

Shutesbury Selectboard Meeting Minutes  
November 22, 2022 Virtual Meeting Format

Selectboard members present: Rita Farrell/Chair, Melissa Makepeace-O’Neil, and Eric Stocker

Staff present: Becky Torres/Town Administrator; Geneva Bickford/Administrative Secretary

Volunteers & Other Staff present: Mary Anne Antonellis, Miriam Defant, Matteo Pangallo, Police Chief, Kristin Burgess

Guests: Colin Davis, Jill Marland, Diane Jacoby, Leslie Luchonok, Joseph’s Ipad, Katie Eagan, Frank McGinn, Robert Kibler, Tom Siefert, Shannon’s Dad, Allen, April Stein, Katherine A. Powers, Hilda Greenbaum, Joan Hanson, Mary Lou Conca, Ziporah, Rebecca Fil, Leslie Bracebridge, Penelope Kim, iphone, Amanda Alix, Jeff Lacy, Stephen Dallmus, Maryl Mandell, Paul Lyons, Kate Cell, John Lawless, Penny Jacques, Jamie, Michele Regan-Ladd, Arleen Read, Scott, Elaine Puleo, Dale Houle, Clifton’s Ipad, Steve Bressler, Michael Vinsky, Mark Protti, Michele Sedor, Al Warner, Jim Hemingway, Karen’s phone, Mark Olszewski

Farrell calls the meeting to order at 5:30 pm.

Agenda Review: As posted. An unanticipated item for this evening’s agenda is to discuss a letter received on Friday from The Department of Environmental Protection regarding the Fire Station and PFAS testing.

Public Comment: Farrell has prepared a quick tutorial on the tax rate and property value, if there are a lot of questions during public comment this will be reviewed after public comment. Farrell expects we may speak to the work site restriction and allow public comment for about 10 minutes. Miriam Defant, ConCom, went to South Brook Conservation area with Fire Chief, Lenny Czerwonka. There are concerns with other bridges as well but this bridge in particular is beginning to collapse and the supports are beginning to crack. It would be challenging to remove the bridge in the winter as the riders will not be aware of its removal. The Fire Chief suggested adding reinforcement to get through the winter and possibly putting up signage. Leslie Luchonok believes there should have been advance public notice in regards to the worksite area restriction and is hoping for more transparency. Mary Lou Conca, following Leslie’s comments, always thought Shutesbury was run by the people and is curious as to why this vote would need to go to Town Meeting.

Review of Minutes: NONE

**Discussion Topics:**

1. Meet with Clark Auto Wrecking to review permit: Sarah Clark is here for the yearly renewal for their Class III Auto Dealers License. Clarks Auto Wrecking is located on Pratt Corner Road and they sell new and used auto parts, they crush junk vehicles. They pay to have their tires removed and they have someone who takes their used batteries and someone who takes their used oil for their heating system. Sarah indicates there are no changes, it is cold and quiet right now.

MOTION to approve permit for Clark Auto Wrecking.

- Makepeace-O’Neil moves and Stocker seconds Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.
2. Lot O-32 Update: Mary Anne Antonellis, Library Director, has been working on environmental testing on Lot O32. On Friday, November 11, 2022 Fuss & O’Neill was on site and collected soil samples from seven 20 foot soil borings back around in a perimeter where bore 9 was. A monitoring well was installed and they tested the soil borings on the site for vapors and depending on the vapor

