

**Town of Shaftsbury  
Selectboard Special Meeting  
Monday, January 27, 2014**

Members Present: Karen Mellinger, Ken Harrington, Tim Scoggins, Mitch Race, Carl Korman  
Staff Present: Margy Becker, Town Administrator  
Others Present: Jay Palmer, Mike Foley, Peter Cross, Art Whitman, Terry Stacy, Joanne Race

**1. Call to Order**

Call to order by Karen Mellinger at 6:30PM.

**2. Approval of Minutes**

**Motion to approve the Minutes for January 7, 2014 with changes. Moved by Mitch Race/2<sup>nd</sup> Carl Korman. Motion carried unanimously 5-0.**

**3. Approval of Warrants**

**Motion to approve Check Warrant #21 for \$64,369.21. Moved by Mitchell Race/2<sup>nd</sup> by Carl Korman. Motion carried unanimously 5-0.**

**4. Conflict of Interest Statement**

No conflicts of interest.

**5. Announcements**

Tim Scoggins announced Safe Routes to School Walk on Wednesday, February 5, 2014, gathering at 8am **at Howard Park**. Carl Korman announced the results of a phone call to VLCT regarding the Constable statutes. He confirmed Australian Ballot vote needed to change elected position to appointed position. Only the voters can limit the role of Constable, but the Select Board can limit the authority of Constable.

**6. Public Comments**

Peter Cross inquired if there were flood hazard areas in Town. Margy Becker noted maps in Town Clerk's office. Mitch Race commented the floodplain maps had been revised to reflect the 500 year floodplain versus the 100 year floodplain. Karen Mellinger summarized the need to adopt new flood hazard regulations.

Mike Foley stated concerns regarding the ballot language on the composting bylaw. Carl Korman spoke about his conversation with Attorney Rob Woolmington about impossibility of clarification language on ballot or in an article.

Mike Foley provided additional comments about procedures of adoption of bylaws.

## **7. Approval of Selectboard Reports for Town Report**

The Selectboard agreed to produce an information piece on the bylaw adoption process. The Board approved its "budget notes" report.

## **8. March 2014 Town Meeting Warning — Consideration of Petitioned Article re: Purchase of Cross Property (88 Buck Hill Road)**

Karen Mellinger announced the Selectboard is in receipt of a petition signed by 159 voters, which is over 5% of the voters. The Town has a voter checklist of 2,481 registered voters. The article is eligible to appear on the ballot at Town Meeting, if the Selectboard agrees.

Karen Mellinger read the petitioned article as follows:

"Do the voters of the Town of Shaftsbury support the purchase of land adjacent to the present highway garage, consisting of 2.3 acres from 83 Buck Hill Road, LLC for an amount not to exceed \$110,000 for the purpose of building a new town highway garage?"

She read a letter from Ed Corey obtained from the Banner Reporter addressed to the Selectboard. (copy attached to minutes)

Karen Mellinger then noted advice from the Town Attorney in response to the Board's inquiry about requirements to put the petitioned article on the ballot. The Town Attorney has advised the Selectboard is not required to place the article on the ballot if it addresses matters outside the purview of the voters. Voters have authority over the selling of town property.

Tim Scoggins asked if anyone would like to address the merits of the petition. Carl Korman asked, "Do the voters of the Town of Shaftsbury support the purchase of this land?" He noted his desire to hear from Mr. Corey.

Art Whitman stated that he signed the petition. But he expressed concerns over the language. The land is a good deal at \$110,000. But he is opposed to limits on use of property. He asked will the garage fit on this site? And Mr. Whitman inquired that if the article passes, what is the message?

Karen Mellinger states that the land could be important to the Town and is not specifically for the garage. Tim Scoggins stated that when the Select Board first knew of the petition, it did not support the article as written. The discussion now is whether to put on it on the ballot.

Ken Harrington asked why buy more land when we already have land? He stated support for placing the article on the ballot. He suggested that if the article passed, the Town could sell the landfill parcel for the amount of the Cross lot purchase price.

Carl Korman stated a purchase price has not been agreed upon. An independent appraisal gave the value at \$70,000. He suggested the Town could still make a decision to purchase the Cross lot even if the petitioned article is not placed on the ballot.

Karen Mellinger stated the last offer to Mr. Cross was \$95,000 and that was over one and a half years ago. At that time the Town had even prepared a Purchase and Sales Agreement for Mr. Cross to sign, and the Selectboard was going to place an article on the ballot. Mr. Cross was not heard from.

Jay Palmer asked Ken Harrington if development on that property would increase the value of Harrington's parcel? Ken Harrington stated that he did not know. Jay Palmer stated that Ken should recuse himself.

Karen Mellinger asked for the Board's opinion. Board members Tim Scoggins, Carl Korman, and Mitch Race agreed there was an appearance of a conflict of interest. Karen Mellinger agreed and asked Ken Harrington to recuse himself. Ken Harrington agreed to recuse.

Bob Holmes said the proposed FY15 budget has already been finalized. If the article passes where does the \$110,000 come from?

Karen Mellinger outlined some possibilities and stated that the Board is struggling with the consequences of putting the article on the ballot.

Carl Korman stated that he is not struggling with the decision. More than 156 people are telling the Board it must consider this question. So the Selectboard should do so. He said it does not belong on the ballot, however.

Michael Foley stated the petitioned article should have been two questions for clarity.

Tim Scoggins stated his opinion the petition is without merit. There is an opportunity to get the highway garage and industrial activity out of a school zone and away from a problematic intersection on Rte. 7A. He stated he would oppose placement of a new garage on the existing site, even if the Cross parcel were free.

Mitch Race concurred the petition would have been clearer as two questions. It is an advisory article only. It will be up to the next Selectboard to figure out what to do if the article passes.

**Motion by Mitch Race to place the petitioned Article on Ballot with the words “advisory only.” Karen Mellinger seconded.**

Carl Korman stated opposition to the article. The wording in the article is too confusing. He then stated support for the Select Board’s serious consideration of the questions. He stated willingness to put forth a 2<sup>nd</sup> motion to compel the Select Board to take action.

Tim Scoggins restated strong opposition to putting the article on ballot. Karen Mellinger expressed support.

**Action: 1 In Favor (Karen Mellinger) - 3 opposed – abstentions 0. The motion failed. Ken Harrington recusal noted.**

**Mitch Race departed from the meeting.**

**Carl Korman made the motion to approve the final warning as read. Tim Scoggins seconded. The Motion carried 4-0. (Mitch Race absent)** The warning was signed.

## **9. Other Business**

Ken Harrington stated his disagreement with the rationale used as basis for the Board’s request for recusal. He stated the only impact of development on the landfill property would be to devalue his property. It is zoned residential.

## **10. Executive Session – Legal Matter**

Carl Korman moved to enter Executive Session at 9:10PM to discuss a zoning matter. Tim Scoggins seconded. The motion carried 4-0.

At 9:15PM Ken Harrington recused himself from executive session and a quorum no longer existed. Karen Mellinger noted the executive session adjourned at 9:15PM.

**Karen Mellinger adjourned the Selectboard meeting at 9:15PM noting the lack of quorum.**

Submitted by,  
Margy Becker, Jennifer McGean