

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN  
REGULAR MEETING MINUTES  
TUESDAY – OCTOBER 15, 2013 6 PM  
TOWN HALL – JUDGE WELSH ROOM**

Chairman Austin Knight convened the meeting at 6:00 PM, noting the following:

Board of Selectmen attending: Austin Knight, Elaine Anderson, David McChesney, Erik Yingling and Tom Donegan.

Other attendees: Town Manager Sharon Lynn, Assistant Town Manager David Gardner and Finance Director Dan Hoort

Recorder: Assistant Town Manager David Gardner

The following are meeting minutes, in brief:

**1A. PUBLIC HEARINGS – CURB CUT REQUEST 94 COMMERCIAL STREET**

AJ Santos present on behalf of the owner.

Public hearing notice read into the record.

Recommendations on file from staff and Public Safety officials, all in favor.

Public comment:

MaryJo Avellar – spoke in favor of the request. Flyer has done a lot for the Town and we should grant his request to allow him access to his property.

***MOTION: Move that the Board of Selectmen vote, pursuant to MGL C. 11, § 6-2, to approve the request of Francis Flyer Santos to establish a curb cut at the property located at 94 Commercial Street (Assessor’s Map 6-4-30) (Res 3 Zone).***

**Motion by: David McChesney Seconded By: Erik Yingling Yea 5 Nay 0**

**1B. PUBLIC HEARINGS – CURB CUT REQUEST 31 POINT STREET**

Billy Rogers present on behalf of the property owner.

Public hearing notice read into the record.

Recommendations on file from staff and Public Safety officials, all in favor. The applicant notified the abutters by certified mail.

Public comment: None.

***MOTION: Move that the Board of Selectmen vote, pursuant to MGL C. 11, § 6-2, to approve the request of Lyn Plummer to establish a curb cut at the property located at 31 Point Street (Assessor’s Map 5-3-41-B) (Res 1 Zone).***

**Motion by: David McChesney Seconded By: Erik Yingling Yea 5 Nay 0**

## **2. PUBLIC STATEMENTS**

Town Counsel John Giorgio made a statement into the record regarding the VFW purchase and sales agreement. Town has received a letter claiming that the bylaws of the VFW were not complied with when the vote was taken to enter into the sale of the VFW. The vote at town meeting merely allows the Board of Selectmen to act on the purchase. I see no reason why the Town could not move forward with the vote at Town Meeting.

Wayne Martin – Questions the validity of the Purchase and Sales Agreement. Feels the VFW did not vote pursuant to the bylaws.

Bill Dougal – Spoke on the consideration of a split tax rate. Residential sales are strongest in Provincetown, commercial sales are the weakest market. Cost of doing business in town is high and makes it difficult for commercial businesses and properties to be viable. Commercial season is short. Please do not further burden the business community with a split tax rate.

Mark Hatch – Thinks Facebook political pages and social media in general are a grand experiment in democracy. What it comes down to is a matter of trust. Many of these issues relate to what is happening in town and the decisions that will be made at town meeting next week.

Michael Canizales – Vote of the Finance Committee that the Selectmen direct the town to submit a challenge grant for regional jails cells with other towns. On tonight's agenda is the Selectmen's Policy Statement regarding Anonymous Communications. There is no valid reason to save anonymous communications, they should just be destroyed.

## **3. SELECTMEN STATEMENTS**

**Tom Donegan** – Commented on the article in the Banner regarding the pending investigations, we should await the conclusions. Wants to get answers regarding the source of the emails. We need to have further training in Open Meeting Law and should understand what constitutes subcommittees. Everyone needs to understand that. Looks like the community is coming to a consensus on the OPEB issue.

**Elaine Anderson** – Looking forward to Special Town meeting so that we can have a new fresh start. Work on trust. Staff is taking the brunt of much of this animosity. Public information requests are taking up much of the time of staff. The few loud voices need to stop, and we should be courteous of each other. Everyone should participate in town meeting and be prepared.

**David McChesney** – Disappointed that we were not able to meet with the Finance Committee to discuss some of these issues prior to Town Meeting. I am a proponent of social media, but everyone should own their comments. Steve Fossella formed the Second Homeowner Taxpayer Association.

**Erik Yingling** – Does not support the Selectmen Policy on Anonymous Communications. Looking forward to town meeting, all discussions on social media are resulting in action. I understand concerns about the split tax rate, I only requested the item to get more information and discussion. Thinks that Austin should get way out in favor of the issue regarding election signs.

**Austin Knight** – Staff will look at the Challenge Grant. Will not make a comment on the pending

investigation.

