

# Town of Shirley

## BOARD OF SELECTMEN



7 KEADY WAY – SHIRLEY, MASSACHUSETTS - 01464-2812  
Armand Deveau, Chair

David N. Swain, Vice Chair

Kendra J. Dumont, Clerk

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### BOARD OF SELECTMEN MINUTES of December 3, 2012 7:00pm TOWN OFFICES

The Board of Selectmen convened its meeting on Monday, December 3, 2012 at 7:00 p.m. at the Town Offices with Chairman Armand Deveau presiding and Selectmen David Swain and Kendra Dumont and Chief Administrative Officer David Berry in attendance.

#### CALL TO ORDER

*Announcement: In addition to the SPACO audio and video taping of this meeting, the Board records the meeting with an audiotape player for the purpose of creating these minutes*

#### TREASURY WARRANTS

Payroll warrant # <u>0121</u>	<u>11/21/12</u>	\$ <u>10,720.02</u>
Payroll warrant # <u>6121</u>	<u>11/21/12</u>	\$ <u>24,157.40</u>
Payroll warrant # <u>9121</u>	<u>11/21/12</u>	\$ <u>10,846.14</u>
Payroll warrant # <u>0122</u>	<u>11/28/12</u>	\$ <u>6,891.12</u>
Payroll warrant # <u>6122</u>	<u>11/28/12</u>	\$ <u>25,075.35</u>
Payroll warrant # <u>9122</u>	<u>11/28/12</u>	\$ <u>24,357.71</u>
Payroll warrant # <u>0123</u>	<u>12/05/12</u>	\$ <u>5,498.13</u>
Payroll warrant # <u>6123</u>	<u>12/05/12</u>	\$ <u>25,197.23</u>
Payroll warrant # <u>9123</u>	<u>12/05/12</u>	\$ <u>9,798.50</u>

Payable warrant# <u>2223</u>	<u>11/28/12</u>	<u>\$ 330,562.94</u>
Payable warrant# <u>9263</u>	<u>11/28/12</u>	<u>\$ 5,313.92</u>
Payable warrant# <u>2233</u>	<u>12/05/12</u>	<u>\$ 144,999.26</u>
Payable warrant# <u>9273</u>	<u>12/05/12</u>	<u>\$ 412,500.00</u>

Selectman Swain made the **Motion to accept the following Treasury Warrants as presented. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

**APPROVAL OF MINUTES - NONE**

**NEW BUSINESS**

1. 7:00pm Public Hearing – School Street

Selectman Swain made the **Motion to open the Public Hearing at 7:02pm. Selectman Dumont Seconded. David Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

Selectman Dumont read the legal notice into the minutes:

*The Shirley Board of Selectmen will hold a public hearing on Monday, December 3, 2012 at 7:00 p.m. at the Town Offices, 7 Keady Way, to discuss proposed revisions to the traffic flow on School Street. The proposal is to reverse the "limited" one-way traffic designation on School St. The current traffic enters from Harvard Road (east to west); it is proposed to reverse this by having traffic enter from Lancaster Road. (west to east). Persons unable to attend the public hearing, may forward their comments in writing to the Board of Selectmen, 7 Keady Way, Shirley, MA 01464 prior to the hearing*

Police Chief Greg Massak was present to restate the concerns from the previous Selectmen's meeting regarding School Street. Chief Massak had conversations with LAW Principle Fitzgerald and Superintendent Mock, and their concerns for the safety of the students. Chief noted that the desire is to have return to 2008 and reinstate the original traffic pattern at that time. Selectman Swain asked what the time frame was on changing the traffic pattern. LAW Principal Fitzgerald stated that she would like to see something in place before winter. Chief noted that the electronic message board will be used to notify the public of the changes while waiting for the proper signage to be placed on School Street.. The intent is to have the new traffic pattern during school hours, 7am to 4pm.

Seeing no further comments, Selectman Swain made the **Motion to close the public hearing at 7:15pm. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

Selectman Swain made the **Motion that the traffic flow on School Street be adjusted to having traffic enter from west to east from Lancaster Road while school is in session from 7am to 4pm, effective**

**December 18, 2012. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

2. Center Cemetery – Removal of White Pine Tree

Chairman Deveau did an overview with regard to the removal of the White Pine Tree in the Center Cemetery. While noting the number of correspondence received at the Selectmen's office expressing concerns of the removal of tree; an arborist as well as a representative from the Mount Auburn Cemetery came to Shirley to review the health of the tree and the damage to the head stones. The recommendations for the tree were to trim the "sails" of the tree, cable the trunk and attached lightning rods in order to maintain the white pine. With respect to the slate head stones, it was determined that those cannot be replicated. Further, it was noted that if nothing is done, the "Tree" will swallow up those head stones in question. Chairman Deveau stated that the determination to take down the tree has nothing to do with the health of the tree, but rather protecting the Town's historical assets.

