

**MINUTES OF THE
REGULAR MEETING OF AUGUST 9, 2011**

WATER COMMISSIONERS PRESENT:

Mr. Robert L. Burnham, Chairman
Mr. William R. Erickson, Water Commissioner
Mr. John S. Lovewell, Water Commissioner

EWD STAFF PRESENT:

Mr. Shane A. Ben David, Foreman
Mr. Fred R. Domont, Water Superintendent
Mrs. Pia Webster, Administrative Assistant

OTHER TOWN BOARD MEMBERS PRESENT:

Mrs. Barbara G. Shriber, Financial Advisory Committee

OTHERS PRESENT:

Mr. Adam R. Moore, Executive Director, Sheriff's Meadow Foundation
Mr. Edward L. Oliver, EWD Customer, 2 Beetle Swamp Road

MEETING CALLED TO ORDER:

The Board of Water Commissioners of the Town of Edgartown held their Regular Meeting on Tuesday, August 9, 2011, at 4:00 p.m. at the offices of the Water Department located at Fifty-Eight Kavanagh Way, Edgartown, Mass. At 4:00 p.m., Chairman Robert L. Burnham called the meeting to order. *[Commissioner William R. Erickson arrived at 4:10 p.m.]* The Chairman opted to take two agenda items out of order, as two members of the public were already present and ready for their business with the Board.

NEW BUSINESS:

DISCUSSION/POSSIBLE VOTE: ADAM MOORE ON SHERIFF'S MEADOW FOUNDATION'S PROPOSED USE OF SHURTLEFF BUILDINGS.

Adam R. Moore, Executive Director of the Sheriff's Meadow Foundation, stated that he had three points to make. First, he wanted to thank the Water Commissioners for

granting the foundation permission to establish a new trail in their Tuthill Preserve that crossed over land leased by the Water Department for its Lily Pond Well and Pump Station. *[Refer to pages 2-3 of the Minutes of the Regular Meeting of June 16, 2011.]* Second, Mr. Moore continued, was a possible lease swap between the Lily Pond land just referred to and the buildings on the site of the decommissioned Shurtleff Well and Pump Station. "I'll write a proposal and submit it," he said.

Lastly, Mr. Moore expressed the Sheriff's Meadow Foundation's long-term interest in the Shurtleff property itself, situated across from the foundation's Sheriff's Meadow Sanctuary on Planting Field Way. "We'd like to discuss that," said Mr. Moore.

Water Commissioner John S. Lovewell asked what length of lease the foundation was considering. "My *major* concern," interjected Superintendent Fred R. Domont, "is that the Commissioners wanted to sell off that property to buy a new pump station... Right now I wouldn't enter into a long-term lease, because ten years down the road, we'll need a new pump station." Mr. Domont added that it would be "too much of a burden on the ratepayers" to have to borrow in order to build when simply selling the land could raise the necessary funds.

Mr. Moore said that he would like to visit the Shurtleff property. Chairman Burnham responded that he ought to set up a visit with Foreman Shane A. Ben David. Mr. Lovewell pointed out that there was electric service on the site. "We would need that," said Mr. Moore. Chairman Burnham inquired if a five-year lease would work for Mr. Moore, who replied that it would.

The Superintendent noted that Schofield, Barbini & Hoehn had a survey of the Shurtleff land on record. It comprised two acres, he said, in a half-acre zoning area. Water Commissioner Erickson arrived at this point, 4:10 p.m.

USAGE CHARGE ABATEMENT REQUEST: EDWARD L. OLIVER.

Reading from a case summary she had written, Administrative Assistant Pia Webster provided background on the Usage Charge abatement request of Edward L. Oliver of 2 Beetle Swamp Road (EWD Acct 067-106). It follows.

For his October 15, 2010 bill, Mr. Oliver's usage for the period was 450,000 gallons, more than four times the amount he had ever used during any six-month period previously. When looking over the usage numbers as the reads came in, Sheila Ben David had asked the field crew to take a second read to ensure that the first one was accurate. The second read was in line with the first one.

A letter was sent to Mr. Oliver, explaining that it looked as if there could be a leak on his property. There was no response. The Department heard nothing from Mr. Oliver until office staff called him about impending termination of the account due to nonpayment.

Mr. Oliver came to the office on January 25, 2011 and paid the bill. At that time both Sheila Ben David and Pia Webster stressed that the meter read was accurate, and they stated in no uncertain terms that more likely than not, an on-property leak had developed. Moreover, Mr. Oliver was told, the customer was responsible for any water usage, even if it was due to a broken on-property line.

