



# Town of Shirley

## BOARD OF SELECTMEN

7 KEADY WAY – SHIRLEY, MASSACHUSETTS - 01464-2812

*Robert E. Prescott, Jr., Chair*

*David N. Swain, Vice Chair*

*Kendra J. Dumont, Clerk*

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### BOARD OF SELECTMEN

### MINUTES

### June 15, 2015

### 6:30 pm

### TOWN OFFICES

The Board of Selectmen convened its meeting on Monday, June 15, 2015 at the Town Offices, Meeting Rooms A & B, Chairman Robert E. Prescott, Jr. presiding, with Selectmen Kendra J. Dumont, David N. Swain,, Town Administrator Patrice Garvin in attendance.

#### CALL TO ORDER

Chairman Prescott called to Order the Board of Selectmen's Meeting at 6:30 pm.

#### EXECUTIVE SESSION

Selectman Swain moved to go into Executive Session under *M.G.L. c.30A, Sec. 21 (2)* To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel and reconvene in open session. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

#### TOWN ADMINISTRATOR REPORT

The Town Administrator gave her weekly report.

Garvin stated that the Town has received a DLTA grant from Montachusett Regional Planning Commission (MRPC) to update the Economic Development Element of the Master Plan. MRPC is currently contracted with the Town to update its other Master Plan elements.

Garvin reported that she is taking vacation from Monday June 22<sup>nd</sup> – Friday June 26<sup>th</sup>. Given some work and meeting she needs to attend, it will be a working vacation. She will be available by phone and will be in town for some time that week, as needed.

Garvin met with the Chairman of the Energy Committee along with Orland Pacheco, former town Administrator of Lancaster, to discuss a possibility of a municipal aggregation of power. She noted that there is a lot to learn with regards to this and would like to make sure they have all the details in order to make the best recommendation to the Town.

Garvin wanted to congratulate the Economic Development Committee (EDC) on securing three of the for articles at the Devens Town Meeting, held Monday, June 8<sup>th</sup>. The EDC had worked for years to have the village growth area of Devens developed.

Garvin informed the BOS that the board authorized putting \$4,000 towards the employees' dental insurance. She is formally requesting that action be considered for FY2016.

TA stated that July would be a good time to schedule work meeting session to discuss goals and objectives for the upcoming year. She suggested that the Selectmen take one of the regularly scheduled meetings in July to make it a working session. The dates set to meeting are: July 13<sup>th</sup> and July 27<sup>th</sup>.

Finally, the town is getting ready to put the ambulance out to bid. Garvin has set a target date of July 1 to release the bid. Ambulance Department is looking to trade two of the old ambulances, but due to MGL, trade-in values cannot be counted toward the final bid price.

### **TREASURY WARRANTS**

Selectman Swain moved to accept the following Treasury Warrants as presented. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Robert E. Prescott, Jr. vote Aye.

### **APPROVAL OF MINUTES**

Selectman Swain moved to accept the Minutes of June 1, 2015. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

### **OLD BUSINESS**

#### 1. Energy Committee Update

Brian Dumont, Chairman of the Energy Committee came before the Board of Selectmen to ask for their approval of the RFP on a Municipal Aggregator Consultant. This would allow the ability of buying bulk energy and getting a rebate on it which would benefit every resident in the Town of Shirley, as well as the businesses, in lowering their energy costs.

Selectman Swain moved that the Town of Shirley put a RFP for a Municipal Aggregator Consultant for the purposes of requesting the services for electric and gas aggregation programs. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

Mr. Dumont gave an update on the grant the Energy Committee has applied for. This grant would allow the updating the end of life HVAC systems in the Town Offices, Police Department and insulating the Senior Center. He noted that notification of the receipt of the Grant has been pushed back from June 1 to July 1. The HVAC units for the Town Offices will have to build on site, therefore the system would not be in place until mid- September. Meanwhile the Town Offices

compression unit for the AC on the second floor has failed, and with the temperature hovering around 89 degrees in the second floor offices, it was decided to fix the system now, rather than wait for the new install. Therefore, TA Garvin has requested that unit to be repaired.

2. Budget Coordinating Committee Update

The Town Administrator reported that the next meeting for the BCC is Tuesday, June 16<sup>th</sup>. She further stated that with the results of the last Town Meeting, the deficit for FY17 is projected to be \$953,638, noting that if we don't change anything, this is the deficit.

