefert, Francis McGinn, Jon Lawless, Penny Kim, Diane Jacoby, Leslie Luchonok, and Amanda Alix

Farrell calls the meeting to order at 5:31pm.

Agenda Review: Farrell reviews the posted agenda. Per Torres, Leonard Czerwonka/Fire Chief will join the executive session for contract negotiations. The Council on Aging and Historical Commission requests for appointments will be considered during the 8.30.22 meeting.

Public Comment:

Elizabeth Fernandez-O'Brien requests the Franklin Regional Transit Authority (FRTA) be added to a future agenda and asks about possible appointees to the Zoning Board of Appeals. Farrell asks Fernandez-O'Brien to provide specifics regarding the FRTA request and confirms ZBA appointees will be considered at 5:42pm and that the Select Board will determine if public comment will be allowed on this topic.

**Discussion Topics:**

1. Town Administrator Updates:
  - a. Verizon Service Disruption: Since 8.11.22, phone and internet lines were out of service for those households not on ShutesburyNet including several homes with individuals using life sustaining equipment. It was finally determined that the air conditioning unit in the Verizon hut, located at the school, was not working and circuits were damaged; the equipment has been repaired and service restored. Police Chief Burgess secured the Verizon trucks to solve the problem. Torres will draft a letter to Verizon emphasizing the need for equipment and service maintenance to be considered by the Select Board during the 8.30.22 meeting.
2. Zoning Board of Appeals (ZBA) Appointments: Farrell: the purpose of this agenda item is to meet the three candidates who have expressed interest in serving on the ZBA; Jeff Lacy, currently the only ZBA member, is present; the three people submitting letters of interest: Michael Pill, Mary David and John Aierstuck are present and will be invited to state their interest in serving. Aierstuck: now in retirement and looking for a way to serve the Town, he learned about the shortage on the ZBA; he is ready and willing to serve; he really loves living in Shutesbury; it is a wonderful town and functions well due to a good set of zoning laws and thoughtful hearings about zoning matters; he is willing to accept a steep learning curve. David: four generations of her family have spent time at Lake Wyola; currently retired and living in Shutesbury, she is looking for ways to volunteer and wants to learn the zoning rules and regulations; because she lives on the lake, she

will offer a different perspective. Pill notes that as a lawyer, he has sued the Town and has had a number of land use conflicts in the town; he can be an impartial decision maker and, if needed, will recuse himself; if there is a case involving WD Cowls, he will recuse himself; land use regulation is what he does professionally and is writing a book on land use law; cites resources available to other applicants for education including Town Counsel; his expertise does not make him any more qualified as most zoning board members are lay people. Farrell: currently, the ZBA is a three member board with two alternates. Lacy confirms that two full members and two alternates are needed; two members are needed to have a meeting and to act on site plan review cases; all other cases require three members. Stocker to Pill: noting that most ZBAs are lay members, he is concerned about the ties Pill has. Pill notes that many Shutesbury residents have a boundary that abuts Cowls' property; if Cowls has comments, an interest or position on a case, he would need to recuse himself; serving on the ZBA is more appropriate for him than the Planning Board; he wants to give something back; if he did not think it was possible, he would not have applied; Cowls involvement in ZBA matters has been sparse. Lacy: generally, given the way zoning is structured, the ZBA handles small matters related to single properties and the Planning Board handles larger projects involving a lot of land; this is an intentional division and would keep Cowls out of ZBA's role; if Evan Jones/Cowls and owner of a Shutesbury home had a project before the ZBA, Pill would need to recuse himself. Makepeace-O'Neil asks each candidate to cite an example of a decision they made for a larger good that was against what they personally believe. Pill: the State constitution obligates judges to be impartial and case law applies the same obligation to quasi decision makers like zoning boards; as a lawyer, he has experience in making decisions against personal beliefs; ZBA decisions need to be based on the law. David cites her career in nursing and the need to follow regulations, negotiate and divide limited resources and serve the community. Aierstuck: doing something for the greater good is of high value for him therefore he has no example, however, if something occurs that is the opposite of his opinion, he would recuse himself. Michael DeChiara/Planning Board appreciates Lacy's situation; Pill still represents the largest land owner in town and has had to take adversarial positions; we want people on boards who do not have to recuse themselves; earlier this year, the Select Board turned down two alternate Planning Board member candidates, Rob Kibler and Ken Holt, because they may have had an agenda; the situation with Pill is even more clear cut.

- Makepeace-O'Neil moves and Stocker seconds a motion to appoint Mary David to the Zoning Board of Appeals. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
- Stocker moves and Makepeace-O'Neil seconds a motion to appoint John Aierstuck to the Zoning Board of Appeals. Roll call vote: Farrell: no, Makepeace-O'Neil: aye, and Stocker: aye; the motion carries.

Stocker suggests waiting for more interest in the alternate ZBA positions before appointments are made.

Farrell announces the intent of the Select Board to enter executive session for reason #2, to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel, in this case the candidate for Fire Chief, Leonard Czerwonka.