When the next series of reads was taken in late March and early April 2011, the new read for Mr. Oliver's account indicated a six-month usage of 1,835,000 gallons. Field staff rechecked the read and discovered that the usage had increased by 194,000 gallons since the first read was taken. Mrs. Ben David left a message for Mr. Oliver to deliver the news. The call was not returned, nor was a second call returned. On April 22, Mrs. Ben David wrote a letter to Mr. Oliver describing the situation. Mrs. Webster also left two telephone messages for Mr. Oliver.

When informed of the situation, Superintendent Domont ordered field crew members to shut off the water rather than have the wasteful flow continue. This was May 6, 2011, at 10:00 a.m. When Mr. Oliver arrived home and discovered he lacked water service, he called the office. With assurances from the customer that a plumber would be fixing the problem promptly, the Superintendent gave the crew the go-ahead to turn the water back on at 3:15 that afternoon.

On May 10, 2011 plumbers Bill and Bruce Haynes fixed the problem. Mrs. Ben David sent a letter with a Usage Charge bill on May 16, 2011 that included advice on insurance claims and abatements. On July 15, 2011, Mr. Oliver made a first payment of \$800.00 toward the April 15, 2011 semiannual bill when faced with the prospect of termination due to nonpayment. He has still not arranged a payment plan.

Mrs. Webster concluded that Mr. Oliver was requesting an abatement of 30 percent of the Usage Charge of his April bill, plus a waiver of any late charges that had been attached to his account or would become attached to his account as he paid off his balance.

Chairman Burnham asked Mr. Oliver if the account that Mrs. Webster had just presented was accurate. "Yes," answered Mr. Oliver. "And what was your reason for not responding?" inquired the Chairman. Mr. Oliver explained that he had "just paid the thousand-dollar bill [from October], and I wasn't really aware it was such a huge amount of water." He said that he knew the leak would have to be addressed but that "we just didn't have the money for the plumber." The amount of the spring bill – \$4,121.25 – had "flabbergasted" him, he added.

Chairman Burnham clarified with Mr. Oliver that Department staff had informed him about a possible abatement of the Usage Charge of up to 30 percent. "It's not likely I'll amend that [higher]," he said. Commissioner Lovewell commented, "You were very lax

in responding. If you had responded more cooperatively, I'd consider an abatement..." "We can't today abate more than 30 percent," said the Chairman. "That's the most liberal we can offer."

Mrs. Webster confirmed that according to Section 18, "Metered Service," of the Edgartown Water Department's *Rates, Rules and Regulations*, the highest allowable abatement of the Usage Charge was 30 percent. A 30-percent abatement of Mr. Oliver's April 2011 Usage Charge of \$4,116.25 would amount to \$1,234.88 and would reduce the usage charge to \$2,881.37, the Admin Assistant said.

Superintendent Domont had a few suggestions. First, he said, Mr. Oliver ought to look into his homeowner's insurance policy. In the past it had often been the case that policies covered costs associated with on-property water leaks. And second, there were a number of programs around Edgartown designed to help Island people to repair their homes. The organization TRI – The Resource Inc. was mentioned.

Mr. Lovewell made a motion that there be no waiver of the late fees, past or future. There was no second. Mr. Erickson proposed that the waiver of the late fees be made contingent upon the formulation by staff of a payment plan and upon Mr. Oliver's adhering to the plan. Chairman Burnham agreed; Mr. Lovewell did not. A discussion followed.

Chairman Burnham made a motion to grant Edward L. Oliver a 30-percent abatement on the Usage Charge of \$4,116.25 for the period of October 16, 2010 through April 15, 2011; and further that Department staff would work with Mr. Oliver to formulate a payment plan by which he could discharge this debt; and further, that the late fees attached to the Usage Charge would eventually be waived if Mr. Oliver proved himself capable of making full and timely payments. Mr. Erickson provided a second, and the motion carried by voice vote, with Messrs. Burnham and Erickson voting aye and Mr. Lovewell abstaining.

APPROVAL OF MINUTES:

Next, the Commissioners considered the **Minutes of the Regular Meeting of July 11, 2011**. With regard to the fourth paragraph on page 4, Mr. Lovewell wished to strike the word "Old" from the following sentence: "Include the Old Wintucket Pump House, recommended Mr. Lovewell." He had been referring to conducting tours of the modern, active Wintucket Well and Pump Station, he said, during the open house on September 13. Chairman Burnham countered that it was "good common sense" not to let the public inside an active pump station. Superintendent Domont was of the same mind, stressing the presence of chemicals onsite. After discussion, Mr. Lovewell agreed to delete the entire sentence.

Then Mr. Lovewell made a motion to accept the Minutes of the Regular Meeting of July 11, 2011 with the exclusion of the above-cited sentence in paragraph four on page 4. Mr. Erickson seconded the motion, which carried unanimously by voice vote.