**NEW BUSINESS**

3. Union Recognition

Chairman Prescott asked Selectman Swain to make a Motion for the Notice of Voluntary Recognition.

Selectman Swain moved to notify all persons that the Town of Shirley intends to grant exclusive recognition, without an election to AFSCME Council 93, as the exclusive representative for the purpose of collective bargaining pursuant to Massachusetts General Laws, Chapter 150E for the following unit of employees:

*“Principle Assessor, Building Inspector, Conservation Agent, Council on Aging Director, Executive Secretary (Police Department), Youth Services Librarian, Assistant Accountant, Assistant Collector/Treasurer, Assistant Librarian, Office Manager (Health/Inspections), Administrative Assistant (Public Works), Office Manager/Assistant (Sewer Department), Ambulance Billing Clerk, Land Use Clerk, Recreation Secretary, Council on Aging Dispatcher, Custodian, Library Aide, Council on Aging MART Driver, Recycling Clerk, and excluding all other employees of the Town.”*

Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

4. 7:15 Tree Hearing

Selectman Swain moved to open a Tree Hearing at 7:33 p.m. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

Selectman Dumont read into the Minutes:

Pursuant to Massachusetts General Law Chapter 87, as amended, the Board of Selectmen will conduct a Public Hearing on Monday, June 15, 2015 at 7:15 pm at the Shirley Town Offices, 7 Keady Way, Shirley, relative to a request for two tree removals. The property owner of 37 Hazen Road requests one 6” Maple Tree and one 10” Cherry Tree be removed because they are damaged and/or dead. Said trees have 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 Prescott noted the pictures provided show the trees are badly damaged or dead. He further recognized DPW Foreman, Paul Farrar's letter requesting that said trees should be removed.

Selectmen Dumont and Swain have no issues with this request.

Selectman Swain moved to close the Public Hearing at 7:35pm. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

Selectman Swain moved to approve the removal of two trees at the owner's expense and must be conducted by a licensed and insured tree removal company for 37 Hazen Road for a 6" Maple Tree and a 10" Cherry Tree that have been duly posted. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

5. Joint Election – Board of Assessors

Assessors Paulette Arakelian and Dottie Wilbur are present and are in session regard to the joint election with the Board of Selectmen. Assessor Dottie Wilbur noted that that they have one candidate to bring forth to the Selectmen. TA Garvin noted that she received another resume and had forwarded it to the Principle Assessor Monday afternoon.

Assessor Wilbur stated that at a previous Board of Assessor's meeting, they entertained 3 candidates for the position and had to decided present Betsy Colburn Mirkovic as their candidate. TA Garvin responded that under MGL 41, Section 109, the Town is legally required to post the opening for this position, full week prior to the appointment.

Chairman Prescott stated that one application came into the Board of Selectmen's office and 3 applications came into the Assessors' office. Assessor Wilbur noted that she had not seen the resume that came into the Selectmen's office. Prescott further asked how does joint election work with the two boards.

TA Garvin clarified that under the law, the Selectmen and the Assessors, as a collective group, must decide on the best candidate for the position on the Board of Assessor.

Selectman Swain suggested that all the resumes received be shared by both boards and come back June 29<sup>th</sup> at the next Selectmen's meeting to make an appointment. Selectmen asked that all the applicants be present at that time.

6. War Memorial Trustees

Norm Albert, Vice Chairman of the War Memorial Trustees gave a written statement to Board of Selectmen in which he read into the record. (See attached letter).

Selectman Swain remarked that it was his understanding the War Memorial Trustees would be responsible for the maintenance and upkeep of the building and the BOS would be responsible for the signing of the lease.

TA Garvin clarified that the lease would be tied to the Rule and Regulations, making the BOS the legal entity that sign the lease and WM Trustees would create the rules and regulations. She had thought that would be a good compromise.

Theresa Richards, Chair of the WM Trustees commented that the Trustees support Mr. Albert's statement, but are slightly split on this matter.

Mr. Albert stated that for 80 years the War Memorial Trustees have rented the building and now because what Town Counsel said that the WM Trustees cannot rent the building, the Selectmen must rent out the building.

