

# Town of Shirley

## BOARD OF SELECTMEN



7 KEADY WAY – SHIRLEY, MASSACHUSETTS - 01464-2812  
*Andree Jean Jacques— Chair, Debra Flagg—Vice Chair, Bryan Sawyer—Clerk*

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### **MEETING MINUTES**

**Monday, April 5, 2021- 6:00 P.M.**

**Town Office Building, 1<sup>st</sup> Floor, Board of Selectmen Meeting Room**

Members Present: Chair Andree Jean Jacques Vice Chair Debra Flagg, Clerk Bryan Sawyer

***Call to order at 6:00 p.m.***

***Chair Jean Jacques called the meeting to order at 6:00 p.m.***

#### ***Announcements:***

Chair Jean Jacques stated that the meeting was being recorded and may be shown live on the local broadcast channel by Shirley Media and recorded for internet access. Any audience member recording or video-taping must notify the chair. Chair Jean Jacques stated the Town had tested its ability to cablecast a live meeting on Channel 99, and noted that it was functioning. This permitted anyone to view a live Cablecast meeting as it occurs on channel 99. Those who do not have Comcast could also watch live by going to the Shirley Media website: <https://www.shirleymedia.org>. Once anyone who would like to watch a meeting was at the website they would see at the top of the screen a row of tabs indicating different services and channels. She also stated that a resident needed to click on the tab that says, "Live". The live tab will show what is streaming at that moment on channel 99 - if a meeting is live it will be shown live.

#### ***Hearings, Meetings, Licenses and/or Appointments (vote may follow):***

1. Vote to Sign May 4 Annual Town Election Warrant

**Vice Chair Flagg made a motion to sign May 4 Annual Town Election Warrant. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.**

2. Shirley Water District Update
  - a. Town Administrator Michael McGovern read the following letter received from the Shirley Water District Water Commission:

**"Attention Water Takers of the Shirley Water District**

On Monday, March 8<sup>th</sup>, two members of the Shirley Board of Selectmen voted to send a letter to Attorney General and Inspector General to look into practices at the District.

This is to address statements made at that meeting by Board of Selectmen member Mrs Flagg and residents Ms MacCarthy and Mr Cappucci:

The policy of the District is every homeowner is responsible for water metered. Ms MacCarthy contacted Channel 5 about her 20 year old account for water she claimed resulted in meter error due to blasting for sewer. Her meter was tested and expert opinion was it was highly unlikely that the blasting could alter the reading. The District left the balance on her account, void of late/demand/accrued interest, for all those years. Mention was made by Select Board member, Mrs. Flagg, the District didn't even talk to Channel 5. That's incorrect. A letter was sent to the Board of Selectmen by the District and was read aloud at their meeting stating a member of the District spoke to and corresponded by email to both Ben Simmoneau from Channel 5 and to State Representative Dan Shea. The District voted to abate the outstanding charge to Ms MacCarthy due to fact that two members of the District who witnessed water being hosed into her pond are now deceased. Channel 5 chose to air their article anyway.

Complaints about the District not having public taping of meetings was also aired. We have discussed that and look forward to the day when we have an addition to our building that would allow better access to everyone rather than accommodating people in our garage. Even though our surroundings are rough, we still welcome anyone to attend our meetings. We wear masks and do our best to social distance.

Mention was made our Agendas and Minutes are incomplete. That's not true. Mr Cappucci's comment on a meeting posted for 1:00pm was held at 3:00pm was incorrect. In 2019 we met at 1:00pm. In 2020 we changed our meetings to 3:00pm... two different years with two different meetings. Currently we are meeting the first Wednesday of the month at 3:00pm. Special meetings are posted as needed.

The Water District has no plans on the table to sell water to a private developer in Lancaster as stated by both Ms MacCarthy and Mr Cappucci. There is a small portion of Lancaster that is in the Shirley Water District. It is near Grant Way where the Hatch hydropillar water tank is located. It was sited there because it was the best place to put it according to independent engineering review. We are not allowed to give any new permits out unless pre-approved by DEP.

Ms MacCarthy stated there are no financial reports on the Shirley website. That's incorrect. We post our Annual audited report on [www.shirleywater.com](http://www.shirleywater.com). Look under Reports and you will find fiscal year 2019. Fiscal year ended 6/30/20 has not yet been completed by our contracted auditor. We are mandated, due to USDA loans, to conduct an annual audit.