reading they got that determined where the next boring would be done. These samples were sent off to for testing. Samples were also taken from the soil that came from where they put in monitoring well and will be collecting a water sample from that and testing that sample as well. Fuss & O'Neill was back on site on November 18. There was representation from the Department of Environmental Protection (DEP), Joseph Cerutti and the underground injection control program coordinator. They supervised the testing of the former garage. Antonellis arrived to Lot O32 at 7:30 am he was there measuring and had flags set up. The Highway Dept. came right over and installed the straw waddles around the site. They first dug outside of the perimeter of where the garage had been to see if they could find the floor drain. The pipe that extended from the drain was found immediately. They then tried to find the terminis of the drain by digging another pit further east. They found the start of the drain underneath the building and took soil samples. The PID device did not register any fumes of the OC's on site but that was sent off for testing as well. All test results should be back in a couple of weeks. We've been working on the ANRAD. Fuss & O'Neill did a wetland delineation, it was reviewed by Stockman & Associates and Fuss & O'Neill returned to Lot O32 and did some further subsurface investigation. They provided a response to Stockman's peer review. The next step is Emily Stockman and Fuss & O'Neill will meet on Lot O32 to review the new wetland data that was collected. Fuss & O'Neill's response with the new mapping will be posted on the library environmental page by the end of the weekend. There was one other concern raised on Lot O32. While working on getting a proposal from Fuss & O'Neill to do some investigation where ConCom expressed concerns about debris piles, ConCom was concerned Mary Anne didn't know where all the piles were located. Mary Anne did ask to meet them at the site however they declined to do that. Fuss & O'Neill is waiting for more information from us before they provide a proposal for doing further investigation on those debris pile. A soil boring has been done at one of the areas of concern and tested for PCB's and VOC's as well as other things and it was negative for all. Farrell asks for clarification on the holes dug around the floor drain. Mary Anne stated that testing had been done there before last summer. There are many things they are testing for such as oil, gasoline, PCB's and heavy metals. We have not tested for heavy metals before. Fuss & O'Neill also took samples and will be testing for PFAS which is not required by the DEP. We know there are concerns in Shutesbury so we are testing for that. Two soil borings were done underneath where the building was last summer and both of those tests were negative. Most of the testing done last summer wasn't required by the DEP. Testing underneath the debris piles that Becky coordinated having removed was required but the other testing was something done voluntarily. Testing was done in 2012 and was negative. Those negative findings were confirmed a third time. We are now doing testing again. Stocker asks who is responsible if anything is found? Mary Anne responds we will be addressing the issues as well as reporting the findings to the Army Core of Engineers. We will be asking them to reimburse the town however we want to move ahead quickly. There is a possibility the town will be reimbursed once the work is complete. Miriam responds to Mary Anne's comments saying that ConCom has not declined to go out and look at the property, what was said was that ConCom needed to discuss it as a commission and make a decision as a commission. ConCom is planning to setup a meeting with the SB to discuss permitting plans in December and are hoping the SB will propose some dates. This will be a good time to have a conversation about what role ConCom wants to have in pointing out areas of debris. Ziporah Hildebrandt states for most of the public a lot of this is technical and opaque and is concerned with the safety of the drinking water for the library. How does this testing relate to that? Shutesbury wells are very deep. Is this surface level testing reflecting what is going on deeper? Marianne Ann can't answer completely but one thing that was done at Lot O32 was to install a monitoring well there. A number of years ago the town installed monitoring wells around town to measure the water table and we did test the ground water at that monitoring well for PFAS and hazardous chemicals. It was not contaminated however it was not potable water as the well hadn't been used as a drinking well. If it were going to be used as a drinking well the well would have to be conditioned. The parsonage is a few hundred feet up the road from Lot O32 they just put a new well in. It is 700 feet deep and they did get potable water. One of the neighbors of Lot O32 does have PFAS in their water but another neighbor does not. We are only finding VOCs at bore 9 which is quite a distance from where the library will be. When bore 9 was tested last summer we also tested that monitoring well and we did a soil boring pretty close to that monitoring well, those were about

