

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

TEL: (978) 425-2600, x200

Fax: (978) 425-2602

Selectmen@shirley-ma.gov

BOARD OF SELECTMEN MINUTES of January 7, 2013 7:00pm TOWN OFFICES

The Board of Selectmen convened its meeting on Monday, January 14, 2013 at 7:00 p.m. at the Town Offices with Chairman Armand Deveau presiding and Selectmen David Swain, 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	# 0528	<u>12/19/12</u>	\$ <u>0.25</u>
Payroll warrant	# 0126	<u>12/26/12</u>	\$ <u>5,312.54</u>
Payroll warrant	# 6126	<u>12/26/12</u>	\$ <u>22,772.55</u>
Payroll warrant	# 9126	<u>12/26/12</u>	\$ <u>44,254.29</u>
Payroll warrant	# 0127	<u>01/02/13</u>	\$ <u>4,668.39</u>
Payroll warrant	# 6127	<u>01/02/13</u>	\$ <u>22,983.04</u>
Payroll warrant	# 9127	<u>01/02/13</u>	\$ <u>8,550.33</u>
Payroll warrant	# 0128	<u>01/09/13</u>	\$ <u>9,369.41</u>
Payroll warrant	# 6128	<u>01/09/13</u>	\$ <u>29,869.42</u>
Payroll warrant	# 9128	<u>01/09/13</u>	\$ <u>12,671.82</u>
Payable warrant	# 2263	<u>12/26/12</u>	\$ <u>132,478.20</u>

Payable warrant # 2273 01/02/13 \$ 21,292.79

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

APPROVAL OF MINUTES

Selectman Swain made the **Motion to accept the Minutes of November 19, 2012. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

NEW BUSINESS

1. Anaerobic Digestion Discussion (See Attached)

Catherine Finneran and Greg Cooper of the Mass DEP came before the Board of Selectmen to give an overview on the Anaerobic Digestion. They stated that they would like to get input from the Board of Selectmen, as they may be possible stakeholders.

Anaerobic Digestion is an oxygen-free process during which microorganisms break down organic material for form biogas.

Greg Cooper explained that the Commissioners of DEP/DCAMM did a study to look for appropriate state land to have an anaerobic digestion. The DEP at this time looking at MCI Shirley as a possible good site with the reasons being: (1) four to twelve acres available; (2) near major highways; (3) compatible surrounding users; and (4) avoid sensitive resources.

Ms Finneran and Mr. Cooper both stressed that they would like to start partnering with the local communities for input, as they go into the feasibility study and then issue the RFP by the end of 2013 with contracts awarded by December 2013 and up and operating by 2015.

Questions from the Board of Selectmen ranged from the concern of:

- What are the dangers in this process?
- What is the negative impact on the community?
- Does the waste water have potential problems, (ie water pollution)?
- Where is some of the digestate to be stored?
- Concerns with the organic ban?
- Where is the material going?
- What will happen if there is a power outage?
- Is there a contingency plan?
- How many trucks coming in to transport?
- Are there plans to upgrade Route 2 with the increase traffic?
- Are there plans for rodent control and the problem with odor?
- Use of Trucks? Big and the smaller trucks (ie Shaws)
- How will the trucks be deterred from going through the Town of Shirley?
- Permitting?

After discussion on the above concerns; Chairman Deveau noted that the Town of Shirley does not have jurisdiction over MCI, which is state property.

2. Tax Title Update & Tax Collection Update

Town Collector Holly Haase gave an update on her part of the process in back taxes. Ms Haase presented to the Board of Selectmen a Report that shows all amounts transferred to Tax Title. (*See Attached*). She further submitted a list of all the outstanding tax title accounts. She explained that the Certification of Tax Title pertains to parcels that already have tax liens recorded that are certified to the Treasurer after the demand have been mailed. The Transfer of Tax Title are new parcels placed in tax title each year.

Both Collector and Treasurer stated that they follow all rules and regulations as outlined in the Massachusetts General Laws (MGL). Town Collector Haase stated that there are processes which were put in place in 2008, through the then Tax Collection Committee. Before any permitting is done, all Town Boards are required to check with the Town Collector and Town Treasurer to see if any taxes are owed to the Town of Shirley.