#### **4A. JOINT MEETING/PRESENTATIONS – JOINT MEETING WITH THE BOARD OF ASSESSORS**

Principal Assessor Paul Gavin, Chair Patty DeLuca, Bob Sanborn and Leslie Parsons all present.

The Board of Assessors agrees with the current tax classification structure and does not propose any split tax rate or Exemptions.

Tax Classification Informational Session discussion:

Split Tax Rate (Tax burden shift from residential properties to commercial properties)

Residential Exemption (Tax burden shift from domiciled residential properties to non-domiciled residential properties)

Small Commercial Exemption (Tax burden shift from small commercial properties to large commercial properties)

Other communities do have other tax structures.

Tax structure changes do not adjust the tax levy, but rather it shifts the tax burden amongst the taxpayers.

We should look at ways to increase the affordable housing exemption. How can we keep year round rentals on the market?

#### **4B. JOINT MEETING/PRESENTATIONS – JOINT MEETING WITH THE VISITOR SERVICES BOARD**

Chair Mick Rudd, Rick Murray, Catherine Nagorski, Marian Peck, Rita "Hersh" Schwartz, James Bakker, Michael Peregón all present. Tourism Director Anthony Fuccillo also present.

PPPM Executive Director John McDonough, Michelle Haynes, and Bill Dougal representing the Pilgrim's Monument Association and Board Members: Bob Patrick, Chris Snow, Arthur Parker, Fred Long, Al Silva, Joe Collins.

The coordination and planning of The Pilgrim 2020 Commemoration.

VSF is not an event planning organization, however, we can participate and advise the Selectmen on our ability to capitalize on the opportunities of the 2020 Commemoration.

The Town's PR firm provided some input as to how the event planning can be managed.

The Pilgrim Monument is well positioned to take advantage of this opportunity.

The 2010 Commemoration Committee is a model for collaboration.

We need to get started on the planning process.

The Board of Selectmen should hold a special meeting in early November to dedicate more time on this discussion.

Should also work with National Park Service to leverage their reach. Should also look at Jamestown Virginia celebration of several years ago. We should form a working group that comes back with a specific action plan.

We also need to revisit the restoration of the Bas Relief in time for the 2020 Celebration.

**4C. JOINT MEETING/PRESENTATIONS – JOINT MEETING WITH THE PROVINCETOWN PUBLIC PIER CORPORATION**

Chair Kerry Adams, Regina Binder, LeRoy "Scott" Fraser, Herbert Hintze all present. Harbormaster Rex McKinsey also present.

Discussion of the floating docks repairs and work schedule. There will be some wave studies to understand how wave attenuation could further protect the pier assets.

Harbormaster gave an assessment of the work completed to date after the storm.

**MOTION:** Move that the Board of Selectmen vote, to approve the contract with Bourne Consulting Engineering PC, 3 Bent Street, Franklin, Massachusetts 02038, in the amount of \$227,530.

**Motion by:** Elaine Anderson **Seconded By:** David McChesney Yea 4 Nay 0 Abstain 1 (Tom Donegan)

Would like to see the PPPC consider a Harbor Access Fee for charter services. Would like a future agenda item to consider the Pier Fee structure to discuss potential pier maintenance revenue.

The renegotiation of the Town-PPPC Agreement is pending. That agreement should include cost forecast for maintenance of the Pier. Selectmen and Pier Corp should have a future joint meeting to further these discussions.

**MOTION:** Move that the Board of Selectmen vote, to take item 6D and 6E out of order.

**Motion by:** Elaine Anderson **Seconded By:** Erik Yingling Yea 5 Nay 0

**6D PROCLAMATION – OCTOBER 24, 2013 TOUR GUIDE APPRECIATION DAY**

Tourism Director Anthony Fuccillo present.

**MOTION:** Move that the Board of Selectmen vote to Move that the Board of Selectmen vote to proclaim Thursday, October 24, 2013 as Tour Guide Appreciation Day.

**Motion by:** David McChesney **Seconded By:** Erik Yingling Yea 5 Nay 0

**6E PROCLAMATION – DECEMBER 5, 2013 GABBY HANNA DAY**

Tourism Director Anthony Fuccillo present.

**MOTION:** Move that the Board of Selectmen vote to proclaim December 5, 2013 as Gabrielle Hanna Day in recognition of her work with the Provincetown International Film Festival.

**Motion by:** Tom Donegan **Seconded By:** Erik Yingling Yea 5 Nay 0

**5. BOARD OF SELECTMEN APPOINTMENTS –**

**MOTION:** Move that the Board of Selectmen vote, to appoint Elizabeth Patrick as a Regular Member of the Beautification Committee with a term to expire on December 31, 2016.