half way from bore 9 to the front of the lot. No hazardous chemicals were found. It does not appear that gasoline and other chemicals spilled during the time the radio tower was there are traveling to the front of the lot. None of the other testing has shown any other hazardous chemicals. Our Licensed Site Professionals (LSPs) who are charged by the DEP to evaluate the health of the lot are confident we will be able to safely put a library there. Robert Kibler asks if the town has had previous discussions with the US Army Core of Engineers regarding their financial liability? Torres has spoken with the US Army Core of Engineers. Torres was informed the Army Core of Engineers get funded through different pots of money through the federal government in a 2 year cycle. They could initiate some work when they take responsibility but it would not be done quickly as they have long lead times on accomplishing these things. They have been waiting to get the test results which were unfortunately delayed for most of the summer but those are forthcoming and then the discussions will get serious. Robert Kibler questions the use of the word “when” when they take responsibility. Torres explains they were trying to argue the methodology of the test results saying they were in compliance when they originally removed the tank, however, they did not follow the DEP’s guidance when they removed the tank and the DEP does not consider the work done as sufficient. If there are positive test results it will have to get cleaned up and they will be held responsible. Farrell states it will be a lengthy process if we are pursuing the Army Core of Engineers but they have been alerted to the additional testing and they should expect to be hearing from us soon. Jill Marland’s understanding is that the Army Core of Engineers has said it is not their responsibility. We own the land and should have done our due diligence before purchasing. Torres states, that is not correct, they have never said it is our responsibility. They are very clear that while they did not own the property and have never owned the property, they leased the property from the owner back at that time, they have not said they are not responsible. Mike Vinsky is uncomfortable with Mary Anne and Miriam identifying all the debris piles especially with some piles above ground and some below ground and wonders how all piles will be found. Farrell thinks that is a legitimate question that should be directed to ConCom. Mary Anne responds, The DEP would have us consult with an LSP, give them a scope of what to look at and then they would make a proposal for investigating the debris piles. We had an LSP do some of that last summer and Mary Anne was working on getting a proposal from Fuss & O’Neill to do that again outside of the scope of services they are already contracted for but we are in need further guidance from ConCom. It will be an LSP who will recommend the appropriate exploration given the conditions on site. DeFant responds that ConCom has not decided with the SB what the nature of the permit applications are going to look like. The town may want two separate Notices of Intent, one for the cleanup and one for the library. Farrell indicates she does not want to go into that right now as it is complex.

3. Conservation Commission Request for Legal Funds: The ConCom met and discussed the need to have legal support regarding Lot O32. ConCom has decided they need legal advice and possibly have someone present at our hearings to answer any legal questions we may have. Donna McNichol, Shutesbury’s Town Counsel, has advised ConCom she is not able to provide legal support as she’s representing the Town in the role of being an applicant and ConCom is in the role of being the permitting authority. Donna McNichol recommended ConCom find outside counsel. ConCom is requesting \$2,500 to hire Elizabeth Goodman for consultation in regards to Lot O32. Farrell indicates in speaking with Donna McNichol, Donna indicated she did not advise ConCom to get outside counsel but rather she knew Counsel DeFant was interested in. Farrell also indicates if ConCom hires outside counsel then the SB would need to hire outside counsel. Donna will not be able to represent the SB in regards to Lot O32. Stocker is concerned that Lot O32 has become way more complicated than it has to be. We have LSPs and wetland experts that we are paying. This is a job for scientists not lawyers. There is a potential for skyrocketing legal costs if both sides have outside counsel. Stocker is also concerned this could end up in Court and it sets an adversarial tone. ConCom has no intention or desire to have anything end up in court. ConCom wants to make sure the laws are being followed properly. This is a complex situation and there is a lot of scrutiny on the commission right now and ConCom wants to be very careful and thoughtful about what they are doing. ConCom has been advised that when a town is the applicant and the ConCom is not able to access town counsel usually the it is the Town that pays for the legal expenses of the ConCom. Elizabeth Goodman charges an

