

**TOWN OF SHELBURNE  
SELECTBOARD  
MINUTES OF MEETING  
May 28, 2019**

- MEMBERS PRESENT:** Jerry Storey (Chair); Colleen Parker, Mary Kehoe, Mike Ashooh, Jaime Heins.
- ADMINISTRATION:** Lee Krohn, Town Manager; Peter Frankenburg, Finance Director; Dean Pierce, Planning Director; Chris Robinson, Water Quality Superintendent; Claudine Safar and Christian Chorda, Town Attorney.
- OTHERS PRESENT:** Sara and Tom Tompkins, Elizabeth Hollister, Hilda White, Barbara Glade, R. Lacasse, Faith Rushford, Georgie Jeffers, Noah Dater, Linda Schiavone, Jay Limoge, Roland Limoge, Hope Schultz, Toni Supple, Jason Levinthal, J. Donald Schultz, George Schiavone, Peter Gadue, Victoria Garrison, Ethan Garrison, Linda Riell, Susan McLellan, Robin Jeffers, George Mills, Andy Rowe, Tim Rushford, Tim Burke, Laurie Burke, Tarn Foerg, Florian Foerg, Geri McNair, Jim White, Josh Dein, Lisa Scagliotti (Shelburne News).

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**1. CALL TO ORDER**

Chair Jerry Storey called the meeting to order at 7 PM and offered sympathy and condolences to Tom and Susan Little on the loss of their son, Thomas. A moment of silence was held.

**2. APPROVE AGENDA**

**MOTION by Jaime Heins, SECOND by Mary Kehoe, to approve the agenda with the amendment to postpone the Executive Session on the solar panels (Item #8) until the June 11, 2019 meeting. VOTING: unanimous (4-0)[Colleen Parker and Jaime Heins not present for vote]; motion carried.**

**3. MINUTES**

*May 13, 2019 – Selectboard Retreat*

**MOTION by Mary Kehoe, SECOND by Jaime Heins, to approve the 5/13/19 minutes as presented. VOTING: unanimous (5-0); motion carried.**

*May 14, 2019 – Regular Meeting*

**MOTION by Jaime Heins, SECOND by Mike Ashooh, to approve the 5/14/19 minutes with the global correction of the spelling of Karen Medsker. VOTING: unanimous (5-0); motion carried.**

**4. PUBLIC COMMENT and LIBRARY/TOWN CENTER UPDATE**

- Residents spoke in support of installing a beaver culvert baffle on Webster Road and the humane removal of beavers or other non-lethal means of dealing with wild animals. The beaver baffle approach is more consistent with the town plan. Green

Mountain Animal Defenders is offering the town a free consultation with a beaver expert.

- Dr. Josh Dein confirmed the underwater trap is an inhumane euthanasia method for animals.

## **5. SELECTBOARD COMMENTS**

- Mike Ashooh spoke of the commitment by Tom Little to the town and extended sympathies to the family for their loss.
- Mary Kehoe mentioned Tom Little's reputation as an attorney and the loss for the family and the bar.
- Colleen Parker extended condolences to the Little family and in honor of Memorial Day extended thanks to those who are serving or who have served the country.
- Jerry Storey expressed thanks to the various groups and individuals for the wonderful Memorial Day ceremony at the Veterans Memorial.

## **6. TOWN MANAGER REPORT**

Lee Krohn noted the following:

- Storm Water Advisory Committee has been reactivated to address issues raised in the public hearing and provide a version of the storm water ordinance to the Selectboard by late fall for adoption.
- Fire/Rescue Property Steering Committee has met. The land analysis is underway. An application was before the DRB for sketch plan for Healthy Living and the town.
- Library/Town Center project continues to progress. The portico bricks on the front of the historic town hall are complete. The floor inside has been refinished. Painting and lots of trade work is taking place inside the building.
- Sewer line work on Falls Road is wrapping up. Repaving the road is next.
- Thanks to all for the help on the Memorial Day celebration.
- The farmers market went well.

## **7. CHAMPLAIN WATER DISTRICT NEW EXECUTIVE DIRECTOR**

CWD General Manager, Jim Fay, who is retiring in July introduced Joe Duncan as the new General Manager starting July 1<sup>st</sup>. Joe Duncan has a background in engineering and has worked with CWD and the area towns for many years.

## **8. EXECUTIVE SESSION: Solar Panel Proposal**

Postponed to the June 11, 2019 Selectboard meeting.