**Motion by:** Tom Donegan **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to appoint Dorothy Freitas as an Alternate Member of the Beautification Committee with a term to expire on December 31, 2015.

**Motion by:** Tom Donegan **Seconded By:** Erik Yingling Yea 5 Nay 0

Send letter to Vincent Breglia thanking him for his service on the Beautification Committee.

**MOTION:** Move that the Board of Selectmen vote to appoint Pam Hudson to the position of Regular Member of the Cape Cod Municipal Health Group and Marge McGloin to the position of Alternate Member.

**Motion by:** Tom Donegan **Seconded By:** Elaine Anderson Yea 5 Nay 0

**6A. MONTHLY POLICE REPORT**

Lieutenant Jim Golden presented the monthly report of police activity for month of September.

**6B. POLICE DEPARTMENT- 911 DEPARTMENT TRAINING GRANT AND EMERGENCY MEDICAL DISPATCH GRANT**

This grant provides funds for overtime, straight time and hotel expenses for the 16 hours of required EMD training for each telecommunicator as well as reimbursement for the medical director fee. The medical director provides quality assurance of the EMD program which is now required. This is a grant we have received every year in the past since 2008. The amount is \$14,285.71. This grant does not require matching funds.

**MOTION:** Move that the Board of Selectmen vote to authorize the Acting Chief of Police to submit a State 911 Department Training and EM/Regulatory Compliance Grant to the Executive Office of Public Safety; in the amount of \$14,285.71, for reimbursement of overtime and allowable expenses incurred relating to the training and certification of enhanced 911 telecommunicators as well as the Medical Director fee required for quality assurance of EMD according to 560 CMR 5.0.

**Motion by:** Tom Donegan **Seconded By:** Elaine Anderson Yea 5 Nay 0

**6C OPEN SHELLFISH FLATS**

Tony Jackett, Shellfish Constable present. The Shellfish Committee unanimously approved the opening of the shellfish beds with the conditions.

**MOTION:** MOVE that the Board of Selectmen vote to pursuant to MGL C.130, §52 and the Selectmen's Recreational Shellfish Regulations, to approve opening the public shellfishing areas as follows:

On Sunday, November 3, 2013 the shellfish area west of Captain Jacks to the east side of

the Provincetown Inn and 25' inside the Private Grants will open to the public.

On Sunday, November 17<sup>th</sup>, the shellfish area from Allerton Street to the Provincetown / Truro town line will open to the public.

On Sunday, December 1, the public will be allowed to take shellfish from Hatches Harbor. Access will be between 7am and 5pm. A letter of intent will be sent to Seashore authorities indicating the request.

The proposed dates are subject to the results of both shellfish and water quality testing at the state lab.

The days allowed are Sundays and Fridays through the end of March 2014, with a ten-quart limit per week. Licenses, gauges, and a copy of the regulations will be available at the Town Clerk's office. Fees are \$15.00 for residents and \$50.00 for non-residents. Residents or taxpayers shall be issued a free shellfish permit at age 65 or older.

If Bay Scallops are abundant the Shellfish Constable will post the days and location of their taking and the recreational limit shall be two pecks per week.

**Motion by: Erik Yingling Seconded By: Elaine Anderson Yea 5 Nay 0**

**MOTION: Move that the Board of Selectmen vote, to take item 6G out of order.**

**Motion by: Austin Knight Seconded By: Elaine Anderson Yea 5 Nay 0**

**6G PARADE PERMIT – CAMP LIGHTBULB - HALLOWEEN COSTUME 1K FUN RUN & WALK**

The run/walk will gather at Angel's Landing on Commercial Street, head west along Commercial, turn left at Lopes Square and right on to Ryder Street Extension, then left again back on to Commercial Street and end at Joe's Coffee Shop.

**MOTION: Move that the Board of Selectmen vote, to approve the parade application permit submitted by Puck Markham, on behalf of Camp Lightbulb for a Halloween Costume 1K Fun Run and Walk to be held on Sunday, November 3, 2013 starting 10:00 AM at Angels Landing and ending at Joe's Coffee House.**

**Motion by: Tom Donegan Seconded By: David McChesney Yea 5 Nay 0**

**6F BOARD OF SELECTMEN POLICY STATEMENT 2013-10-15 – ANONYMOUS COMMUNICATION**

A vote of the Board of Selectmen on July 22, 2002 adopted a similar policy for the Board of Selectmen and this revised policy includes all town departments and town boards regarding anonymous communication.