hourly rate and believes she could provide the service needed for about \$2,500 maximum. This would include her coming to some meetings and maybe reviewing some documents. If things get complicated and it's not just a matter of her coming to meetings to advise us, then we may need to revisit. ConCom is hoping to have Elizabeth Goodman at their next meeting scheduled for December 8. Stocker wasn't implying we would definitely end up in court and is concerned we are already about \$15,000 in legal costs already and that will increase. Farrell indicates the SB is well into their budgeted legal line item that the SB controls through town meeting and there are other things happening including having to hire our own outside counsel. Farrell asks how much ConCom has in funds available? Miriam responds understanding that permitting decisions are based on scientific evidence but they are also based on the application of the regulations and the understanding of the regulations and the legal ramifications of those applications and it's complex. The commission had a discussion in executive session recently. In that discussion we came to a determination that we feel we are at some risk of legal exposure. The commission does not want to be adversarial and in our decision making, we feel we need a lawyer's advice that goes above and beyond what our third party consultant can share. We are asking for legal representation out of an abundance of caution. ConCom has two sets of funds. There is a small amount of funds in a fee fund that is for the bylaw, and ConCom has a somewhat larger pot of money that is fees collected for the Wetland Protection Act Notices of Intent Fees. The funds in the bylaw fee account have already been allocated for consultants to potentially review our bylaw regulations. You may recall ConCom had come to the SB several months ago to ask for funding in order to hire a consultant to help us with revising our regulations and we want to leave that Wetland Bylaw Fund available in case we need additional money. DeFant has not discussed with the commission whether they are willing to use the funds that are in the Wetland Protection Act Notice of Intent Fee Fund. DeFant would have to take it back to the commission. We are not prepared to do that and wouldn't be able to make a decision until our next meeting. We were hoping to have Elizabeth Goodman is present at our next meeting. If we don't have counsel it puts us in a very difficult position. DeFant is asking the SB for some flexibility around this. Makepeace-O'Neil asks if there are any other resources that conservation commissions have throughout the state that could help? Miriam is not aware of any funds. Makepeace-O'Neil responds, she wasn't talking about funds but more of a person or resource that's maybe not paying a lawyer that could help with some of that. Miriam reached out to the board of directors of the Massachusetts Association of Conservation Commissioners and their advice was that the commission should get their own counsel. Stocker asks what the hearing is for on December 8<sup>th</sup>. Miriam states it is a hearing to review the wetland delineations for the ANRAD for Lot O32. Makepeace-O'Neil asks how have you done that before at other properties and other situations without a legal presence? Miriam responds, Donna McNichol has been present sometimes because the board felt legal advice was needed and sometimes ConCom has consulted with Donna and not had her attend. Farrell asks if there is a Motion to be made with regard to the request of \$2,500. Makepeace-O'Neil states we will have to vote up or down. Farrell states could pass over if we wanted to send it back to ConCom to look at their own funding or resources.

MOTION to authorize the ConCom to hire outside counsel within their own funding resources.

- Makepeace-O'Neil moves and Stocker seconds Roll call vote: Makepeace-O'Neil: aye, Stocker: nay, and Farrell: aye; the motion carries. \*With the caveat that ConCom use its own funds. The other option is for the ConCom to request funds from FinCom.
4. LOT O-32 Work Site Area Restriction: This is the first time we are discussing this and no decisions have been made. This is on the agenda tonight as a proposal. The SB doesn't conduct business outside of SB meetings. If everybody is comfortable moving forward we will, if not it will be taken up at a later meeting. Concerns have been raised about Lot O32. It has been an active worksite as detailed in Mary Anne's report. There has been testing going on and many people have been on Lot O32 from doing wetlands delineations to doing testing, soil borings, all kinds of flags, and backhoes were used to do test kits. We have gotten word back from our consultants, town staff as well as others from the outside about the amount of work that's going on it could become a safety issue. Last Friday, one

