

Shutesbury Selectboard Meeting Minutes
May 9, 2023 Virtual Meeting Format

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

Staff present: Becky Torres/Town Administrator

Volunteers & Other Staff present: Paul Lyons, Cory Rogowski, Susie Mosher, Chief Burgess, Gail Fleischaker, George Arvanitis, Mary Anne Antonellis, Sally Fairfield, Mark Rivers, Joan Hanson, Jim Hemingway, Ajay Khashu, Robert Groves, Jim Walton

Guests: MED, Christine, Leslie Luchonok, Tom Siefert, Jon Lawless, Frank McGinn Potter, Amanda Alix, Penelope Kim, M. Hunter, Shannon's Dad, Allen,

Farrell calls the meeting to order at 6:01 pm.

Agenda Review: As posted.

Public Comment: Leslie Luchonok, 61 West Pelham Rd, attended the last FinCom meeting and asked for more clarification on line item #135 under the waste disposal category for Lot O-32 and did not understand the explanation given and would like a better explanation tonight.

Review of Minutes: Minutes of March 28, 2023 and April 12, 2023 were approved.

VOTE: Farrell makes a Motion to approve the March 28, 2023 minutes; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

VOTE: Makepeace-O'Neil makes a Motion to approve the April 12, 2023 minutes; Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Discussion Topics:

1. Part-Time Police Officer Appointment: Cory Rogowski has worked with Officer Trinique and comes with quite a bit of experience. Rogowski has grant writing experience as well as a Bachelor's Degree in Criminal Justice. Rogowski is currently working for the Town of Royalston and the Fort Devens Police Department. Rogowski will be working two shifts a week 16 hours or less.

VOTE: Farrell makes a Motion to appoint Cory Rogowski as a part time police officer for the Town of Shutesbury; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

2. Request for Extension of Public Involvement Plan: Amanda Alix, the lead petitioner, has requested an extension until May 25, 2023. Alix believes a two week extension will be enough time. Once the Army Corp of Engineers becomes the Primary Responsible Party ("PRP") they will also assume responsibility for the PIP. All petitioners will get notice of the extension.

VOTE: Farrell makes a Motion to grant the extension of the comment period for the Public Involvement Plan to May 25, 2023; Stocker moves, Makepeace-O'Neil seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

3. Update on discussions with Army Corps, test well installation and water testing: On April 26, 2023, Mary Anne Antonellis, Rita Farrell and Becky Torres along with Matt Kissane and Tim Clinton from Fuss & O'Neill and representatives from Senator Warren and Representative McGovern's Office met with representatives from the Army Corp of Engineers Formerly Used Defense Sites Program ("FUDS"). During that meeting past FUDS activities were reviewed and they also discussed the

town's plan for the site, the timeline and the petroleum contamination impact. The Massachusetts Contingency Plan ("MCP") process was discussed as well as the steps and activities that remain to close out the Release Tracking Number. The FUDS program was discussed as well as the path forward and the timeline for FUDS to take over the petroleum contamination under the MCP. In November eight soil borings were done and monitoring wells were installed. None of the borings had reportable levels of petroleum but the groundwater sampling did show petroleum. Four additional test monitoring wells in the perimeter around the original well were installed on January 4th. Reportable levels of gasoline were found in the groundwater around the original well to the North and the well to the East. At that time a letter was sent to the Army Corp of Engineers, as well as our congressional delegation and our state representative to report our findings. The Army Corp of Engineers agrees there is still petroleum at the site and they will be taking it over. The Army Corp will reopen the case and will add the case to their budget. They will assign a team and then will award a contract to an LSP to take over the management of the release and assist through the MCP process. Once that happens the Army Corp will take over the PIP as they will be the responsible part. The Army Corp cannot pay for any of the costs associated with the testing done to date, however, the town is exploring other ways to possibly recover some of that money. The Town will no longer be responsible for the cost of the PIP once the Army Corp becomes the Primary Responsible Party ("PRP"). The town is still the PRP until the DOD takes over. Additional monitoring wells were installed and samples were taken before the meeting with the DOD but results have not been received. It has been recommended that seasonal sampling be done but due to the cost to the town it has been suggested that the town cease activity and leave it until the Army Corp takes over in the fall. The DEP is in agreement as long as the results from the last round of testing are not outside the range they are expected to be at, the seasonal monitoring can be paused until the Army Corp has taken over.

