

Shutesbury Selectboard Meeting Minutes
August 1, 2023 Virtual Meeting Format

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

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

Volunteers & Other Staff present: Kristin Burgess, Gail Fleischaker, Michael DeChiara, Nate Heard, Mary David

Guests: Ken Kipen, Joyce Braunhut, Susie Mosher, Frank McGinn, Guy Devito, Joseph's iPad, Jane Urban, Shannon's dad, Carlos Fontes, Penelope Kim, Amanda Alix, Jon Lawless, Anna Mancebo, Steve Schmidt, Mark Roblee

Farrell calls the meeting to order at 5:32 pm.

Agenda Review: As posted.

Public Comment: Guy Devito is expressing concern about the Cowl's Pure Sky proposed deal and is against it. Devito would like to hear more from ConCom. Devito is well versed in what's going on in Town but it doesn't sound like a good deal for the town or the environment. Farrell reminds all that the SB does not respond to public comments but they are included in the minutes. Ken Kipen is a resident of Ashfield who has been following the challenges that ConCom is taking up and wants to add his support to the SB during these legal challenges. Ken has concerns about the threats to our health, safety and water and forest and ecosystems throughout the state and asks that the SB do what can be done to protect the public health, safety and water and forest and ecosystems of Shutesbury and also asks the SB to support our ConCom with new wetlands protections regulations.

Review of Minutes: Minutes of June 6, 2023, June 20, 2023 and July 11, 2023 were approved.

VOTE: Farrell makes a Motion to approve minutes of June 6, 2023; 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 approve minutes of June 20, 2023; 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 approve the minutes of July 11, 2023; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Discussion Topics:

1. ECAC review of CCA: At ATM there was a vote on Community Choice Aggregation ("CCA") to authorize the SB or its designee to begin the process of working on developing a CCA and it passed almost unanimously. The town will engage a broker that will work on its behalf to develop a proposal that will go before the Department of Energy Resources ("DOER"), then the aggregation plan would be posted publicly for review and comment. The SB would then be able to vote on whether or not to approve the aggregation plan. Nate Heard has found a couple of active brokers in Western MA, Colonial Power Group and Mass Power Choice. The town will solicit RFP's from brokers and review what each has to offer. Heard suggests the SB could select a designee from ECAC to do the outreach and report back to the SB at relevant decision making points. MLP status has not yet been clarified at this time. Town Counsel, Donna MacNicol, suggested the town move forward with the vote at ATM

without DPU authorization, approval. Michael DeChiara or Heard will follow up with town counsel. The proposal would be fairly boiler plate and payment to a broker would only come with the implementation of the aggregation plan. Heard does not believe there are any costs associated with the initial stages of engaging with a consultant.

2. State Revolving Fund Emergency Loan Application Form: At ATM the town approved the borrowing of \$150,000 to cover the costs associated with the PFAS cleanup resulting from what happened at the fire station. The SB also learned the town was eligible for a no interest 20 year loan that could potentially have a forgiveness provision and that was authorized at ATM as well. The town is applying under a construction phase as instructed by The Clean Water Trust who is the director of the program. The majority of what was originally allocated has been spent. The application is for \$150,000. The SB is required to sign the Authority to File. Tighe & Bond are still working on completing the application as there are a couple more sections to be worked on.

VOTE: Farrell makes a Motion to approve the Signature of Authority to File; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

3. COA/Laughing Old Ladies/Rec Com Request for Town Birthday Party: The Recreation Committee and the COA are asking for permission to host a gathering on September 10, 2023 from 3 pm to 5 pm to celebrate those in Shutesbury that are having a decade birthday. This would include a parade on the town common, cupcakes and general socializing. They would like to put signs on the common and borrow the loudspeaker system from the library. Parking would be available at the post office lot as well as at the church, the library and behind town hall. Mosher will check with Chief Burgess to see if an officer will be needed. Mosher has the event form and the TA will request a certificate of insurance from MIIA for the day of the event.

VOTE: Farrell makes a Motion to approve the Application of the Recreation Committee and Council on Aging to hold a town wide birthday party on the Shutesbury Town Common on Sunday, September 10, 2023; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