individual was on site as the HWY Dept, DEP, our consultants and our librarian were digging test holes. The SB needs to think how to protect both the people doing the testing as well as the public who want to observe and Farrell knows that Kristin has looked into what we can do. Nobody is saying people can't come onto Lot O32. There have been many emails about prohibiting the public from stepping on public land. That is not what we are talking about. What we are talking about is not having interference when work is going on at Lot O32. We will continue to have work at Lot O32. We want to discuss whether or not we want to set up work zones or a perimeter when there is active work being done. Chief Burgess discusses work zones and provided examples we see daily such as coming up on road work being done by the HWY Dept doing tree work. A work zone does not mean just heavy machinery. It could also mean people are there working on the site taking test samples or shoveling etc. It could be designated if you wanted as "please don't come within this perimeter". It should be considered as more of a temporary work zone and a temporary no trespass will be instilled at the time it is needed. Safety is most important for everyone involved including those who want to observe. MGL Ch. 26 S. 120, does initially state private property but it also involves public property, Commonwealth v. Eagleson. The Chief does not want to respond to a work zone where there has been an accident of any kind. Chief does not want any injuries and we definitely do not want an injury to happen in a work zone. Transparency is important and Chief Burgess thinks if we post signs at the time work will be done and really get the word out so there should be no confusion. Makepeace-O'Neil agrees and believes public safety is very important as this is a pre-construction site and a sign should be put up for transparency. Eric agrees with Chief Burgess regarding a limited no trespass area on a temporary basis would be good. Ziporah appreciates and agrees with safety concerns. Ziporah reviews MGL Part 1 Title 2 Ch. 21e S. 14 that has to do with hazardous waste sites, cleaning up and testing them. Ziporah believes per section 14 at least one person from the public should observe and inspect when work is being done on site. Farrell recommends if we decide to go ahead with the policy, it is going to be done with permission. If someone wants access to the site they can ask for it. Robert Kibler has been visiting job sites for 45 years and speaks with some degree of expertise. Amanda Alix, 16 Lakeview Rd., asks what prompted this, was there a situation or injury that happened while work was being done? Farrell indicates a discussion was had with the LSP regarding concerns of people going to the site during active times of testing. Chief Burgess indicates there were potential safety issues while the most recent site work was happening. People were on site who were not directly involved in the work being done and it could have potentially become an unsafe situation had one of the officers not stopped by. Miriam DeFant asks and Farrell confirms this restriction would not apply to the ConCom coming on site visits with the applicants. Katie Eagan is concerned with how this came up. Katie appreciates the safety concerns but would like to remind everyone of their First Amendment Right to observe and report on public land that our public government/town officials are doing. Farrell reiterates this is about safety. Chief Burgess did discuss with the civil rights officer who is designated for the police department before tonight's SB meeting. With the First Amendment you do have the rights to do certain things, but the law states just because it is public land or a public building it doesn't necessarily give everyone the right to access it either exclusively or at certain times. Meryl Mandell, has worked for the State Highway Department for a number of years and safety is of the utmost importance in controlling the work site. This is already an adversarial situation in town and getting more lawyers involved does not help. She is happy to hear that is not charging ahead. Mandell believes much of this is overkill and an attempt to try and slow down the process of building a library. Testing has been done for "hazardous waste" and there has been none found in the area where the library intends to go. The hazardous waste findings are at the back of the property from where a gas tank was pulled up. Mandell asks that ConCom think hard about the direction they are going in. Mary Lou Conca understands the safety concerns and appreciates it being discussed. Conca echoes what Katie says regarding the public's right to know what is going on. Conca questions whether permission would be granted to those who request it. Farrell asks that a policy be drafted for the SB to review. Makepeace-O'Neil will work on drafting a policy and asks Robert and Meryl to send her their contact information.

NO VOTE

5. Right of First Refusal, Greenbaum Property, input from Planning Board, ConCom and Historical Commission: This property is in Ch. 61b and is being sold and being taken out of Ch. 61 the Town gets the Right of First Refusal. A purchase and Sale Agreement has been executed and the purchase price was \$259,000. The prospective property owner, current owner and realtor are anxious to hear back from the town. The planning board, ConCom and Historical Commission have a chance to weigh in. The Town Administrator has not heard from the other boards/commissions. Miriam indicates that ConCom is passing on advising the SB to purchase this property. Jeff Lacy states Planning Board had a discussion at the meeting last night about this property and have agreed not to make a recommendation for the town acquisition of this piece. The Historical Commission was notified of the situation but SB has not heard back from them. Penny Jacques, a member of the open space committee, believes the Open Space Committee should be notified as well. Jacques does not believe the Open Space Committee would be interested in this parcel. TA confirms it is not a statutory requirement and the applicant met their statutory requirement. Robert Kibler asks if this land would be suitable as an alternative site to Lot O32. Farrell does not believe this is an option for a variety of reasons. Not the least of which is the purchase price is \$259,000 and the Town does not have that. The Town has an obligation to resolve Lot O32 whether the library goes there or not. Jeff Lacy does not believe moving away from Lot O32 over to this would change much at all.

MOTION to NOT exercise the Town's Right of First Refusal.

- Makepeace-O'Neil moves and Stocker seconds Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

6. Emergency Management Director (EMD) and Deputy EMD Change in Police and Fire Chiefs' Job Descriptions and Appointment of Police Chief as EMD, Fire Chief as Deputy EMD and Police Officer as Assistant EMD: Back in the early part of July the SB appointed a new Fire Chief, Lenny Czerwonka for the last 17 or 18 years. Our Emergency Management Director position was the Fire Chief but Chief Czerwonka has very little experience in this area and our police chief has more experience. Chief Burgess agreed to take over the Emergency Management Director position, possibly on a temporary basis. Lenny will take on the Deputy Emergency Management Position. The basic responsibilities in the job description will be moved from the Fire Chief and added to the Police Chief. Having just learned about the EMPG Grant our Police Chief, has worked with the Fire Chief in putting together a new EMPG grant that is due before the end of the month. This is being brought to the SB to request to accept the transfer of Emergency Management Director function to the job description of the Police Chief and remove it from the function of the Fire Chief and make the Fire Chief the Deputy Emergency Management Director. This has been reviewed and accepted by our Police Chief, our Fire Chief and the Personnel Committee. No monetary consideration is under discussion. The Police Chief has personnel on her staff that has experience with emergency management that she would like to have assist her.