4. ARPA request for funding: A Notice of Intent ("NOI") to remove historic fill from two bordering vegetative wetlands, BBW2 and BBW3, on Lot O-32 was submitted to ConCom and a hearing has been scheduled for May 25, 2023 at 6:30 pm. The wetlands will be restored with soil and plantings. \$16,900 has already been approved for a Wetland Scientist from Fuss & O'Neill to design and manage the project, submit the paperwork and attend site visits and hearings. Antonellis is asking the SB for another \$3,714 to cover disposal fees for trees and stumps and soil and debris as well as erosion controls, replacement soil, mulch and plantings. The highway department will be involved. The balance of ARPA funds is \$50,500. That includes the approval of the fire dept request for vehicle exhaust fans in July for \$14,800. Antonellis' request will leave a balance of \$46,786 in ARPA funds. The second request for ARPA Funds is regarding the tent for TM. TA is requesting the SB approve from ARPA funds \$3,714 for the tent for FY23. The Town Clerk is requesting \$1,500 to purchase tents to be used during early voting.

VOTE: Farrell makes a Motion to approve \$3,714 in ARPA funds for the restoration work related to BBW2 and BBW3 at Lot O-32; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

VOTE: Makepeace-O'Neil makes a Motion to approve the tents for the town clerk; Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

5. Review of Lake Wyola Dam Bylaw: This is Article 28 on the TM Warrant. Chief Burgess would like to add the following to the language in Article 28 "violation of this bylaw is punishable by a fine of \$50 or the full extent of the Trespass Law, MGL. Ch. 266, Section 120". People violating must be warned first per the law, after the first warning this bylaw would then be applicable. Chief Burgess believes most people are open to discussion and are mostly compliant. Stocker suggests if the bylaw and chains are not working there may need to be more discussion on gates.

VOTE: VOTE: Farrell makes a Motion to approve the language of the Lake Wyola Dam bylaw as presented in the draft warrant; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

6. Review Annual Town Meeting Warrant and Budget with Finance Committee: FinCom met with all departments during the year to discuss their proposed FY24 budgets. TA has added a little annotation to each of the articles that indicates whether FinCom is recommending approval and what the relevant vote was. Article 1 is where the boards speak. Article 2 is the Regional Assessment Article updated for this year. Article 3 is the Community Choice Aggregation. The town does not have final clearance from DPU if clearance is not received before ATM this Article will be passed over. Article 4 the Recreation Committee is asking to increase their members from seven to nine members. Article 5 gives authorization to pay elected officials. Article 6 authorizes the treasurer to negotiate with banks to get a better deal and lower fees. Article 7 is to accept all federal and state grants that come in. Article 8 is another annual event allowing us to compensate Catherine Hilton while she has two roles, one elected and one administrative for the BOH. Article 9 is a summary of all the towns revolving accounts and sets their limits. Articles 5 through 9 will be done by a Consent Agenda as they are all standard articles and will all be combined into one motion. Article 10 is approval of the loan application for Clean Water Trust. Tighe & Bond is assisting with the application and have provided the warrant article. It has been recommended we round up from \$136,000 to \$150,000. Article 10 will require a 2/3rd vote, the TA will make that change on the Warrant. Article 11 is the budget article. We are augmenting the legal line for this year. Normally the budget is \$15,000 and has been increased in the budget to \$25,000 and with the additional \$15,000 from free cash that will give a budget of \$40,000 for FY24. Khashu explains the proposed budget is \$6,911,640 and that represents a 3.5% increase from the FY24 budget and that is roughly a \$231,000 increase. The reasons for that increase include an \$84,000 increase for the school budget and a \$25,000 increase for town employee salaries, excluding the schools, a significant increase in legal expenses, a \$20,000 increase on employee retirement, a \$15,000 increase for solid waste, a \$13,000 increase for the human services category that includes a \$5,000 increase for the health department fee as part of the mosquito control district, an \$11,000 increase for the town's share of the regional school budget, a \$10,000 increase for an assistant town clerk position, a \$10,000 increase for heating and vehicle fuel, an \$11,000 decrease on the elementary school transportation budget line and \$15,300 for paying a minimum of 3 hour call wage for anytime members of the fire department are out on calls. TA believes that the new lawsuit will likely cost over \$75,000 and believes additional funding will have to be looked at. Groves and Khashu both believe additional funds will be needed to support the legal line and will be an ongoing discussion. The town has reserves and likely a Special Town Meeting (STM) would be needed to address additional funds to support the legal line. Mosher states after going through the capital expenditure planning there will be a better understanding of the balances for cash reserves for free cash, stabilization and for Capital stabilization and will keep that in mind in terms of meeting an extraordinary expense like legal. Luchonok reminds Farrell of his earlier question. Farrell responds to Luchonok's initial question that Line 135 is a \$5,000 waste disposal fee that was opened in 2021. Khashu presents the Shutesbury Capital Funding FY24 CapEX. Column A list of nine capital projects reflected in various warrants. Column C is the cost for each of those projects as reflected in the warrant articles as well as how FinCom is proposing to fund those projects. The first three columns in this section correspond to reserves, free cash, capital stabilization and the stabilization account. On the right is a column where FinCom is proposing to borrow funds for f. a new backhoe for the Highway Dept. Highway has an estimate of \$120,000 for that project and FinCom is proposing those funds be borrowed. The three reserve accounts are shown along with the starting balances from the beginning of the fiscal year. There were two capital items that were funded at STM. FinCom is proposing to use just under \$500,000 from these various reserve accounts to fund these projects. The town is spending a significant amount of reserves. The security camera bid came in at \$45,900 instead of \$60,000 and that number was reduced in the warrant article.. On row 34 there is a percentage of 29.5% to decrease and that is the decrease in our cash reserves from the beginning of the year to after ATM if all articles were to be approved. Groves states FinCom will be asking the SB to approve