## **9. STATE STORM WATER PERMITTING**

Legal counsel, Claudine Safar and Christian Chorda, explained the differences between the multi-sector general permit (MSGP) and a site specific permit which deals with a use on a property while the MSGP is a general permit for storm water for particular industrial activities handed down from the EPA. Vermont DEC is a delegated authority of the EPA and handles MSGP. The permit term is five years. The 2011 permit is still in effect, but the draft for a new permit is done. Once the new permit is issued the town has six months

to submit an application. There is a 14-day appeal period. It is not known how many MSGP type permits are in Shelburne presently.

#### **10. KWINIASKA/SHELBURNE HEIGHTS WASTE WATER DECISION**

Mike Ashooh recused himself from the discussion. Mary Kehoe disclosed she was on the DRB when the Kwiniaska application was heard. It was clarified the Selectboard will not be making a decision, just listening to concerns.

#### *COMMENTS*

Toni Supple, Pierson Drive, submitted a petition signed by neighborhood residents that requests a waste water engineer review and certify the Shelburne Heights sewer system can handle the added flow and volume of more than double the number of homes currently on the system. Ms. Supple noted there was no financial benefit for many of the residents connecting to the town system. The town required connection whether a resident's on-site system was functioning or not. The sewer system and connection were at great added cost to the Shelburne Heights residents. The residents were told the Kwiniaska development connection would be down Webster Road, but then it was discovered at the Act 250 hearing that the connection would be to the Shelburne Heights system.

Bill Supple, Pierson Drive, recalled the neighborhood residents were told the Shelburne Heights system was designed for Shelburne Heights only, not as a link in the chain for further development. There is concern about the assumptions the town is making about the sewer system and the residents suffering the consequences. A waste water engineer needs to confirm the Shelburne Heights system will not fail with Kwiniaska added to it. The residents are requesting an independent waste water engineering report on the as-built Shelburne Heights sewer system.

Warren Glory, Pierson Drive, recalled the Town Manager at the time said the town had voted to do the sewer system and the residents would pay for it. The more houses hooked on to the system means the cost per resident would go down, but the rate has not decreased. Shelburne Heights has a special assessment. The residents were told the Shelburne Heights system was self-contained. Three more houses in the neighborhood have been added to the system, but the rates have not changed.

Barbara Glade, Pierson Drive, said the sewer service for Kwiniaska should go down Webster Road.

Linda Schiavone, Pierson Drive, recalled the town did not want development on the other side of Spear Street so the Shelburne Heights system was made a smaller system.

Other residents of the Shelburne Heights neighborhood expressed concern about the Shelburne Heights system not being able to handle the additional development and the increased potential for sewer backing up into homes, and that existing residents in the neighborhood have been paying the special assessment rate for the past 20 years, but new houses will not be paying the assessment.

Chris Robinson, Shelburne Water Quality Superintendent, explained the original plan with the Kwiniaska hook up was either cross country to Webster Road or north to Shelburne Heights. Going down Webster Road would require going through two pump stations before getting to the treatment plant. Going through Shelburne Heights uses the gravity system to the treatment plant. It was determined the best choice for the town was to use the gravity system. The town owns the Shelburne Heights system and will own the system in the Kwiniaska development. The numbers show there is adequate capacity to handle both developments.

Chris Snyder, Kwiniaska developer, said the Act 250 application is under review pending the water supply permit and the waste water permit for the development. The State of Vermont is doing an engineering review of the proposed system. The public process for the project was long, fruitful, and very public. The project was before the DRB 16 times over four years. Changes were made throughout the review process. People were notified. The plans are available for public viewing. Easements had to be secured and the feasibility of the connection to the north had to be determined which was an involved process.

Andy Rowe, civil engineer with Lamoureux & Dickinson working on the Kwiniaska project, pointed out there was no advantage for the new neighborhood to connect to the north. A pump station will be required in the neighborhood. The connection to the north was presented as the best long term solution for the town rather than going south through two pump stations before getting to the treatment plant. Regarding the state's engineering review, the state does not do an exhaustive review, but relies on the consulting engineer for technical information on the system for the permit. The cost to do a review of the Shelburne Heights neighborhood would be approximately \$5,000 and take about two weeks to complete. If it is found there is a risk to the current system then more capacity could be added or the connection could be changed to the south.

Dean Pierce, Planning Director, noted the DRB decision required the waste water system for the Kwiniaska development to go to the north.

