

Shutesbury Selectboard Meeting Minutes
February 14, 2023 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: Miriam DeFant

Guests: Leslie Luchonok, Susie Mosher, Mary David

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

Agenda Review: As posted. There will be no discussion regarding the Contract for the Library Building Designer as the SB has been asked to discuss this at a later date.

Public Comment: Leslie Luchonok of 61 West Pelham Rd attended the last ConCom meeting regarding the Lake Wyola Drawdown. A new Notice of Intent (“NOI”) and an Approved Order of Conditions will be required. The lake is now designated as Priority Wildlife Habitat and the State Natural Heritage Program will be involved in any review of a new NOI. Luchonok mentions the Wildlife Habitat Evaluation Report prepared by Emily Stockman & Associates in 2019 was never formally incorporated into the 2018 Order of Conditions and suggests the SB act expeditiously to prepare and submit a comprehensive NOI. Robert Kibler addresses a previous SB meeting where SB members were discussing difficulty recruiting volunteers for Committees. Kibler has volunteered to be an alternate for the Planning Board and felt the SB was very hostile towards him. Kibler attended other SB meetings where appointments took place and those volunteers were not treated with hostility. Kibler suggests the SB treat all volunteers with the same respect.

Review of Minutes: The SB will only be approving the January 10, 2023 minutes. Stocker indicates it is hard to tell who is talking when “we” and “I” are used in the minutes.

MOTION to approve the Minutes from January 10, 2023 as amended.

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

Discussion Topics:

1. Fuss & O’Neill Update on Environmental Testing on Lot O-32: Fuss & O’Neill supervised the subsurface investigation in the vicinity of the former floor drain of the garage. Samples were taken and the samples were tested for hazardous materials as required under the UIC criteria and that information was sent to DEP. On January 4 DEP issued the final UIC Post Closure Approval and the well is now considered closed. The Town is required to keep records for three years. In November testing was done at bore 9 due to the gasoline found there last year. Fuss & O’Neill installed 9 soil borings and installed a ground water monitoring well and tested for oil and other hazardous materials. The soil data did not duplicate the results previously found by OTO. Lower levels of petroleum products were found in some of the wells and soil samples. The petroleum impacted soil exists between 7 and 15 feet below the ground surface and is localized. The ground water sample in the well had reportable levels of petroleum products and it has been recommended that an additional monitoring well be installed. The SB can expect a report on those results by the end of this week. Fuss & O’Neill prepared the Phase 1 Initial Site Investigation Report and the Tier 1 Classification Submittal to DEP and submitted the findings at the end of January. DEP & Fuss & O’Neill will talk after the results have been received to determine what steps need to be taken next. Matt Kissane, Project Manager, is available to update the SB and answer any questions. On December 8, 2022 ConCom and the wetland scientists all agreed on the wetland lines at Lot O32 and new maps have

been created based on the survey done. The ConCom will have a final ANRAD hearing on March 9, 2023. There is still the question raised by ConCom regarding debris piles and wetlands. ConCom has asked the Town to do an investigation and possible restoration of those wetland areas. Mary Anne does not believe that is in the scope of the library project and should be budgeted for separately. The Town will still need to deal with bore 9. It is all the same town owned parcel of land but the radio tower is so far away from where the library will be that they are not connected issues. All reports will be posted in advance of the meeting attended by Matt Kissane. The SB asks the public to submit questions in writing before the meeting and all questions will be covered. Robert Kibler asks if the two sites that were investigated can be legally separated. The SB will explore that further but has not heard anything from DEP that would preclude the Town from going ahead with the library. Reports will be posted on the library page as well as the Town's webpage.

2. Gale Associates Contract for the SES Roof: This is an amendment to the existing contract. The SB went into contract with Gale Associates ("Gale") to do the evaluation. In review of that evaluation Gale made their formal proposal for the repairs of the roof. The evaluation went to the Building Committee which reviewed it two weeks ago. The Committee had a good discussion and voted to recommend the proposal to the SB for signing the contract. The town should be in receipt of bids during the first two weeks of May and should have bids in time for Annual Town Meeting ("ATM") in May. The project is more streamlined now. They've reviewed the building and are going to come back again next week and are in full swing.

MOTION to approve the revised Gale Associates contract for the SES School Roof.