MOTION to Accept the Transfer of Emergency Management Director Function to the Job Description of the Police Chief and Make the Fire Chief the Deputy Emergency Management Director and a Police Officer as an Assistant Emergency Management Director.

- Makepeace-O'Neil moves and Stocker seconds Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

7. EMPG Grant Review with Police Chief: Chief Burgess has had a short time to work on this grant. Chief Burgess did speak with Chief Czerwonka regarding items he may be able to utilize. Chief Burgess has also been in touch with Chris Mattson who is our representative in our area to make sure everything is moving along as needed with the grant proposal. Chief Burgess is here to discuss items. Chief Burgess is here to discuss proposed items to purchase using the \$2,700 we are receiving for the EMPG grant. Chief Czerwonka is requesting cordless flood lights that would be utilized for the

Town. The current flood lights do not hold a charge and are older and not as useful. He has requested 6 cordless flood lights and he would need 6 accompanying batteries. These items bring us to approximately \$1,985.82 without shipping costs, which will leave us a little money left over. Chief would like approval to purchase a communication board. This communication board would be utilized by assisting people who are non-verbal. The communication board Chief is looking at has 300 different available signs within the board that you can be used to communicate with someone via pictures and audible sounding. These boards are something that are used quite frequently in schools with non-verbal and autistic young people. The speech tablet is a Samsung Android tablet and is on sale for \$484.99. Chief would also like to purchase non electronic communication boards that are laminated, they are able to be folded in half and carried in bags. There are some specific for Fire and EMS and some specific for police. These items would bring the total to just under the \$2,700 but with shipping costs it will bring us right on point. The grant is due on November 30, 2022. These items will be able to utilized throughout the town and it's to be used for purposes of the Emergency Management Team, Police Department, Fire Department as well as the SB if needed in the event of an emergency. Chief Burgess has requested Chief Czerwonka provide her with an inventory of the items he's had from grants in the past so we can make sure those items are being utilized properly throughout the town. All items purchased through this grant should be cross departmentally used.

MOTION to approve the EMPG Grant as detailed by Police Chief, Kristin Burgess.

- Makepeace-O'Neil moves and Stocker seconds Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

8. Shutesbury Athletic Club Review of ABCC License and permit: This is the annual renewal process regarding the licensing and the permitting for the athletic club. Mark Olszewski is here from the Shutesbury Athletic Club along with Jennifer Donnelly. Jennifer Boron is the new bar manager, that was approved by the ABCC in October. The club is back open 7 days a week. We were closed on Sundays and Mondays for a while but business has picked up. Renting of the back room has picked up. There are a couple of library functions as well as a holiday function we are working with the library on. During Halloween we had pumpkin carving for the kids with hayrides. To the best of our knowledge, we have not had any complaints in regards to the Athletic Club. We do communicate with the Chief Burgess on a monthly basis. Geneva believes everything appears to be in order. Farrell states there was an email from someone in town concerning the permit. Farrell did look, we had forwarded to the Athletic Club the questions that had been forwarded to us back at the end of September and had the SB received responses in writing. Farrell also followed up with Chief Burgess today to make sure there was nothing outstanding and is satisfied this could move forward.

MOTION to approve the Shutesbury Athletic Club license for the next year.

- Makepeace-O'Neil moves and Stocker seconds Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

9. Review MOU with Police Chief and Selectboard: The Memorandum of Agreement needs to be voted annually. There were some questions about changing things last year that Chief believes in the end did not change. Chief is fully satisfied with the Memorandum of Agreement. Shutesbury Athletic Club has been in compliance with all of the areas that they need to be. Mark did say we talk monthly but sometimes a little bit more than that to make sure the Police Department knows what is happening for events. Chief is ready to sign this. Mark states the Athletic Club is in agreement with all of the provisions within the memorandum.