Janet Tice, of the White Pine Working Group, read the following into the minutes. (See Attached)

Sandy Marcinkewicz, Chair of the Cemetery Commission, asked if the money raised by private donations can be used to offset the costs of removal of the tree, should it be delayed. She further noted that it still is the consensus of the Commission to have the white pine tree removed.

Chip Guercio, member of the White Pine Working Group, echoed Janet Tice's letter, to delay in cutting the tree down, and 1) preserve the tree, if scientifically healthy, by cabling and trimming the tree, and 2) work with the Cemetery Commission and Board of Selectmen to preserve the cemetery.

After further discussion, Selectman Swain made the **Motion to reaffirm the Board of Selectmen's prior decision to have the White Pine Tree at the Center Cemetery removed. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

3. Conservation Agent Job Description

Nancy Askin, member of the Shirley Conservation Commission updated the Board of Selectmen regarding the Conservation Agent Job Description. She informed the Selectmen that she had met with the Personnel Board and they had approved the Commission's request to absorb the Secretary's job into the Agent's job. She also noted that the Commission would like to see the hours increased from 12 to 19 hours with the wages to remain at Grade 6 Step 1 (\$17.40 per hour). As of November 17<sup>th</sup>, remaining funds in the Conservation's wages budget is approximately \$12,267. Funds for 19 hours/week at \$17.40/hr for the remaining 32 weeks is projected at \$10,599.. (See attached)

With Stephen Schneider leaving as Agent, the Conservation Commission is asking the Selectmen support their request in order to encourage good candidates and less turnover.

Chairman Deveau asked if the increase of hours for the Agent mean an increase or decrease to the Town's overall budget. Nancy Askin noted that there will not be an increase but surplus in their budget. He further stated that he is in support of this request as it is good management of key staff.

Selectman Dumont stated that it does make sense to increase those hours for the Agent since there is a constant turnover. However, she expressed concern to commit with the 9C cuts being announced.

Selectman Swain commented that he has deep concerns with regard to the 9C cuts, and does not want to go out on the limb at this time. It is not prudent to increase the hours when the Town needs to come up with at least \$45,000 in cuts, as a result of the Governor's 9C cuts.

Conservation Commission member, David Bortell, noted that since his tenure, the Commission has cycled through 4 Conservation Agents. Further stressing that there is still much to do.

Selectman Dumont made the **Motion to allow the Conservation Commission to hire a combine Conservation Agent/Secretary at grade 6, step 1. Selectman Swain Seconded for the propose of discussion.**

Selectman Swain stressed that he stands by his concern regarding the upcoming 9C cuts.

**Kendra Dumont vote Aye, David Swain vote No and Armand Deveau vote Aye.**

**Motion passes.**

4. 7:05pm Public Hearing – Renewal of Gravel Permits

Selectman Swain made the **Motion open the Public Hearing for the Renewal of Gravel Permits at 8:42pm. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

Selectman Dumont read the legal Notice into the Minutes:

*The Board of Selectmen will hold a Public Hearing at 7:05 p.m. on December 3, 2012 at the Town Offices, 7 Keady Way, for Renewals of Removal Permits for Soil, Loam, Sand, Gravel or Other Earth Products for: Anita Haines, Richard Hatch, J & A Realty Trust, and Robert Hart. If you are unable to attend, please forward your written comments to the Board of Selectmen, 7 Keady Way, prior to the Public Hearing*

Selectman Swain made the **Motion to approve the applications for Earth Removal permits for Richard Hatch Excavating, Walker Road; Anita B. Haines, Townsend Road; J&A Realty Trust, Townsend Road; Robert Hart, Moore Drive, per the attached Order of Conditions and the Town of Shirley By-Laws, to expire December 31, 2013. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

5. Renewal of Alcohol and Food License for 2012

**Motion to approve the Common Victualler's License for Food and All Alcohol for the Bull Run Restaurant at 215 Great Road, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

**Motion to approve the Common Victualler's License for Food and All Alcohol, and the Automatic Amusement License for the Shirley Club, Inc., dba/ The Phoenix Bar and Grill, 4 Ayer Road, term to**

**expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve the Common Victualler's License for Food and All Alcohol and for Automatic Amusement (2 Video Games) for Piccolino Restaurant at 4 Mill Street, term to expire December 31, 2013, (subject to pay fees owed to the Town of Shirley by December 20, 2012), and subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve the Common Victualler's License for Food and All Alcohol and for Automatic Amusement (2 Video Games) for George Morin Post #183 at 9 Church Street, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve the Common Victualler's License for Food and All Alcohol for Net Variety, Inc., dba/ Net Variety & Liquors, at 5 Front Street, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve the Common Victualler's License for All Alcohol for the Shirley Package Store, Inc., dba/ Ye Olde Cock and Bottle, at 217 Great Road, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve the Common Victualler's License for Food and Wine and Malt for Roux's Market, 27 Front Street, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