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

3. ACM Roof Sampling Report Update: When Gale & Associates came to do the engineering, one of the first steps was to evaluate for asbestos materials. ACM came and did sampling of the existing interior roof. ACM also came inside and did sampling of the interior roof in the attic to see if there was a need to renovate the old roof. The old roof has one layer of tar paper that was positive for asbestos. The asbestos found is fully contained in the old roof and to get at it is very difficult. All reports have stated there is no reason to remediate given its location and given the nature of the construction. If the building were to be torn down at that point in time there might be more consideration as to how they remove that section. However, with the project proposed we are not removing the existing roof and there is no need to follow up on that asbestos report. The engineers and ACM determine if the asbestos needs to be removed. There was no required remediation listed in the report and the TA reached out to others to get a full understanding as to why. All parties explained there is no need to remediate given the containment of the asbestos. Makepeace-O'Neil states it is also known as stabilized asbestos so it's not airborne.
4. Library Building Designer Contract: NO DISCUSSION.
5. Lake Wyola Dam Study Committee Update: The Lake Wyola Dam Study Committee ("LWDS") had two tasks. One was to look at whether or not access should be limited or eliminate public access altogether to the dam and secondly, was how to provide town access to the dam permanently. Presently the town has an agreement with one of the landowners who abuts the Lake and allows the town access to the Dam. The LWDS feels the overriding interest of public safety and the danger for potential injury as well as liability issues for the Town override the fact that this a nice place for people to go. The LWDS also felt if access was being eliminated it needs to be eliminated for everyone. The LWDS came up with the following ideas to limit access to the dam: more "no parking signs", currently there are some "no parking signs" on the east side of the road and more should be added to both sides of the road. At the north entrance a state style gate should be added similar to the

Quabbin Reservoir. The signage should be replaced, the current sign reads “use at your own risk” that should be replaced with a sign that states “no public access” and that sign should be bilingual. Chief Burgess is going to look into fines which would need to be a town bylaw. The south entrance should have the same type of gate as the north entrance. The gate should be set back a little to allow the dam keeper to park there. The Town would most likely need to have a very distinct fine for parking there. Similar signs should be added stating “no public access” or “no trespassing”. Currently when accessing the dam you must do so by using the north entrance and walk across private land. The LWDS is also advocating for an easement or the purchase of a strip of land guaranteeing the town has access to that land in the future. The SB will need to think through whether or not gates could be done this summer given the culvert work. TA indicates it will not be doable at the same time as the whole area will be torn up during the culvert project. Farrell would like to get comments from other town boards/committees that want to weigh in and also from the public. The SB would take written comments from the public before implementing any kind of major change like this. Farrell personally thinks it is important that this get done due to concerns regarding the towns liability. The SB will have to figure out any legal guidance as there is a potential conflict with Donna MacNicol. Miriam DeFant reminds the SB if the SB decides to put up the gates you will need a permit from ConCom or at least review it with ConCom. Farrell states the SB will not be doing anything hastily. Tracy McNaughton lives at the lake and thinks this is great. McNaughton suggests the SB speak with Catharine Hilton on the Board of Health regarding issues that have been raised over the last few summers concerning the septic possibly being overtaxed. Next steps will be looking at possible legal review and additional investigation on an easement or purchase of the property. Farrell asks TA to do the initial contact on that and send this to all town committees and ask for comment. Stocker suggests this could be a two phase process due to the fact that gates cannot be built at this time. It is possible to get a bylaw done by ATM and signs can be put up and the gate could be put in when the culvert work is done. The culvert work will not get started until the end of the summer. Stocker asks about permits for culvert work expiring. Miriam did inquire about the SB’s plans for construction and the engineer responded. Miriam reminds the SB that the current Notice of Intent of our current permitting is good through November 12, 2023. The original scheduled dates for the project were September 1 through November 17. We do not have the new construction calendar, Matt Styckiewicz at Nitsch Engineering reached out to MAS Building and Bridge for their updated calendar so Matt can go to ConCom and work through an extension to the appropriate dates.

6. Initial Planning Discussion on Lake Wyola Drawdown Permitting: The current permit was issued in 2018 and expires October 18, 2023. The ConCom discussed this at the last meeting and would like to see the town submit a new Notice of Intent for review. Lake Wyola has been designated as Priority Habitat for a rare and endangered species by Natural Heritage. Natural Heritage requires a review of any new permits. The ConCom would like the Town to develop an application so ConCom can review this and Natural Heritage can weigh in. Morris Root is retiring and currently does the inspections and the Town will need a new engineer to do the dam inspections. In the RFP the SB may want to include that the engineer not only be the person inspecting the dam but also the person guiding the Town through the required permitting. Miriam is not at liberty to share the type of species. Miriam appreciates the effort and time that volunteers devoted to this but the drawdown is a complex issue and given all the factors the Town should consider hiring a consultant to develop this application. Robert Kibler asks the purpose of the drawdown. Farrell states her understanding is the drawdown is to protect the dam from pressure from the ice and to protect the property around the lake. Kibler asks if the SB has the report stating the lake should be drawn down to protect the dam and 2 feet is the right amount to draw it down? Kibler also asks how 2 feet was decided if no engineer has passed judgement on that. A large amount of work was done 10-15 years ago on the dam. There are a number of reports from the Dam Engineer. Miriam adds it is the Town’s obligation as the applicant to develop it’s rationale for the permit and the Town needs to give ConCom credible information from competent sources to meet the evidentiary standard. Miriam mentions that the Office of Dam Safety reported that the Dam Safety Inspections are due every two years and have not

received a report since 2016 from the Town. The dam was inspected in 2021 but that report was not filed with the ODS and the Town is out of compliance by a number of years.