**MOTION: Move that the Board of Selectmen vote to adopt Policy Statement 2013-10-15 as follows:**

**It shall be the policy of the Board of Selectmen that all anonymous communication, received by either the Board of Selectmen, Town departments, or other Town boards, regardless of the subject matter, not be answered or responded to in any way, unless such anonymous complaint alleges an imminent threat to public health, safety, or welfare, or if it provides actual credible evidence of a crime having been committed, in which case the Town will take appropriate action. And further, that any Town department or Town board that receives an anonymous**

communication, be directed to send the anonymous communication to the Office of the Town Clerk, where such communication will be destroyed.

**Motion by: Tom Donegan Seconded By: Elaine Anderson Yea 5 Nay 0**

**6H1 TREASURER'S TRANSFER – LIBRARY GIFT FUND**

Request to pay the authorized voucher in the amount totaling \$62.50 for the secretarial services used at the 9/17/13 Library Board of Trustees meeting. The Library Gift Fund (#1107) has a balance of \$12,455.00. The Library Board of Trustees does not have any money budgeted for this expense.

**MOTION: Move that the Board of Selectmen vote, as Commissioners of the Library Gift Funds (#1107), pursuant to MGL C44 § 53A, to approve the use of \$62.50 from the Library Gift Fund to pay for the attached invoice(s).**

**Motion by: David McChesney Seconded By: Erik Yingling Yea 5 Nay 0**

**6H2 TREASURER'S TRANSFER – LIBRARY GIFT FUND**

To allow the Town Treasurer to transfer money from the Library Gift Funds (#1107) without bringing each request before the Board of Selectmen. The Library Gift Fund (#1107) has a balance of \$12,455.00. The Library Board of Trustees does not have any money budgeted for this expense.

**MOTION: Move that the Board of Selectmen vote, as Commissioners of the Library Gift Funds (#1107), pursuant to MGL C44 § 53A, to approve the use of the funds in the Library Gift Fund to pay for the secretarial services used at each of the Board of Trustees meetings for the taking and completion of the minutes of each meeting throughout fiscal year 2014.**

**Motion by: David McChesney Seconded By: Erik Yingling Yea 5 Nay 0**

Request that this gift fund gets adjusted at the Spring Town Meeting.

**6H3 TREASURER'S TRANSFER – BEAUTIFICATION GIFT FUND**

Request to pay the authorized vouchers in the amount totaling \$3078.99 from the Beautification Gift Fund, leaving a balance of \$5,028.15. The Beautification Committee approved these vouchers.

**MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$3,078.99 from the Beautification Committee Gift Fund to pay for the attached invoices.**

**Motion by: Tom Donegan Seconded By: David McChesney Yea 5 Nay 0**

**6H4 TREASURER'S TRANSFER – COMMUNITY CENTER GIFT FUND**

Request to pay the authorized invoice totaling \$1,469.74 leaving a remaining balance in the Community Center Gift Fund of \$4,679.22 after payment.

**MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$1,469.74 from the Community Center Gift Fund for payment of the attached invoice(s) and authorized by the**

attached Voucher to Pay.

**Motion by: Tom Donegan Seconded By: Elaine Anderson Yea 5 Nay 0**

**6H5 TREASURER'S TRANSFER – JOHN ANDERSON FRANCIS SCHOLARSHIP FUND**

Authorization from the John Anderson Francis Scholarship Committee in support of this request totaling \$10,000.00 leaving a remaining balance in the John Anderson Francis Scholarship Fund of \$1,140,013.40.

**MOTION: Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$10,000.00 from the John Anderson Francis Scholarship Fund for the payment of scholarship(s).**

**Motion by: Tom Donegan Seconded By: David McChesney Yea 5 Nay 0**

**6H6 TREASURER'S TRANSFER – CAPTAIN JOSEPH OLIVER SCHOLARSHIP FUND**

Authorization from the John Anderson Francis Scholarship Committee in support of this request totaling \$9,500.00 leaving a remaining balance in the Captain Joseph F. Oliver Scholarship Fund of \$492,009.80.

**MOTION: Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$9,500.00 from the Captain Joseph F. Oliver Scholarship Fund for the payment of scholarship(s).**

**Motion by: Tom Donegan Seconded By: Erik Yingling Yea 5 Nay 0**

**6H7 TREASURER'S TRANSFER – JOHN A HENRY TRUST FUND**

This payment is supported by an annual contract between the Town and the Cape Cod Children's Place for FY14 of \$12,000.00 to be expended from the John A. Henry Trust to assist less fortunate children. After this payment a remainder of \$9,220.14 is in the contract for FY14 and \$507,363.63 in the Estate of John A. Henry.