\$20,000 or \$30,000 to be transferred to the reserve fund. FinCom has expended the FinCom Reserve and Khashu has the details on the FinCom reserve account.. Article 12 starts going through the numbers just shown reflected in the plan. There is a capital request for a backhoe from the Highway Dept. for \$120,000. There is also a request for a transfer from capital stabilization not to exceed \$100,000 for the new asphalt roof.. Bids have not been received yet and the amount can be lowered but the amount cannot be raised. In actuality this is a \$600,000 project, \$100,000 was asked for as the town received an earmark, a year ago, from Senator Comerford's Office and the SB allocated \$200,000 towards the school roof and \$300,000 was allocated from ARPA. At this time the town is asking for \$100,000 more. Bids will be received next Friday and we will know then how that number will need to be amended on the warrant. Article 14 is for the new elementary school kitchen floor and completion of the library. Groves states the floor for the school library will be from Capital Stabilization and will need a 2/3rds vote. Article 15 is \$60,000 for the Locks Pond Culvert. Overruns are being caused by the concrete company. The second year the concrete company was going to charge around \$75,000 and the structure was moved behind the fire station. The overruns could be over \$50,000 and \$60,000 is being requested to complete the project. Any remaining funds will go back into the general fund. Articles 12 and 13 will both require 2/3rds vote. Article 16 is regarding the heating system repair. The town was working on having the heating system repaired after having issues with all the valves. That project was estimated ahead of the engineers work and came in \$33,300 short. Article 17 is the request from the school for the security camera system. Originally the price was closer to \$60,000 and the final bid came in at \$45,900. Article 18 is funding of \$20,000 for Town building committee project fund. Lyons is confused by the wording as it sounds like it is for a specific expense and it sounds like it is a transfer to the funds and would like some clarification and suggests wording changes. This is a Fund 30 and Fund 30's are project amounts typically for new carpet or the painting job at the school, project oriented, that are not typical line items in the budget. The \$20,000 is for building committee projects and has served the building committee on a lot of smaller projects like windows and some medium size projects like small roof repairs. Lyons is concerned with the wording of "up to \$20,000". Lyon's suggests saying "transfer \$20,000" instead of "up to \$20,000". The fund has been around for a long time. Projects have not always been specifically identified as they were for the work of the coming year. Lyons has no issue with the concept it is the wording that is confusing. Khashu reached out the building committee chair to ask that he be prepared at TM to review their list of priorities so voters have some sense of the projects that will be addressed using those funds. Groves mentions Articles 17 and 18 had a 3 to 2 vote, and he was one of the members that voted against them because by his interpretation they did not follow the process.. Article 19 is to see if the town will transfer \$35,000 from free cash for environmental permitting costs for the Lake Wyola Drawdown. Article 20 is for the consultant costs for the dam. The dam consultant is retiring and has finished the outstanding report that was required last month and in June he will complete the 2023 work. The Town will need to hire a new dam consultant which will likely be an environmental firm. The first two Community Preservation Articles are administrative. The first one is a couple of hundred dollars more than last year that will be distributed to the open space, community housing and historic preservation. The next Article is working funds for CPC, \$2,500 is allocated every year. Lyons was struck by how specific these dollar amounts are. Farrell states the numbers came from the Town Accountant and follow the CPA guidelines. Lyons is concerned if they are off and there is only \$30,000 left then what? The Motion says \$32,000 will be transferred to the reserve. Farrell believes the accountant already has the numbers as she does them after not before. Lyons asks if where it says FY24 should that be changed? TA states no because the money isn't put into those places until FY24.. There are three or four projects this year, however, the first one is not a project. The first is rescinding funding that the town supported for the Lake Wyola Association back in 2018. The project didn't get off the ground and there is no one that has followed up on it and it will be removed and the funds put back and made available for other CPC projects. Article 24 is the West Cemetery Preservation project for \$10,000. Article 25 is the Lot R15 completion of the parking area for the property purchased from Kestrel Trust last year. The parking will be done by the ConCom as soon as those funds are allocated. Article 26, the MLP Enterprise Fund will be appropriating \$90,000 into their reserves this year. Article 27 shows the MLP is in very good shape. Last year they brought