4. Review of Changes to the Locks Pond Culvert Project: The contractors began preparation for installing the water bypass system however the flows were much higher than had been planned for due to an unusual amount of rainfall in July. An order has been placed with the engineer to redo the paperwork that would allow the town to buy a 48" pipe to replace two 18" pipes. This will cost a great deal of money and take four to six weeks to accomplish. If the numbers continue to come down and are being maintained the engineer and contractor will be recommending that the project continue. The SB is presented with five options to consider. Option one is to move ahead immediately. Option two is to wait till September. Option three would be to wait for permitting for a new pipe and install this year. Option four is to declare a no go and wait till next year. If the water has reduced to under 8 cubic feet per second, the engineer and contractor will be recommending the project continue. If the larger pipe is required ConCom has advised a dam engineer would need to be brought in. Matt Styckiewicz with Niche Engineering will be in town Thursday meeting with the TA, ConCom and a SB member at the lake to take new measurements and do a thorough evaluation. ConCom has issued a violation notice to the SB having to do with the lake lowering that happened and issues with the OOC. The TA does not have full comprehension of the violation notice but understands the first issue raised were erosion control issues along with half of a bucket of sand as well as some uncovered black top that had been removed but were not trucked away immediately attributed to the culvert permit. All those items have been cleaned up immediately prior to the notice of violation being written. The violation letter combines the permit to do the drawdown as well as the culvert permit. Styckiewicz has been in contact with MESA regarding the permit for the culvert and was informed a

new permit would not need to be issued. They only need to be advised of what changes are being requested and they would review the changes requested. Any change to the time of year restriction will need to go through ConCom. The SB will hold a special meeting to sit down with the engineer, the contractor, a representative from ConCom, a representative from the emergency management team and a representative from the Lake Wyola Association and will continue discussing the options presented. TA reminds all if the choice is to go with the larger pipe that may require a special town meeting and has already discussed that possibility with the town clerk.

5. Highway Superintendent Hiring Committee Appointment and Schedule Review: Tim Hunting, Highway Superintendent, has put in his notice and his last day will be 9/30/23. A hiring committee with representation from the Personnel Committee, the SB, the FinCom and one or two citizens at large will be formed. Makepeace-O'Neil has volunteered from the SB. TA hopes to have an organizational meeting by August 14. The TA hopes to put together the ad. A newspaper version can be done with the committee once it has been formed.

VOTE: Farrell makes a Motion to appoint Melissa Makepeace-O'Neil to the highway superintendent search committee; Stocker moves, Farrell seconds. Roll call vote: Makepeace-O'Neil: abstain, Stocker: aye, and Farrell: aye; the motion carries.

6. Review of Release of Claims for Walter Tibbetts to Clean Dam Trash Rack approved at Saturday's Emergency Selectboard Meeting on July 22, 2023: The SB held an emergency meeting on Saturday, July 22 that needed to be done due to the threat of weather. The SB is revoting their approval in a public meeting a release of claims for Walter Tibbetts to clean out the trash rack at the dam.

VOTE: Farrell makes a Motion to approve a Release of Claims to Water Tibbetts to deal with the trash rack at Lake Wyola Dam; Makepeace-O'Neil moves, Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

7. ConCom's Request for Culvert Permit and Drawdown Permit Use of Legal Counsel: ConCom is requesting counsel to address issues regarding the culvert and the drawdown permit and would like to use Beth Goodman to review anything related to the culvert or the drawdown. Mary David will bring this back to the SB with a scope of services.
8. Town Administrator Updates – PFAS, Culvert, School Roof and Gasoline at Fire Dept.: Mike's Construction started the work on the SES roof about a week ago and have replaced all the asphalt shingles on the east and north side and may have completed the west side today. There will be a second onsite construction meeting tomorrow morning. The project is going very well right now and hopefully will be completed before school starts. The gasoline issue at the fire station is in the 2nd stage. Sam Evans from Tighe & Bond came out and installed specialized testing for all of the wells at the fire station parking lot site. Next Tuesday they will be collected and submitted to the lab and the hope is to have results by the 15th. With regards to PFAS the TA is working with Arps to put together an estimated plan with costs for the upcoming year. We have done all installations of POETS at this point. All letters have gone out to everyone after the post evaluation test and we have not had any detections in the last 3 rounds of testing. TA received some information earlier regarding the AG review of the solar bylaw and talked with MacNicol. MacNicol is continuing to work with the AG's office and is working on the response to the letter of 4/19. There has been some back and forth between the AG's office, town clerk and town counsel. Town Counsel is keeping DeChiara and Jeff Lacy in the loop. TA has no further news regarding the procurement of a dam consultant and has had only one response. The new information that ConCom shared at their last meeting was that the permit for the draw down does not expire in October 2023. Due to covid the permit does not expire until January of 2025. Root did the 2024 inspection and the town has until 2026 before another inspection report needs to be submitted.

Farrell Motions to Adjourn (7:08 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.

Documents and Other Items Used at the Meeting:

1. Flow Chart
2. TA spreadsheet regarding Locks Pond Culvert Lake Wyola

Respectfully submitted,
Geneva Bickford,
Administrative Secretary

** A full version of the 8/1/23 SB meeting is available to view on the Town of Shutesbury's YouTube page at: <https://www.youtube.com/channel/UC4ajoOcJsNzf5DBgMTZgcJA>

DRAFT