7. ABCC Annual Report Approval, Disclosure Form Review: The Annual Report states the Town of Shutesbury only has one club license with a \$450 fee and per Chief Burgess there were no actions taken against SAC. The report may be emailed to the State by February 15, 2023.

MOTION to approve the ABCC Annual Report.

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

8. Disclosure Form Review: The SB has received a submittal from the Town Administrator under MGL. Ch. 268A, Section 19. This is a disclosure by a non-elected municipal employee of financial interest and determination by the appointing authority that the non-elected municipal employee does not have a financial interest. This came about as a result of issues regarding Lot O32 and Rebecca Torres our Town Administrator who owns property that abuts Lot O32. The SB has to make this determination or can choose not to make this determination if we feel the employee has a beneficial interest with what happens with Lot O32. The TA has conferred with the State Ethics Commission about this and has prepared the Disclosure Form and forwarded her job description outlining ways in which her job responsibilities might intersect with work on Lot O32.

MOTION to approve the disclosure as presented.

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

9. PFAS Update: Last Friday PFAS testing began on the approximately 50 households and buildings that require testing. Sam Evans is the technician working with us from Tighe & bond. Sam was successful in getting the samples at every residence that was scheduled. TA is accompanying Sam on the first round of testing to make introductions. Hopefully after this round of testing the numbers will be reduced. Any non-detects in this round will not be tested again in the quarterly testing for the upcoming year. Testing will depend on trend lines identified by Jeffrey Arpes our LSP. The testing will continue this Thursday and Friday and potentially into the next week. Results should be getting out to people 3 to 4 weeks after testing. Jeffrey Arpes will then start planning and will be determining who will need to have a new POET put into their home and begin the work on getting everything credentialed and ordering and setting up the installation of the new POETS in any household that is a not non-detect that doesn't presently have one. The Admin Secretary has put together an information spreadsheet/communication chart that lists all the contact information and will be adding to that chart information about the wells located at the different properties. The SB had an invitation from Aaron Saunders at the last minute to meet with people from the Clean Water Trust ("CWT"). CWT is responsible for giving large loans to a number of communities in the State. CWT gave out almost \$900,000 this year for PFAS projects around the state however, they only give loans to public water supplies and Shutesbury's only public water supplies in town are the elementary school and the Shutesbury Athletic Club. Eric Stocker and the Fire Chief did a quick estimate and it would take quite a bit for Shutesbury to be in a position to start talking about the development of a public water supply. There are many questions that will continue to roll off the PFAS discussions and activity. A PFAS page has been set up and Tighe & Bond has sent new information to be put on the PFAS page to answer questions. It will be an important ongoing discussion and will remain on the agenda at the SB meetings. At some point as we gather information we hope to do a larger event to answer people's questions. The only talk of public water supply would probably be next to impossible and only for the PFAS affected areas of town. All monies are loans but they are zero percent loans and they may have

up to a 39% loan forgiveness rate on PFAS loans they gave out in the last round for communities that were tier 3. Shutesbury is identified as a low income community and the Town would qualify for the highest loan forgiveness if at some point we do qualify to go that route. Clean Water Trust has an allocation in the State budget and that's where their funding comes from.

10. Administrator Updates: The Accountant moved into her new office in town hall. Susie and David Mosher took it upon themselves last weekend to repaint the office. Henry Wilson came and helped disconnect the desk so it could be moved. Events are also being hosted in town hall again if people are not aware. There are only a few and have to be few in numbers, if anyone wants to make a request to use town hall please check in with the TA. The building committee met last week and are zeroing in on the Town Clerk's window and the large window in the copier room. Jeff Quackenbush has taken the lead on that. There was an inspection of Town Hall and the building passed inspection. The elevator inspection has passed as well. The building is in good shape except for the fences falling down. The building committees approach is very helpful as they are going building by building and building spreadsheets with different criteria and categories. Stephen Dallmus is taking the time to go through each building and detail the areas of concern for all the different elements of the building. The building committee bit by bit is taking on immediate needs and taking on long term needs and building their inventory at the same time. The assessors are busy and have gotten more assistance from David Burgess. Tomorrow's meeting will have our two new assessors and hope to start grappling with how the department can move forward and the best approach with a full assessors board taking the helm they can have serious discussions on that. Farrell adds the four towns in the Amherst Regional School District met this Saturday morning. There is no more discussion regarding the formula. The regional school district has fully adopted the 100% statutory with a five year rolling average with guardrails. In the proposed budget Shutesbury came out with a less than 1% increase. Stocker mentions it was .31%. The big unknown for the regional school budget is the negotiations with the teachers are still ongoing and they are very far apart. There was a consensus among the four towns that we would stick with the 2.5% increase which is significantly lower than what the teachers are asking for. Negotiations are still underway.

MOTION TO ADJOURN (6:51 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:

Documents and Other Items Used at the Meeting:

1. Gale contract;
2. Lake Wyola Dam Study Committee Recommendations;
3. Disclosure by Non-Elected Municipal Employee of Financial Interest and Determination by Appointing Authority.

Respectfully submitted,
Geneva Bickford,
Administrative Secretary