Town Treasurer, Kevin Johnston, gave an update on the Tax Taking process. (*See Attached*) Mr. Johnston noted that they are integrating a process of tax collection with some compassion. He reviewed with the Board of Selectmen the process on tax title.

Attorney Coppola, Tax Title Attorney for the Town of Shirley, explained the process on land of low value and unknown ownership. He explained that that land of low value is land worth less than \$20,000. The process once applications are filed by the Assessors, must be approved by the DOR, and recorded in the Registry of Deeds. The Treasurer can then foreclose and hold an auction of land, without going to Court. Noting that this process less costly than having to go to land court for each parcel. The Treasurer stated that that once this process is started, (land of low value), the time frame is usually 6 to 9 months, which would mean around September/October at the latest.

Selectman Swain noted that Tax Taking annually brings in on average \$144,000.

Selectman Dumont would like to have an update from the Treasurer and Collector at least twice a year or if a milestone has been reached.

3. Joint Meeting with FinCom; Discussion FY13 & FY14 Budgets

Mike Swanton of FinCom joined in the Board of Selectmen in an open discussion of the FY13 & FY14 Budgets. Chairman Deveau stated that the Governor's 9C cuts have left the Town of Shirley to solve a \$105,000 deficit. Mr. Swanton stated that FinCom has recommended that all the actions taken at the Fall Special Town Meeting be reversed. The \$94,000 in stabilization as well as the \$10,000 to \$15,000 in increased hours to some of the town employees in which were voted at STM, will need to be revoked at a future Town Meeting. Mr. Swanton reminded the Board that FinCom did not recommend the increase of hours at the STM, due to a structural deficit. Further, he emphasized that this is not fiscally responsible.

Chairman Deveau agreed in part with FinCom's recommendation, stating that the promised \$94,000 to be received for the impact of MCI is one of this items that has been potentially cut. He agrees that it is appropriate use of funds regarding the stabilization. However, reversing the \$10-15,000 in hours voted at the STM, Chairman Deveau is not there with that one.

Chairman Deveau asked if FinCom would be willing to use the Reserve Fund to help in the deficit. Mr. Swanton noted that there is a danger in that, due to the unknown need. Most departments do not know what is needed until the end of the fiscal year.

As for when to call a Town Meeting, Mr. Swanton stated that there is no legal requirement with regard to the Stabilization Fund. However, the \$10,000 granted for the extra hours should be cut immediately.

Selectmen Swain stated that this is still not solving a structural issue. The Town needs to look outside the box. He noted the MCI Funds that is still encumbered. He is asking that amount be unencumbered, since its intent was for any work done and not paid for, during the building of the Shirley Middle School. Further, he would like this release of monies go into the capital plan. Town Accountant confirmed the amount in the MCI Funds at \$62,800.

Further, Selectman Swain stated that a couple of years ago, the Selectmen envisioned a creation of a CAO, in which Selectman Swain was fully on board with. The understanding was the Selectmen would hire a CAO who had experience and would help the Town out in different situations, such as finding different revenue sources, (ie grant writing). Over a period of time, Selectman Swain stated that it was not happening and nor did he see it happening. Selectman Swain pointed out that when Mr. Berry was interviewed, he was specifically asked if he had grant writing experience, in which Mr. Berry answered in the affirmative. Selectman Swain stated that in a course of two years he has not gotten a single grant for the Town.

Chairman Deveau asked if this discussion have anything to do with the Budget discussion.

Selectman Swain continued that Mr. Berry has not formed a grant writing committee to date. He further stressed that Mr. Berry stated that he was a certified Purchasing Agent, then signed a document stating that he was not a certified Purchasing Agent.

CAO Berry stated that he never stated that.

Chairman Deveau stressed to Selectman Swain to formulate his discussion as it relates to the budget, as he does not like where this is going.

Selectman Swain made **the Motion to ask for the resignation of CAO, effective this Friday, for the lack of ability to do the job in the manner that we expected. Selectman Dumont Seconded.**

Chairman Deveau asked if there is discussion on this; he asked if anyone has had discussion with legal regarding the contractual obligation between Mr. Berry and the Selectmen.