Town Administrator Garvin stressed that this is not Town Counsel's statement, but when a municipality goes to rent out any town owned building there is a procurement process. The Selectmen does not decide that; the procurement process decides that – as stated under Mass General Law.

Garvin further stated there are 2 questions to look at: (1). What happens when the current tenant goes away and (2). What happens if they stay. By law the town owns that building.

Mr. Albert stated that the War Memorial Building is a different animal. No other town owned building has been set up this way.

Garvin stated that due past practices, the Trustees can continue to oversee the building and maintenance of the building, but the building is owned by the Town, making the Selectmen the ones to sign the lease.

Chairman Prescott echoed Ms. Garvin's statement, stating that legally the Selectmen must sign the lease of the building.

Mr. Albert asked what the Selectmen want the Trustees to do.

Trustees are still trying to clarify what their duties are.

Both Garvin and Prescott both used the example of the Hazen Library and the Schools.

The Selectmen stressed that if the Selectmen do not sign the lease it is not a legal binding document.

Albert noted that the other option is to retain an attorney for the War Memorial Building Trustees.

Garvin recommended that the Trustees need to know what they collectively think and take a vote.

Prescott stated that maybe the War Memorial Building Trustees should buy the building. After further discussion, Selectman Swain asked that TA Garvin to call Counsel and ask what the difference is between lease and rent.

Selectman Dumont recommended that the Trustees go back and discuss the matter and take a vote.

#### 7. One Day Liquor License – American Legion- Fund Raiser

Selectman Swain moved to approve that American Legion Post #183 is grant Special License for the Sale of Wines and Malt Beverages, only to be drunk on the premises Under Chapter 138, Section 14, of the Liquor Control Act for the American Foundation for Suicide Prevention – 4<sup>th</sup> Annual Eric Keirstead Memorial Ride to be held on Saturday, June 20, 2015 (rain date June 21, 2105) from Noon

to 6:00pm, subject Police Chief's approval. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

8. Town Administrator Contract

Selectman Swain moved to amend the Town Administrator's contract for the period July 1, 2015 through June 30, 2018. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Robert E. Prescott, Jr. vote Aye.

Chairman Prescott stated this vote was to make the Town Administrator's Salary and Contract whole.

9. Driveway Permits: 13 Chapel Street; 36 Myles Lane

Selectman Swain moved to approve a resurfacing of an existing driveway permit for 13 Chapel Street per the attached orders of conditions. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote aye and Robert E. Prescott, Jr. vote Aye.

Selectman Swain moved to approve the resurfacing of an existing driveway permit for 36 Myles Lane, with the one provision that if it is not done by June 30, 2015 that they get a new Certificate of Insurance. Selectman Dumont Seconded. David N. Swain vote Aye, Kendra J. Dumont vote Aye and Robert E. Prescott, Jr. vote Aye.

10. Appointments

Selectman Swain moved to appoint Joseph Holmes to the Ambulance Department as an EMT, term to expire June 30, 2016, with a six month probation. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

Selectman Swain moved to appoint Matthew O'Sullivan as the Animal Control Officer with a term to expire June 30, 2016. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. vote Aye.

Selectman Swain moved to appoint Jeremy Pierce to Plumbing/Gas Inspector with term to expire June 30, 2016, effective July 1, 2015. Selectman Dumont Seconded. Kendra J. Dumont vote Aye, David N. Swain vote Aye and Robert E. Prescott, Jr. Abstains.

Discussion on the annual appointment and can adopt it as amended. Confusion on the appointments, Town Administrator will bring this back on June 29<sup>th</sup>.

**PUBLIC COMMENTS**

**ANNOUNCEMENTS**

**ADJOURNMENT**

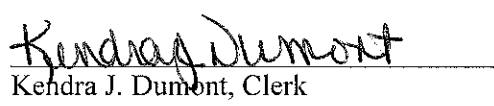
With no further business to discuss, *Motion and Seconded to adjourn at 8:18 p.m., Robert E. Prescott vote Aye , Kendra J. Dumont vote Aye, and David N. Swain, vote Aye .*

Respectfully submitted,  
Kathleen Rocco, Executive Assistant

Date Accepted: 6/24/15

  
Robert E. Prescott, Jr., Chair

  
David N. Swain, Vice Chair

  
Kendra J. Dumont, Clerk

*Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.*