- At 6:05pm, Makepeace-O'Neil moves and Stocker seconds a motion to enter executive session and return to open session. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

The Zoom waiting room is enabled and recording is stopped.

Open session and recording resumes at 6:39pm.

3. Fire Chief Contract: Farrell introduces Leonard (Lenny) Czerwonka who was unanimously appointed Shutesbury's new Fire Chief; the contract, through 6.30.25, has been negotiated; Czerwonka has been Acting Fire Chief and will become the full-time permanent Fire Chief as of the contract signing and will start working full time 8.29.22; he is currently working a partial schedule until his current employment is finished. Czerwonka is congratulated on his appointment.
  - Makepeace-O'Neil and Stocker seconds a motion to approve the contract between the Town of Shutesbury and Fire Chief Leonard Czerwonka through 6.30.25. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
4. Amended Contract with Casella: Torres: there was a formula error in the fuel adjustment calculation transfer from the short-term to the long-term contract; Casella is asking for the same formula in the long-term five year contract; if the fuel cost goes above \$4/gallon, the town will pay the difference for delivery; this was agreed upon by the Recycling & Solid Waste Committee (RSWC); overall, the town has saved money on this part of the contract; the correction will be retroactive to 7.1.22.
  - Makepeace-O'Neil moves and Stocker seconds a motion to approve the fuel adjustment correction to the Casella contract. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
5. ARPA Funding Requests/Planning: The ARPA funding request spreadsheet is screenshared and edited; the Energy & Climate Action Committee will have quotes for the 8.30.22 meeting.
6. Building Committee Appointments: Farrell explains that this item will be passed over; there are currently three applicants and two letters of interest are pending; a full complement of applications is expected for the 8.30.22 meeting when the Select Board plans to appoint the Committee. Stocker and Makepeace-O'Neil agree with this plan. Farrell to Frank McGinn's inquiry about the applicants' names: thus far, Jeff Quackenbush, Steve Sullivan and McGinn have expressed interest.
7. Conservation Commission Enforcement Order: Farrell: on 8.18.22, the Conservation Commission issued an Enforcement Order (EO) to the Select Board regarding work done on Lot O32. Farrell has concerns with the EO and how it proceeded; there were only a few hours' notice that the Commission was going to issue the Order therefore only Makepeace-O'Neil was able to attend the Commission meeting; Torres was also unable to attend; the Commission was asked to hold off on moving forward on the EO without Select Board input. Farrell: the Select Board is requesting to be on the Commission's 9.8.22 agenda and will be responding to the Order's content and proceedings. Per

Makepeace-O'Neil, who attended to observe and made no comments: the Commission was adamant about issuing the Order. Stocker: the issuance seemed sudden, there was no opportunity to talk; ultimately, we want the same thing; no one wants to build a library on land without clean water or that has disturbed wetlands; we need to move forward to rectify the situation.

8. Select Board Response Letter to Amanda Alix Petition: Per Torres, the purpose of this agenda item is to acknowledge that the Select Board sent a response letter to Amanda Alix, the lead person for seventeen petitioners.
9. Town Administrator Updates:
  - a. School: The Mass School Building Authority (MSBA) will visit the elementary school on 8.18.22 to look at the heating system and see the condition of the roof; our Legislators are trying to persuade the MSBA to fund the roof repair; in the interim, work on the design bid is moving forward. The HVAC work is coming to completion; the necessary parts have been ordered and Jamrog will do the work; school staff are looking forward to air circulation improvements.
  - b. Municipal Vulnerability Preparedness: The purpose of the audit of the first grant application, to be conducted in early September, is to learn how to refine the application for the 2023 grant round.
  - c. Library Building Committee: The plan is to appoint the Committee 8.30.22.
  - d. Locks Pond Culvert: Because of the delay in electric pole removal, the project has been sidelined for another year; the contractor is available in mid-November however, school bus use of the detour in the winter is deemed high hazard.
  - e. Textile Drop Off Box: Delivery of the box was a big event; the RSWC has sent out instructions for its use.

#### Administrative Actions:

1. Makepeace-O'Neil moves and Stocker seconds a motion to approve the 8.2.22 meeting minutes. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye and Farrell: aye; the 8.2.22 minutes are approved as presented.
2. Select Board members will sign vendor warrants #23-4 totaling \$149,622.38.
3. Select Board members will sign payroll warrants #23-4 totaling \$87,598.60.

At 7:12pm, Makepeace-O'Neil moves and Stocker seconds a motion to adjourn the meeting. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

#### Documents and Other Items Used at the Meeting:

1. Zoning Board on Appeals letters of interest
2. Contract between the Town of Shutesbury and Fire Chief Leonard Czerwonka
3. Amended Casella contract
4. ARPA funding request spreadsheet
5. 8.10.22 Select Board letter to Amanda Alix

Respectfully submitted,  
Linda Avis Scott  
Administrative Secretary