

Shutesbury Selectboard Meeting Minutes
August 9, 2023 Hybrid Meeting Format

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

Staff present: Becky Torres/Town Administrator

Volunteers & Other Staff present: Robin Harrington, Mary David, Miriam DeFant, Beth Willson, Scott Kahan

Guests: Rivka and Robert Solomon, Mark Riveers, Mike S., Leslie Luchonok, Janice Stone, April Stein, Susie Mosher, Donna Brewer, Sally, Elaine Puleo, Jenn Kallick, Robert Bezucha, Gail Fleischaker, Diane, Jim Plaza, Bayard Caulton, Joyce Braunhut, Jan Rowan, Deborah O'Brien, Carlos Fontes, Penelope Kim, Town Hall Meeting Room, Ziporah Hilodebrandt, Ezzell Floranina, Penny Jaques, Jill Marland, Jim Barron, Joseph's Ipad, Mary Lou Conca, Elizabeth Fernandez O'Brien, Eric Bachrach, T&G, Sharon Weizenbaum, Tracy McNaughton, Ken Holt, Steven Bressler, Tom Sierfert, Don Wakoluk, Amanda Alix, Jon, Panlilio, Tom Kalt, Jim Hemingway, Mike Vinskey, Dale Houle, LynMarie, Craig, Leslie Cerier, Frank McGinn, Renee Moss, Joan Hanson

Farrell calls the meeting to order at 7:31 pm.

Agenda Review: As posted.

Discussion Topics:

1. Joint Meeting with Conservation Commission and Selectboard to Discuss Use of Attorney, Meeting with McGregor to Review ConCom Local Bylaw Regulations, and establishment of ConCom Legal Fund: The SB and ConCom are meeting to discuss a few matters. ConCom's request for use of special counsel is discussed. ConCom began working on revising the bylaw regulations and since Attorney Donna MacNicol has recused herself they are requesting the use of Attorney Elizabeth Goodman with Cain Hibbard. The TA previously authorized 5 hours of MacNicol's time for the review of the regulations. Goodman's hourly fee is \$335 per hour. The SB asks DeFant for a detailed scope of services from Goodman because in the past work has been done outside the scope of services agreed to. DeFant expects Goodman would read over the regulations and possibly mark them up with questions. Goodman would also attend a couple of meetings and she would also need time to read through the regulations to edit and/or make comments. Goodman believes she can do the work in 5 hours and felt that was reasonable. ConCom did send an email revising their request to 10 hours of time if the SB and ConCom were to hold a joint working meeting as Goodman's 5 hours would not include time for a working meeting. Farrell raises the issue of the use of legal counsel and approval by the SB. The SB previously approved special counsel to ConCom for Lot O32 and a contract was executed with ConCom for \$2,500 however a tally of the legal bills paid have been over \$9,000 and only \$2,500 was approved. DeFant is unsure where the \$9,000 in legal bills are coming from and will look into this. The SB is requesting a joint working meeting with ConCom and special counsel for the ConCom and special counsel for the SB, Attorney Greg McGregor to discuss his take on the regulations and the relationship to the existing bylaw as his opinion differs from Goodman. ConCom is not amenable to a joint meeting. They feel it is not a good use of legal funds and suggests scheduling another public hearing inviting the SB, McGregor, Goodman, Garner & Stone to attend and setting aside 1 hour of the meeting to have a discussion just between ConCom and the SB as well as Goodman, McGregor, Gardner and Stone. ConCom believes they have incorporated many of McGregor's changes into the regulations and do not plan to update the bylaw before doing the regulations. The SB does not believe 1 hour to meet with the attorneys is enough. The SB approves ConCom's request for special counsel in the amount of \$1,675 which is 5 hours at \$335/per hour and requests a detailed scope of services be sent to them for review.

The next discussion is in regards to establishing a legal fund with an amount unknown. ConCom has received an email from a resident who would like to make a donation of an unknown amount with the stipulations that ConCom have sole control and discretionary use of the funds and the funds be earmarked for legal counsel expenses related to the town's wetlands bylaw regulations and any revisions to the bylaw itself. The SB is the executive body with authority over use of legal funds. The SB is concerned with the stipulations as ConCom would not have sole discretion. Under State Law Ch. 44, Section 53A the SB has to approve all expenditures for legal counsel. Farrell will provide language to DeFant that would be consistent with the state law and DeFant will need to discuss with the donor.

VOTE: Farrell makes a Motion to approve \$1,675.00 for special counsel for the ConCom to review the draft wetlands protections bylaw regulations. Makepeace-O'Neil moves and Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

2. Unanticipated Item, Gale Associates proposal: The Gale Associates proposal is for continued work at the elementary school for evaluation services for \$9,800 and up to \$4,000 for reimbursables if there is cause to search materials for asbestos and chemical issues of that nature which are sometimes required but sometimes not. The building committee has factored this into their budget.

VOTE: Farrell makes a Motion to approve \$13,800 for Gale Associates evaluation services on the exterior of the elementary school. Makepeace-O'Neil moves and Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

3. Unanticipated Item, Grant Application for the Dudleyville Dam: Lois Brown is requesting the town submit an application on her behalf with the Department of Energy Resources ("DER") to further explore the removal of the Dudleyville dam. This will require cooperation between the Town and the Browns. There is no financial obligation to the Town. Due to the application being set up on Cummbuys there is no way for an individual to apply. Municipalities are the ones that have the accounts for Commbuys and are the ones that must submit the application.

VOTE: Farrell makes a Motion to approve Lois Brown's application, the town will submit it on her behalf on Commbuys. Makepeace-O'Neil moves and Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Farrell Motions to Adjourn (8:56 pm); Makepeace-O'Neil moves and Stocker seconds. Roll call vote: Makepeace-O'Neil: aye, Stocker: aye, and Farrell: aye; the motion carries.

Respectfully submitted,
Geneva Bickford,
Administrative Secretary

** A full version of the 8/9/23 SB meeting is available to view on the Town of Shutesbury's YouTube page at: <https://www.youtube.com/channel/UC4ajoOcJsNzf5DBgMTZgcJA>