OLD BUSINESS:

UPDATE: SCADA SYSTEM.

“What isn’t finished is the alarm,” related the Superintendent, who reported on the installation of the supervisory control and data acquisition [SCADA] system at the Wintucket Control Center. Mr. Domont continued that engineer Paul E. Cote of Tata & Howard Incorporated would make calls to EII Inc. and Barbato Construction Co., Inc. to finish the job. He added that the electrical storm a few weeks before had “raised havoc” and “knocked out the phone system.... The SCADA controls are working, though.”

UPDATE: LOAN CLOSING.

“We finished with the USDA loans,” announced the Superintendent, “no more temporary borrowing!” Chairman Burnham wanted to know how long the Department had to spend the remaining contingency funds. Until October, replied Mr. Domont, who said that there was about \$300,000 left in the loan account and that engineer Paul Cote would present the Board with another “wish list,” similar to the one they had approved the previous January.

NEW BUSINESS [Continued]:

DISCUSSION/VOTE: SUPERINTENDENT’S VACATION DAYS.

The Superintendent described some difficulties he was having with the Personnel Board over his accumulation of more than 60 vacation days. I want you to take the whole month of September off, said Chairman Burnham. “I’m not going to get into it too deeply...” said Mr. Domont, “because I’ve turned it over to my lawyers.” The Chairman explained to those present that the Superintendent had 61 vacation days accumulated but that the Personnel Board was choosing to recognize only 20 of them.

Mr. Domont pointed out that the Personnel Board was acting as if a warrant article from a few years back – which would have eliminated the carrying over of accumulated vacation days from employment year to employment year – had in fact passed; but it had not. “The voters voted [that amendment to] the Personnel Bylaw down,” he said, adding that he was still allowed to carry the vacation days forward with the Board of Water Commissioners’ permission.

It was the Superintendent’s impression that the Personnel Board was depriving him entirely of 41 vacation days. But the Chairman’s understanding of a letter from the

Personnel Board differed. Chairman Burnham believed it was up to his Board to ensure that Mr. Domont took his vacation days with all due haste.

The discussion continued, with the Superintendent arguing that he could not take off time in September, considering how occupied he would be with spending down by the October deadline the \$300,000 in contingency funds left in the USDA Loan II Account. Mention was made of the fact that last spring the Chairman had given Mr. Domont permission to carry over the vacation days but that this had taken place *after* a meeting, since the latter had forgotten to include that matter as an item on the agenda. Thus, there was no official record of this in the meeting minutes.

DISCUSSION/VOTE: CREATION OF ASST SUPERINTENDENT POSITION.

Referring to Mr. Domont's proposed creation of the position of Assistant Superintendent, Chairman Burnham said, "We need a job description, a grade, a step..." What would this position be comparable to? he asked. Would it be just a step behind the position of Superintendent? The Board needed these sorts of details, he said.

Mr. Domont enumerated the promises made to him when the original Board of Water Commissioners was offering him the job of Superintendent in the early 1990s. Among those promises had been the creation of this new position. "But every time we go to the Personnel Board," he said, "we get shot down." "How do we begin?" inquired Chairman Burnham. Mr. Erickson suggested that the Superintendent write up the job description and propose the salary, grade and starting step. "You need to get this position on paper," he said. Mr. Domont agreed to do that.

USAGE CHARGE ABATEMENT REQUEST: ALTHEA MORGAN.

Administrative Assistant Webster presented the case of Althea L. Morgan, owner of 27 Pinehurst Road (EWD Acct 065-157), who was requesting an abatement of 30 percent of the Usage Charge on her April 2011 bill, plus the waiver of two late charges attached to her account totaling \$4.64.

On June 14, 2011 Mrs. Morgan called the office to inquire about her April 2011 bill. She has rented 27 Pinehurst Road to the same elderly gentlemen for years, so could not understand why the usage for that account had increased by a factor of five... Field crew member Phillip Levesque went to Mrs. Morgan's house that day to see whether the meter was broken or if he could spot a leak. Mr. Levesque discovered a leak from a water tank valve. A subsequent visit by K.T. Galley also turned up an old running toilet. Both sources of leakage have been fixed.

Althea Morgan, owner of 27 Pinehurst Road, has requested an abatement of 30 percent of the Usage Charge of her April bill, plus a waiver of two late charges

attached to her account totaling \$4.64. She has already paid \$232.80, which amounts to what she would owe if her requests were granted.

Mrs. Webster noted that a 30 percent abatement of Mrs. Morgan's \$154.00 Usage Charge would reduce it to \$107.80. She also emphasized that the customer had made the necessary repairs as soon as the leak sources were brought to her attention.