Toni Supple, Pierson Drive, requested if the town moves forward without an engineering review than the residents would like a guarantee from the town that the town will cover the expense of a worst case happening (sewer back up) because it is the town's decision to go through the Shelburne Heights neighborhood.

A resident in the Shelburne Heights neighborhood said it is not unusual to ask for compensation from the new houses coming onto the system. The cost differentiation being paid by Shelburne Heights resident (paying 70% rather than 50% as told by the town) should be resolved. Chris Robinson said per the ordinance cost of the extension of the sewer system is borne by the users of the system. The cost of the Shelburne Heights system was paid 70% by residents and 30% by the town plus the town waived \$300,000 in allocation fees. Toni Supple pointed out the Shelburne Heights system is already built and the new houses will not be paying for that though they will be using the system.

Bill Supple, Pierson Drive, calculated each of the 77 Shelburne Heights sewer users will have paid \$9,241 to build the sewer system plus the connection fee which is different for each house depending on the distance from the road. In addition, there is the quarterly sewer use bill. Even people with a fully functional septic system had to connect to the town system. People should be compensated if homes are added to the system. The first concern is that the system will work with the extra flow and not have a disaster, and the second concern is to make it fair.

#### **11. WASTE WATER TREATMENT PLANT OPTIONS**

Lee Krohn stated South Burlington will be doing an engineering analysis and Shelburne may want to be included. If Shelburne sends flow to the South Burlington plant the rate would be what South Burlington charges the user and that is half of the current rate charged in Shelburne. Also, any capital improvements that are needed to the South Burlington facilities are charged proportionately (i.e. if using 30% of the system then pay 30% of the cost). The town will be able to purchase allocation to ensure there is always capacity available in Shelburne. Staff recommends the town be included in South Burlington's engineering analysis.

Following discussion, the Selectboard agreed staff should draft a letter of intent and continue to determine infiltration versus actual flows. Jaime Heins suggested appointing a liaison from the Selectboard to receive information on the matter.

#### **12. WASTE WATER ALLOCATION TO FIDDLEHEAD BREWERY MOTION by Colleen Parker, SECOND by Mike Ashooh, to approve the waste water allocation of 4,253 gpd for Fiddlehead Brewery tasting room.**

##### **DISCUSSION:**

- **Chris Robinson explained Fiddlehead is trying to expand so more allocation is needed. Fiddlehead installed a new pretreatment system.**

**VOTING: unanimous (5-0); motion carried.**

#### **13. REGIONAL CONSERVATION ACCORD**

Lee Krohn noted the town is not committed financially. There is a working agreement. Dean Pierce and Gail Albert have been attending the meetings.

**MOTION by Jaime Heins, SECOND by Colleen Parker, to approve the Champlain Valley Regional Conservation Accord Agreement as presented and authorize the Selectboard Chair to sign the agreement. VOTING: unanimous (5-0); motion carried.**

#### **14. HEALTH OFFICER APPOINTMENT**

**MOTION by Colleen Parker, SECOND by Mary Kehoe, to re-appoint Bob Lake as the Health Officer to begin July 1, 2019 for the statutory term. VOTING: unanimous (5-0); motion carried.**

#### **15. EXECUTIVE SESSION: Town Manager Probationary Period**

**MOTION by Mary Kehoe, SECOND by Colleen Parker, pursuant to 1VSA313 to find that premature public knowledge of the discussion of the performance and evaluation of a public official would place the town at a substantial disadvantage. VOTING: unanimous (5-0); motion carried**

**MOTION by Mary Kehoe, SECOND by Colleen Parker, based on the finding of premature public knowledge placing the town at a substantial disadvantage to go into Executive Session to discuss the probationary period of the Town Manager. VOTING: unanimous (5-0); motion carried.**

Executive Session was convened at 9:22 PM.

**MOTION by Colleen Parker, SECOND by Mary Kehoe, to adjourn Executive Session. VOTING: unanimous (5-0); motion carried.**

Executive Session was adjourned at 9:50 PM.

*ACTION FOLLOWING EXECUTIVE SESSION*

**MOTION by Mike Ashooh, SECOND by Colleen Parker, to formally recognize that the Town Manager’s probationary period has expired. VOTING: unanimous (5-0); motion carried.**

**16. ADJOURNMENT**

**MOTION by Mary Kehoe, SECOND by Colleen Parker, to adjourn the meeting. VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 9:51 PM.

*RScty: MERiordan*

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For the Selectboard

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Date