Mrs Flagg stated problems with billings she received. We have stated many times, if a water taker has a question or concern about an invoice to contact our office or come to a meeting. She also stated that we refused to come to their zoom meetings. In the letter that was read aloud at their meeting stated a member of our District's Board will gladly attend a BOS meeting when in-house meetings resume. We make note that the District was placed on the BOS Agenda without formal notification to the District. We were not given a listing of complaints/concerns before being expected to attend their meetings.

The Shirley Water District is owned by its water takers and is regulated by DEP. We strive to provide safe and adequate water. We are a small municipality in a small town servicing approximately one half of the town with water. Our water rates are structured to cover operating budget inclusive of debt structure. All water users, except for Agriculture, are charged \$63.00

for the first 750 cubic feet. That's 5,610 gallons (750 times 7.48). \$63.00 divided by 5,610 gallons is .0112299 cents per gallon or rounded off to ONE PENNY A GALLON. Step rates kick in after the first 750 cubic feet. Step rates are posted on our website.

Currently, we are nearing completion of installing new meters to our water takers. It's mandatory we have access to homes to complete this project. We have updated our computers, billing software and are actively collecting delinquent accounts. There are no shut offs during the Pandemic.

In summation, our Shirley Water District is saddened to know the integrity of the District is under attack by two members of our Select Board and several residents.

Sincerely,

Shirley Water District Board of Commissioners

Milton Westover, Chair

Donald Farrar, Member

Ann Towne, Member

Cc: Board of Selectmen

Social Media and Publication"

- b. Vice Chair Debra Flagg said that rather than sending a letter, the Board of Selectmen asked the Water District to come in. The intent was not to attack. Ms. Flagg made it clear that it is difficult to bring up something up like this to people that you know, have grown up with, and respect. If they are saddened by thinking the integrity has been questioned, it is on them. There were two members of the Board that had questions, not just Flagg. Ms. Flagg did call Ben Simoneau and he said that he went to the office, Rhonda Casey came to the door, and would not speak. Also, the Board was not worried about some of these problems, such as the incomplete agendas and minutes. This wasn't why the Board wanted to speak with the district. Regarding the development with Lancaster, not Ms. Flagg's concern. Same with the financial reports. Ms. Flagg was concerned about the fact that we were on Channel 5, and it seemed that no one would speak with Mr. Simoneau. The Board asked on three occasions for people to come in, and they did not come in. What bothered Flagg was that the 2<sup>nd</sup> or 3<sup>rd</sup> time that they expected someone to come in to clarify questions, they sent an attorney. As a teacher of 48 years, Flagg wouldn't give the answers before the test. They should have been able to ask the questions easily. What bothered Flagg was that Ms. Maccarthy received a phone call the Friday night before one of the Monday BOS meetings that she would be reimbursed that Monday morning. Flagg said what is concerning is that Shirley Water District did not want to come in. Ms. Flagg asked Mr. McGovern if they had been invited. Town Administrator McGovern did originally confirm with one of the commissioners that they were on the agenda. Flagg asked if they need to be formally invited. Mr. McGovern said that if it was more formal, such as a state agency, he would draft a letter, but it depends on the situation. McGovern did ask in writing for them to join the subsequent meetings. Flagg noted that the Board of Selectmen represents the town and all the people in it. When there are questions asked, it's their job and obligation to get answers. If

anyone wants to question any decision Flagg has made in the last few years, she'd be happy to answer to that. Flagg asked Mr. McGovern where we are at the moment, and where to go next. McGovern had reached out to three different agencies several times. The first was the Attorney General's office, and a representative directed him to Town Council as they do not give local entities legal advice. McGovern advised that they did have Town Council on the call and that the decision had been made to reach out to the AG's office. McGovern also reached out to the Inspector General's Office and the State Auditor. The auditor deals mainly with public assistance fraud and other state entities. They do some audits for housing authorities, but in terms of auditing another municipal entity, they don't deal with that. The IG office deals mainly with procurement issues; they do deal with waste/fraud/abuse, but mainly focus on procurement. Such as bidding project issues, purchasing issues. Also spoke with the Government Relations division in the IG's office. They first asked him if the Water District is audited, and Mr. McGovern confirmed there was. They said that's the first thing to look at. Any issues would be identified in the audit. The department would take a look at the latest audit on the Water District's website. All three divisions said that this sounds like a consumer-oriented issue. They should work with the commissioners of that entity or the staff to get it rectified. McGovern said there was effort there and the resident didn't know where else to go, hence the Town's phone call to the divisions.