MOTION to approve the Memorandum of Agreement between Town of Shutesbury and the Shutesbury Athletic Club.

- Makepeace-O’Neil moves and Stocker seconds Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

10. Lake Wyola Dam Subcommittee Changes: We appointed a Lake Wyola Sub Committee. After doing appointments we found out from Town Counsel we could not, as we hoped, have any abutters on the committee. They are certainly welcome to participate and provide feedback to the Committee. This is a subcommittee of the SB and all meeting will be posted. The SB needs to rescind Ryan Zaveruha, Dustin Cupak and Glenn Stockton. Stocker revised the Committee charge to name the committee we were charging. The name of the Committee is the Lake Wyola Dam Study Subcommittee.

MOTION to rescind the appointment of Ryan Zaveruha, Dustin Cupak and Glenn Stockton.

- Makepeace-O’Neil moves and Stocker seconds Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

MOTION to change the charge of the Lake Wyola Dam Study Committee to include a title of the Committee.

- Makepeace-O’Neil moves and Stocker seconds Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

11. Rescinding Cultural Council Appointment of David Leach: David Leach is a member of the Cultural Council. Rory tried to reach David Leach and has received no response. Rory did let him know this was happening. He was appointed to the Cultural Council but never came to a meeting. Geneva will be sending a letter, including in that if he wants to have us revisit this he should be in touch with the SB.

MOTION to rescind the appointment of David Leach as a member of the Cultural Council.

- Makepeace-O’Neil moves and Stocker seconds Roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

12. Tax Rate & Change in Valuation: A Town Announce went out today explaining the change in valuations and the impact on the tax rate. There will be a tax classification hearing on November 29, 2022. At that hearing we have historically set a single tax rate because we have so few commercial properties and businesses and we expect that will be the recommendation of the Assessors. After the classification hearing the Assessors and the Town will submit all the information to the DOR and the new tax rate will be set. I believe with the approximate 20% increase in the overall valuations in town the resulting tax rate drops from just over \$21.04 to \$18.49. The values have gone up but the tax rate has gone down. The expected increase in taxes is below 2%, operating with the same budget with higher valuations and the same tax levy voted at Town Meeting and therefore a drop in the tax rate. Jill Marland would like an example of the 20%, Farrell shares her “abbreviated description”. The tax levy divided by the total value of all properties in town, the tax levy is what is voted at town meeting, so we are operating with a tax levy of about 5.4 million dollars from annual town meeting and that \$293 million is the new total valuation in town. We went from \$242 million up to \$293 million and that was based on sales from 2021. Estimated tax bills were sent out in July of 2022 based on that old value but the next tax bill the average house valuation has increased to \$322,981 which is a 20% increase. Based on that formula the new tax rate is \$18.49. Marland wants an actual example, if you want to use \$350,000 if the increase is 2% what is that? Farrell explains if you use the \$269,000 and then the 20% increase brought it up to \$322,000, using essentially the same house from FY22 then FY23 it was \$5,876 in FY22 and then it went up to \$5,961. This is an Estimate and we won’t have the final tax rate for another week to 10 days. We have done our best to represent the order of magnitude in this example. Your actual bill will vary a little because the average values have gone up 20%. This



is an attempt to give you a sense of what might happen. Katie Eagan, the 5 year period where this needs to be reevaluated every 5 years, are we saying that most people saw a 20% increase over that 5 year period? Personally, my assessment from 5 years ago is up 96%, are we are saying it's over a 5 year period? Farrell 20% was just from FY 21 sales. Each year values are changed a bit by sales but at the end of the period when they do the reval they look at the FY21 sales and go through all the values. We've seen some extraordinary sales where the people have sold for 40% more than asking price. Last year we had a smaller but significant uptick this one of \$50 million is very large, it is not accounting for the whole 5 years it's from last year. Farrell indicates if there are issues with the valuations please be in touch with the Assessor's office. Katies Eagan will contact the Assessor's office.