Selectman Swain stated that he can ask for Mr. Berry's resignation at any time and failing that he can adjust the Motion, should Mr. Berry not be willing to offer his resignation.

Selectman Swain stated that he would make a further **Motion that he (Mr. Berry) be dismissed for Just Cause. Selectman Dumont Seconded. David Swain vote Aye, Kendra Dumont vote Aye and Armand Deveau whole heartedly vote No. Motion Passes.**

Chairman Deveau questioned Selectman Swain on what his thoughts were on who would pick up the CAO's work. Selectman Swain stated that he would put the responsibilities of the job on Ms. Rocco and she would become the interim CAO. Further he stated that he would like to go back to

the town and revisit the job description of CAO and bring it back to the position as Town Administrator.

Chairman Deveau asked FinCom member Mike Swanton on his thoughts on this recent action. Mr. Swanton stated that it is the Board of Selectmen's purview to hire and fire as well as how they allocate the monies.

Chairman Deveau addressed the DPW, COA and the Library, on their concerns regarding reversing the STM, stating that between the release of monies from the stabilization fund, coupled with the action that just took place, there is reasonable expectation to continue as is, in this fiscal year.

Mr. Swanton noted that in FY14 the question to ask is if the Town can afford this level of service, emphasizing that the Town has to be fiscally responsible.

4. Driveway Permit – Little Turnpike Road

Selectman Swain made the **Motion to authorize the Application for Permit to Construct &/or Blacktop Driveway or Accessway for the Mohawk Village water line located on Little Turnpike Road, with the attached Orders of Condition. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

5. Winslow Fund Grant Award Application

Board of Selectmen reviewed the applications submitted. Two from the COA and one from CAC. The Selectmen will not take any action at this time, and will make decisions at the end of the month.

6. One Day Liquor Licenses – Shirley Rod & Gun

Selectman Swain made the Motion to approve the One Day Liquor Licenses for the Shirley Rod & Gun Club, located at Kittredge Road, as presented. (See Attached). Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.

7. JBOS

Rico Cappucci, who is the Town of Shirley Representative for JBOS, came before the Board to explain the 2011 Memorandum of Understanding: Makeup of the Joint Board of Selectmen (JBOS), as amended in 2012.

Mr. Cappucci further stated that the JBOS will consist of four voting members and one non-voting member. The Boards of Selectmen of the Town of Ayer, the Town of Harvard and the Town of Shirley shall each appoint a minimum of one member, one of whom is a voting member, plus an alternate member who could exercise the vote in the absence of the voting member.

Selectman Swain made the **Motion to approve the Memorandum of Understanding, as amended in November 2012, or there about, as presented. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

8. Schedule for Annual Town Election – 2013

Town Clerk Amy McDougall gave an update on the Annual Town Election Schedule. She informed the Board that the Election will be held on Tuesday, May 14, 2013 from 7:00am to 8:00pm. She will be sending memos to all the Town Elected Boards informing them who's seat is up. (see attached)

Ms McDougall stated that she was notified there may be a possible resignation from a member of the Board of Assessors.

April 9th is the deadline to receive any Prop 2 ½ questions.

Date to take out Nomination Papers is January 22, 2013 and return the papers by March 26, 2013 by 5:00pm.

9. BOS Meeting Schedule

Selectman Swain made the **Motion to approve the Board of Selectmen Meeting Schedule from January 2013 through June 2013, as presented. Selectmen Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

OLD BUSINESS

10. Approval - Senior Tax Work Off Program Application

Selectman Swain made the **Motion to approve the Senior Tax Work Off Program Application as presented. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

With no further business to discuss, **Motion and Seconded to adjourn at 10:00 p.m., David N. Swain vote Aye, Kendra J. Dumont vote Aye and Armand Deveau vote Aye.**

Respectfully submitted,
Kathleen Rocco

Date Accepted: 1/28/2013

Armand Deveau, Chair

David N. Swain, Vice Chair

Kendra J. Dumont, Clerk