- c. Resident Lauren Maccarthy noted that it's not the full audit on the website; just an abstracted report. It was previously unable to be accessed without a Google Doc permission from the Water District.
- d. Town Administrator Michael McGovern confirmed that you can now open the document from the website.
- e. Vice Chair Flagg asked Maccarthy asked if it was just recently that the document was made accessible. Maccarthy advised that it only became accessible after the first or second Board of Selectmen meeting about the Shirley Water District. Lauren Maccarthy did not like that the Water District put her name on Facebook; that they were attacking individuals. Maccarthy said that the Water District's reasoning behind her reimbursement was incorrect. The only increase in her water bill was when they were dynamiting near her property. The Shirley Water District made sure she had the money before the following Board of Selectmen meeting.
- f. Chair Andree Jean Jacques said that she doesn't want to attack anyone from the Shirley Water District. When a resident asks questions, she has to give them answers. That's why the Board asked the first time to come in and answer the resident's questions. That's transparency. Jean Jacques does not know why they do not want to come in. If they really want to sit down with the Board and bring everything on the table, they can talk about what's going on and resolve the issue. It's not about answering to the Board, but being able to answer to the residents.
- g. Chair Flagg said that Ms. Towne has joined the Board meeting before.

- h. Clerk Bryan Sawyer said that we have a common interest: the residents of Shirley. The challenge he has is that the issue with Ms. Maccarthy has been resolved, so he is concerned about the “other issues” brought forward. No one has personally come to him with issues about the Water District. If there were ongoing excessive issues, in his opinion, between being audited, regulated, and having internal controls and management, they would be able to be corrected. From the paper, there were references to people who have had issues; he’s asked every meeting that people bring him specific issues so he can look for specific answers. He has not been aware of them which is why he was not in favor of moving forward with the AG and IG offices. He said that it would have been easiest if the District and/or Commissioners had come in and this could have been resolved these issues. But, what would the Board be asking if they did come in? Being in person would have been more successful than letters. Not sure what the further action would be, or any specific inquiries would be to get specific answers.
  - i. Vice Chair Debra Flagg agreed with Sawyer, as she is not sure what other agencies to get in touch with.
  - j. Sawyer said that having specific issues would help quantify them and then confirm which agency or agencies to contact. The Board has worked well with the Water District in the past. In the near future, if there are normal open meetings and there is a scenario that the District can have a representative come in, Sawyer believes there are probably reasonable answers, as they have done in the past. In regard to additional action to be taken at this point, he does not see anything glaring that would require that.
  - k. Jean Jacques said that she has received specific issues from residents. She is glad she has never said any names because the Water District has been putting names on Facebook. It’s simple, the District can come to the meeting and listen to the residents and resolve the issues. That’s all the Board was asking for. They weren’t looking to go to the AG and IG offices, but the District has forced the Board’s hand because they want answers.
  - l. Flagg asked if residents would be better off to contact these offices? Jean Jacques said they are here to serve the residents and do the job for them. Flagg agreed, but doesn’t know where to go from here. Jean Jacques said they have to dig further to seek the answer for them. If the District came to the table, they could just sit down and talk. We are a small community.
  - m. Town Administrator Michael McGovern noted that the letters have stated that once in-person Board of Selectmen meetings are held again, they would come in at that point.
  - n. Flagg said that it’s still on the table. She just wanted to make sure that they knew that it’s been two selectmen that are questioning these issues. Flagg and Jean Jacques said they will just keep it the way it is.
3. Board to approve Shirley Farmer’s Market for Friday nights, 4:00 p.m. – 6:30 p.m. starting June 18 until September 10

- a. Flagg asked if it's at Whitely Park again. McGovern confirmed, and that they will adhere to all social distancing regulations.

**Vice Chair Flagg made a motion to approve Shirley Farmer's Market for Friday nights, 4:00 p.m. – 6:30 p.m. starting June 18 until September 10. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.**

4. Boy Scouts cleaning the islands
  - a. Flagg spoke with Ashley from the Boy Scouts. Bemis will help them clean the islands. Flagg said any of the islands could use a facelift. The ones on Main Street, in front of Moore's, there were 3-4 islands that they would give the Scouts to take care of. Asked McGovern if the Board has funding for bark mulch, and McGovern said they could find funding for that.
5. One day liquor license Ashley Misleh

**Vice Chair Flagg made a motion to approve one day liquor license for Ashley Misleh. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.**