down the fees and this year they are continuing to maintain services at those lowered fees and continuing to make all their debt payments. Article 28 is to adopt the Lake Wyola Dam Bylaw.. The last three articles are bills from prior years, the first one was a missed invoice to KP Law for \$97.50, the second is for the purchase of two computers by former Police Chief Dan Fernandes. The last one is our Citizen's Security, two invoices were missed. Finally the Citizen's Petition, this does not need approval by the FinCom or anyone but TM.

7. Selectboard and Finance Committee Transfer into the Finance Committee Reserve

Khashu has an issue regarding the FinCom reserve fund. The balance is \$3,000 and requests are continuing to come in. The SB and the FinCom have the ability to meet and together they can transfer from other available funds in the budget and can make transfers. The accountant recommended the health insurance fund be used. The Town will be at least \$70,000 over on that account. Khashu shares a document listing all requests that came in this year. The reserve fund is critical to the town and it gives the FinCom the discretion to cover extraordinary or unforeseen expenses that come up during the year. FinCom started the year with \$75,000 and has spent almost all of that. FinCom is requesting a transfer of \$30,000 from the health insurance fund. This is a combined vote of the FinCom and the SB. Khashu will add Moderator Lyons idea for single line item budgets to the FinCom agenda.

VOTE: Farrell makes a Motion to approve this draft Town Meeting Warrant subject to review by Town Counsel; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

VOTE: Farrell makes a Motion to transfer \$30,000 to the FinCom Reserve from the Health Insurance Line 100-914-5170; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

8. Town Administrator Updates/PFAS and Project Plan Update: The new map shows the extension for PFAS testing. See map attached. There is quite a bit of variance in the levels of PFAS being found. The majority of the findings are in the yellow range. The highest purple readings have been in the central area. The greens are all non-detects. There are two more parcels that need to be tested, one on Leverett Road and then another parcel on Wendell Road. The map shows who gets a POET and what level that POET is. There was a new detection on Wilson Road and the property next door to Wilson Road had a second very low detection. There is not a final count on POETS but there was a new detection just last week. There will need to be more historical research done to find out what might have happened at that property in the past. The LSP will be meeting with the SB at the next SB meeting and will give an overview of where we are now and what they will be recommending to DEP as far as the quantity of testing that should be done. The LSP has been researching and looking into the other 26 different types of PFAS to see if there is a pattern developing that might explain it. The MVP Grant portal was not working, deadline was extended and grant was submitted at 2:30 on May 4th. Farrell asks what the timing looks like on the RFP going out for the dam consultant. TA has been talking with Mark and is working on getting the RFP out and hopes to do so soon. Christine with the Rec Committee would like to speak regarding the 3 positions the committee is seeking. Farrell advises Christine that was covered when going through the warrant and that was approved for "up to 9 members" as Barbara had requested.

Farrell Motions to Adjourn (7:28 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. Appointment Letter to Cory Rogowski

Documents and Other Items Used at the Meeting:

1. 2023 Annual Town Meeting Draft Warrant;
2. Tighe & Bond Maps

Respectfully submitted,
Geneva Bickford,
Administrative Secretary

** A full version of the 5/9/23 SB meeting is available to view on the Town of Shutesbury's YouTube page at: <https://www.youtube.com/channel/UC4ajoOcJsNzf5DBgMTZgcJA>