**MOTION: Move that the Board of Selectmen vote to, as Commissioners of the Trust Funds, to approve the transfer of \$2,779.86 from the John A. Henry Trust Fund for the payment of the attached invoice(s).**

**Motion by: Tom Donegan Seconded By: Erik Yingling Yea 5 Nay 0**

**7A MAKE RECOMMENDATIONS ON THE WARRANT ARTICLES FOR OCTOBER 21, 2013 SPECIAL TOWN MEETING**

Charter section §2-3-11 provides that "Prior to a vote on an article submitted by a town board, the town board shall state the numbers of its members in favor of and opposed to the article, and its chairman, or his designee, shall explain the view of the majority to the meeting."

The Board of Selectmen voted to make the following recommendations regarding the Special Town

Meeting articles:

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-1.

**Motion by:** Elaine Anderson **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-2 in the amount of \$3458.46.

**Motion by:** David McChesney **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-3 for future receipts of the Retiree Drug Subsidy.

**Motion by:** Elaine Anderson **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-4 in the amount of \$440,752.

**Motion by:** Elaine Anderson **Seconded By:** David McChesney Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-5 in the amount of \$41,614.

**Motion by:** Elaine Anderson **Seconded By:** David McChesney Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-6 in the amount of \$900,000 from free cash.

**Motion by:** Erik Yingling **Seconded By:** Elaine Anderson Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to indefinitely postpone STM-7.

**Motion by:** Elaine Anderson **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-8 in the amount of \$280,000.

**Motion by:** David McChesney **Seconded By:** Austin Knight Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-9 in the amount of \$50,000.

**Motion by:** Austin Knight **Seconded By:** Elaine Anderson Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-10.

**Motion by:** Tom Donegan **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-11.

**Motion by:** David McChesney **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-12.

**Motion by:** Austin Knight **Seconded By:** David McChesney Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-13.

**Motion by:** Tom Donegan **Seconded By:** Erik Yingling Yea 5 Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-14.

**Motion by:** Tom Donegan    **Seconded By:** Elaine Anderson    Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-15.

**Motion by:** David McChesney    **Seconded By:** Tom Donegan    Yea 4    Nay 0    Abstain 1  
(Elaine Anderson)

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-16.

**Motion by:** Elaine Anderson    **Seconded By:** Erik Yingling    Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote, to reserve recommendation on STM-17.

**Motion by:** Tom Donegan    **Seconded By:** Erik Yingling    Yea 4    Nay 1 (Tom Donegan)

**MOTION:** Move that the Board of Selectmen vote, to recommend STM-18.

**Motion by:** Erik Yingling    **Seconded By:** Tom Donegan    Yea 2    Nay 3 (Elaine Anderson,  
Austin Knight and David McChesney)    Motion Failed

**MOTION:** Move that the Board of Selectmen vote, to reserve recommendation on STM-18.

**Motion by:** Elaine Anderson    **Seconded By:** David McChesney    Yea 3    Nay 2 (Tom  
Donegan and Erik Yingling)

**7B    TOWN MANAGER SHARON LYNN FOLLOW-UP**

Arbitration award in favor of the town in the case of Darlene Flores v. Town of Provincetown.

7.    **OTHER** - None

8.    **MINUTES OF BOARD OF SELECTMEN'S MEETINGS –**

**MOTION:** Move that the Board of Selectmen vote to approve the minutes of:

August 12, 2013 (Regular Mtg.) with changes so noted

September 9, 2013 (5 PM Parking Task Force)    as printed

September 9, 2013 (Regular Mtg.) as printed

September 11, 2013 (5PM Police Chief Independent Investigation Interviews) as printed

September 16, 2013 (5PM Executive Session - Open) as printed

September 16, 2013 (6PM Special Mtg.) as printed

September 17, 2013 (Joint Mtg. w/ Building Committee) as printed

September 19, 2013 (1:30 PM Preliminary Screening Committee) as printed

September 19, 2013 (4:30 PM Executive Session - Open) as printed

September 23, 2013 (10:00AM Approval of Warrant) as printed

September 30, 2013 (5PM Special Mtg. Police Staffing Analysis) as printed

September 30, 2013 (6PM Special Mtg.) as printed

**Motion by:** Elaine Anderson    **Seconded By:** Erik Yingling    Yea 5    Nay 0

9.    **CLOSING STATEMENTS**

Tom Donegan – Executive Session minutes should be considered for release.

Elaine Anderson – Take a moment of silence for Mona Anderson’s passing.

David McChesney – None.

Erik Yingling – None.

Austin Knight – None

Motion to adjourn by Elaine Anderson at 10:25 PM.

Minutes transcribed by: David Gardner