### ***Town Administrator Report:***

1. DPW job descriptions (item taken out of order)
  - a. McGovern said that one employee is retiring. DPW Director Brandon Kelly worked with Assistant to DPW with standard, routine DPW job descriptions for all of the positions. Kelly also worked with Union and all agreed to the job descriptions. McGovern is getting these formalized.
  - b. Jean Jacques asked about the qualifications for the next foreman. Kelly confirmed that all employees are required to have all of their licenses in order to drive all equipment.
2. Town Office will be open to the general public starting tomorrow. Been watching the numbers, and the town is also now in "Gray" which is a non-risk. Schools also opened today and students are back.
3. Flagg and Jean Jacques asked more about the DPW positions. McGovern noted that the DPW team does a lot of work for the town. Flagg and Jean Jacques said they hope they can hire more people in the future.
4. Warrant Articles
  - a. Board will be voting April 26<sup>th</sup>, two weeks before May 10<sup>th</sup> Town Meeting. McGovern sent first draft to KP Law for review, but wanted to give a heads up on the articles. Has been working with the Finance Committee for two and a half months on budget review, approximately two nights a week.
  - b. 21 Articles
    1. Annual Town Report
    2. Bylaw Amendment Change BOS name to Select Board
    3. Salary and Classification
    4. Budget

5. Five Year Capital Plan
6. FY22 Capital Plan Appropriation
7. Revolving Funds
  - a. Might not be necessary
8. Council on Aging Revolving Fund
9. Sewer Enterprise Fund
10. Ambulance Enterprise Fund
11. Solid Waste and Recycling Fund
12. SW&R Outstanding Balance
  - a. Need about \$14,000 from Free Cash for trash. McGovern noted that if we did not implement new program, this would have been about \$200,000 from the general fund. About 100 accounts are also in arrears and have been liened.
13. OPEB
  - a. Post-employment benefits. OPEB represents healthcare/insurance once retired.
14. Chapter 90 Funds
15. PEG Appropriation
  - a. Money from Comcast to SPACO in order to operate.
16. Amend Bylaw Dog matters
  - a. Two separate matters from Town Clerk: 1) Amend section of bylaw regarding dog license late fees. Clerk asking to reflect MGL for deadline. 2) Change from Public Nuisance to Nuisance Dog. Also will mirror MGL.
17. Village Cemetery at Shaker Meadows Survey
  - a. \$5,700 via Free Cash to do a survey and determine exact cemetery boundaries.
18. Stormwater Bylaw update
  - a. June 2020 Town Meeting, the Town voted to approve Stormwater Bylaw Amendment. Once approved/amended, it goes to the AG's office for review. AG's office came back with notes, and the suggestions will be in the Town Warrant. The Planning Board has approved it, and it is a formality from AG's office.
19. Conservation Land Acquisition Fund
  - a. Looking for \$15,000 from Free Cash. This Fund is to pay for title examination and other processes necessary for the Town to obtain Conservation Land.
20. FinComm Amendment
  - a. Holdover from Fall Town Meeting. This amendment will mirror with MGL regarding FinCom members.
21. Nuisance Bylaw

- a. Holdover from Fall Town Meeting. Originally called Minimum Maintenance Bylaw.
5. There are no article regarding transferring to stabilization. There is approximately \$160,000 in cash. Clifton Larsen Allen has recommended that Town pays for some of these articles with these funds, and then have remaining amount fall into Free Cash.

***Selectmen's comments or other business unforeseen at the posting of the agenda:***

Chair Andree Jean Jacques noted how great it was to see the students return to school today. Everyone was able to clap their hands at their arrival.

***Public Comments: An opportunity for residents to bring matters before that Board of Selectmen that are not on the official agenda:***

There were none.

***Approval of Treasury Warrants:***

Vice Chair Flagg made a motion to approve warrant PRW21-20 in the amount of \$105,930.82. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.

Vice Chair Flagg made a motion to approve warrant W21-31VET in the amount of \$5,090.72. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.

Vice Chair Flagg made a motion to approve warrant W21-31 in the amount of \$111,574.81. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.

***Approval of Meeting Minutes***

1. March 22, 2021

Vice Chair Flagg made a motion to approve the meeting minutes from March 22, 2021. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.

***Adjournment***

Vice Chair Flagg made a motion to adjourn at 7:08pm. Mr. Sawyer seconded the motion. Motion passed, 3-0, unanimous.



Prepared By: \_\_\_\_\_

Accepted By: \_\_\_\_\_

Date: \_\_\_\_\_