**Motion to approve the Common Victualler's License for Food for Courtney's Donuts, LLC, dba/ Dunkin' Donuts, at 2 Fredonian Street, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

**Motion to approve the Common Victualler's License for Food for the Great Wall Restaurant at 7 Main Street, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

**Motion to approve the Common Victualler's License for Food for Airport Diner, term to expire December 31, 2013 subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

**Motion to approve the Common Victualler's License for Food for the Village Pizza at 1 Front Street, term to expire December 31, 2013, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

6. Renewal of Class II and Class III Permits

**Motion to approve the Used Car Dealer's License – Class II – to buy and sell second-hand motor vehicles, for David Warila dba/Warila's Auto Repair & Sales, at 200 Ayer Road, term to expire January 1, 2014, subject to all laws of the Commonwealth and the By-Laws of the Town of Shirley. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye.**

**Motion to approve a Used Car Dealer's License, Class II, to buy and sell second-hand vehicles, for Mohawk Village Motors, Inc., subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Used Car Dealer's License, Class II, to buy and sell second-hand vehicles, for Shirley Garage, Inc., 130 Lancaster Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014 . Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Motor Vehicle Junk License, Class III, for Shirley Garage, Inc., 130 Lancaster Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014 Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Used Car Dealer's License, Class II, to buy and sell second-hand vehicles, for Insurance Auto Auctions, Corp., 2 Going Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Motor Vehicle Junk License, Class III, for Insurance Auto Auctions, Corp., 2 Going Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Used Car Dealer's License, Class II, to buy and sell second-hand vehicles, for Warila Enterprises, Inc, dba/Burlington Auto Parts, 127 Hazen Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Motor Vehicle Junk License, Class III, for Warila Enterprises, Inc, dba/Burlington Auto Parts, 127 Hazen Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

**Motion to approve a Motor Vehicle Junk License, Class III, for Landry Brother's Garage, Inc., 280 Great Road, subject to the attached order of conditions and the Town's By-Laws, term to expire January 1, 2014. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau vote Aye**

Chairman Deveau stated that it should be duly noted that all Licenses are subject to all fees owed to the Town of Shirley, such as taxes or sewer fees, should be paid in full no later than December 20, 2012.

7. 7:15pm Public Shade Tree Hearing – National Grid

Selectman Swain made the **Motion to open the Public Shade Tree Hearing at 8:53pm. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

Selectman Dumont read into the minutes the following legal notice:

*Pursuant to Massachusetts General Law Chapter 87, as amended, the Board of Selectmen will conduct a Public Shade Tree Hearing on Monday, December 3, 2012 at 7:10pm at the Town Offices, 7 Keady Way, relative to the request of Department of Public Works, to remove One (1) 30" Maple Tree on Little Turnpike Road to proceed with the installation of a new water main. Said Tree has been duly posted in accordance with MGL Ch 87 Section 3. Persons unable to attend the public hearing may forward their comments in writing to the Board of Selectmen, 7 Keady Way, Shirley, MA 01464, prior to the hearing.*

Chairman Deveau explained that request to remove a tree is for the purpose of installing a water main line, at no cost to the Town of Shirley.

Selectman Swain made the **Motion to close the Public Hearing at 8:54pm. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

Selectman Swain made the **Motion to authorize the removal of the shade tree as presented in the attached pictures provided by the Department of Public Works. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

8. Drive Way Permits – 6 Lancaster Road & lot 4 Fairway Drive

Selectman Swain made the **Motion to approve the Driveway Permit for 6 Lancaster Road subject to the successful closing of the sale of the Old Hazen Memorial Building, and the attached orders of condition. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

Selectman Swain made the **Motion to approve the Driveway Permit for Lot 4, 1Fairway Drive, with the attached orders of condition. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

OLD BUSINESS

CAO David Berry informed the Board of Selectmen that the closing for the sale of the Old Hazen Library between the Town and Steve Phaneuf, will be on Wednesday, December 5<sup>th</sup>. The Closing will be held at Attorney Tom Gibbons Office in Ayer. Town Counsel Judy Pickett will represent the Town at said closing.

With no further business to discuss, **Motion and Seconded to adjourn at 8:59 p.m., David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

Respectfully submitted,  
Kathleen Rocco

Date Accepted: 1-14-13

  
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Armand Deveau, Chair

  
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David N. Swain, Vice Chair

  
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Kendra J. Dumont, Clerk