Mr. Lovewell made a motion to grant Althea Morgan a 30 percent abatement of her \$154.00 Usage Charge from the billing period ended April 15, 2011, amounting to a reduction of \$46.20; and further, to waive the two late charges that had accrued on this account amounting to \$4.64. Mr. Erickson provided a second, and the motion carried unanimously by voice vote.

DISCUSSION: CPA FUNDS APPLICATION FOR WINDOWS.

The Superintendent reported that on the Water Department's and the Water Commissioners' behalf, he intended to apply for Community Preservation Act funds for restoration work at the Old Wintucket Pump Station. "All around the windows was rotted," he explained, "and I think we should take great pride in our heritage." "I agree," said Chairman Burnham. No objections to the proposal were heard.

DISCUSSION/VOTE: RESTORATION OF WATER WORKS NAME.

Superintendent Domont withdrew his request to restore the name of the Department to "The Edgartown Water Works." [See page 5 of the Minutes of the Regular Meeting of July 11, 2011.]

OTHER BUSINESS:

FISCAL YEAR 2011 REPORTS.

Chairman Burnham stated that he had requested the inclusion of this item on the agenda to provide him with an opportunity to commend Admin Assistant Webster on what a good job she had done on the FY11 Operating Budget Reports. "Thank you," said Mrs. Webster. "I'm really impressed with this," said Mr. Lovewell, pointing to the Income and Expenses Summary. "It has everything on it," he added. Mrs. Webster nodded toward Mr. Lovewell and thanked him. But she was surprised, she said, that no one had remarked on the fact that the Department had achieved a net surplus of more than \$240,000 in Fiscal Year 2011.

Chairman Burnham wondered if that meant it was time to lower the water rates. "I recommend lowering the water rates the first time the *Town* lowers the *tax* rates," argued Superintendent Domont. He went on to explain that when the Board of Water Commissioners had raised the water-service rates in 2009, the intention had been for

those rates to work well for at least a good five years. So it was reasonable, he said, that there could be a significant surplus in one of the early years following an increase in the rates. That was no trigger, however, to lower the rates, the Superintendent stressed. After all, one wet summer could change the picture entirely.

So you're talking about a cushion, confirmed Barbara G. Shriber, the representative from the Financial Advisory Committee. A discussion of the purpose and mechanics of the September 2009 rate increase followed for a few minutes, then wound down.

DISCUSSION: REQUEST THAT TOWN ACCOUNTANT PROVIDE RECONCILIATION OF SURPLUS FUNDS, INCLUDING EARLIER STATEMENTS.

Superintendent Domont related that each year a portion of the surplus funds from earlier Operating Budgets was voted at the Annual Town Meeting into the Department's Capital Expenditures Account. For instance, at the last ATM, \$60,000 had been voted. However, there were no financial reports, year by year, laying out all of the surpluses and all of the transfers to the Capital Expenditures Account, the Superintendent said, adding that this was a matter of great concern to him.

For example, Mr. Domont continued, a few years earlier \$160,000 had been released into the Capital Expenditures Account at Annual Town Meeting. But the Town Administrator had asked the Superintendent to take \$60,000 at the start of the fiscal year on July 1 and the other \$100,000 later after the surplus fund had been certified in October. Now he wondered what happened to the other \$100,000.

The problem was, said Mr. Domont, staff at the Water Department lacked the capability of viewing these transactions. How did the Town Accountant arrive at her figure for the surplus? Where did the surpluses go? There was no way of knowing. Thus, the Superintendent wished the Board of Water Commissioners to request a full accounting of this process for Fiscal Year 2011, as well as for the preceding five fiscal years.

Chairman Burnham stated that what the Commissioners would need was a letter written to that effect for their signatures. Mr. Domont stressed that the Water Department staff required the capability of looking into the account into which the surpluses went and at the printouts that showed the pertinent transactions.

SHURTLEFF LAND.

Mr. Lovewell said he was pleased to see this item on the agenda.

PAYROLL:

The Commissioners signed payroll forms.

ADJOURNMENT:

There being no further business, Chairman Burnham asked for a motion to adjourn. Mr. Erickson made a motion to adjourn, seconded by Mr. Lovewell. The motion carried unanimously by voice vote, and Chairman Burnham adjourned the Regular Meeting at 5:09 p.m.

Respectfully submitted,

Pia Webster
Administrative Assistant

APPROVED:

**BOARD OF WATER COMMISSIONERS
TOWN OF EDGARTOWN**

Robert L. Burnham, Chairman

William R. Erickson, Water Commissioner

John S. Lovewell, Water Commissioner