NO VOTE

13. Unanticipated and Unexpected Items: The town received a letter from the Department of Environmental Protection (DEP) late in the day on Friday and it was in response to PFAS testing that was done at the Fire Station. We had identified that there were issues with the Fire Station and a number of properties on Leverett Road were affected. DEP came in this summer and tested the soil and the monitoring wells. Unfortunately, they found reportable PFAS, high levels of PFAS, both in the ground water and the soil samples resulting in the town receiving this letter entitled "A Notice of Responsibility". The letter calls for some immediate actions and most immediately we need to hire an LSP to do testing. There are a number of both formal notifications and a response action plan that we are going to have to do. We are immediately under a timeline. It is nothing any of us want to hear. There was foam used at the fire station which probably resulted in the PFAS contamination. It affects a number of other properties so the Town has responsibility. The notice has been circulated to the SB. It does get posted on the DEP public notification system. Aside from identifying an LSP who would be responsible for doing the testing and a number of other things. The TA has set up a meeting for Tuesday, November 29, 2022 to go through this. We are going to have to see what our LSP says. We will have to see what the results are of the testing of the properties that have been affected by the PFAS. Everybody might remember we had installed a number of water filtration systems. They will be testing to see if those are working. We will need to think longer term about how this is going to be addressed. We will know more after the meeting with the DEP and just wanted to make sure the public was aware. TA requests the SB approve negotiating with a firm to support us in all the actions required in the letter. We can go out to bid but we can also go direct to consultants. We would also need funding and the only source before Annual Town Meeting would be the ARPA funds or FinCom reserve funds. Traditionally a single item has never taken more than 50% of what FinCom has, especially this early in the year. FinCom has been updated by the HWY Dept. that they have had more problems than usual maintaining vehicles and costs so they are more than half way through their maintenance budget. TA anticipates this is going to be a larger amount. We might want to go to a Special Town Meeting for it if we are looking at free cash being certified in the next week. Farrell understands the urgency around getting the testing done, but wondering if we can do this in two parts. We engage somebody to do the testing but then we do a little more due diligence around who the LSP is going to be. Farrell does not feel comfortable with engaging somebody we have to get now and then saying we are living with you for the next year. It might cost us a little bit more in terms of the testing but would feel more comfortable if we were looking at more than one firm and we had some sort of proposals and discussion. Stocker agrees and TA states that was her original proposal.

MOTION to proceed with the Licensed Site Professional to do the testing and then go through a procurement process to engage a Licensed Site Professional to perform the balance of the work.

- Makepeace-O'Neil moves and Stocker seconds Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Administrator Updates: PVTA/FRTA update, TA called again and still has not received the packet. We have received Cultivation Host Agreement Request "HCA". Someone is buying property in

Shutesbury and would like to cultivate marijuana on a tier 1 level which is a minimum of a ½ acre. The cultivation agreements are an issue at this point in time because of a new legislation. We will need to look at an old agreement and make advised changes. Some communities have decided NOT to use an agreement at all. Some communities feel they are now being held liable for some of the fees that they collected so there is more to discuss. TA had not been contacted for over 2 months by this individual. TA was not sure if they were going to purchase the property and continue with their request. Assessors update: Roy Bishop has been helpful throughout this process. Quackenbush just submitted the necessary paperwork for initiation the certification of our values. We will be hearing from DOR hopefully by Tuesday for the classification hearing. If they are unable the Tax Classification Hearing will need to be postponed. TA also wanted to let the SB know David Burgess came Friday to assist in Assessors office. We are very appreciative of his time in answering questions. He will walk Leslie through some necessary steps. Library Update: There were six Designer Request for Qualifications “RFQ’s” received by 3 pm this afternoon. Together with the Library Director we opened and sorted them to make sure all documentation was included. All those packets will be distributed to the Library Building Committee. Assessor update: The position is posted. The posting ran in the Beacon for the month of November. It has been on the Mass Municipal Association. Only change likely will be Roy’s son started an assessing company and will be giving us a quote for services. No individual has come forward.

MOTION TO ADJOURN (8:19 pm)

- Makepeace-O’Neil moves and Stocker seconds roll call vote: Makepeace-O’Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Administrative Actions:

1. Admin Secretary will send letter to David Leach regarding appointment;
2. Town Administrator will prepare CASL and SPARQ Forms for SB signature

Documents and Other Items Used at the Meeting:

Respectfully submitted,  
Geneva Bickford  
Administrative Secretary