

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN**

**EXECUTIVE SESSION – MONDAY, FEBRUARY 10, 2003**

**JUDGE WELSH HEARING ROOM**

Chairman Mary-Jo Avellar called the meeting to order at 6:00 pm on a roll call vote noting the following attendees: Board of Selectmen Members: Mary-Jo Avellar, Cheryl Andrews, Michele Couture, Sarah Peake and Richard Olson.

Others Present: Town Manager Keith Bergman and Town Counsel John Giorgio

Recorder: Cheryl Andrews

The following are meeting minutes, in brief.

**1A LITIGATION STRATEGY**

Town Counsel John W. Giorgio

John highlighted six (6) cases for review from the Litigation Status Report - Matters pending with Town Counsel. Board of Selectmen also briefly reviewed some.

1. Adams v. Town of Provincetown
2. Cheryl Andrews left the room.  
Basine v Provincetown Conservation Commission  
Cheryl Andrews returned.
3. Crown and Anchor v. Town of Provincetown - Insurance is paying or these costs.  
*Mary-Jo Avellar left the room.*
4. Mad Maxine's Watersports, et al. v. Town of Provincetown Harbormaster  
Insurance is paying for this federal case also.

We also discussed ProFish negotiation process.

**MOTION**: *Move that the Board of Selectmen vote to go into open session.*

**Roll Call**: Michele Couture - Yes Sarah Peake - Yes  
Richard Olson - Yes Cheryl Andrews - Yes

**Motion by**: Michele Couture **Seconded by**: Sarah Peake Yea 4 Nay 0

*Sarah Peake opened the door.*

**MOTION**: *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, Section 23B, clause 6, to go into executive session to discuss the value of real property lease exchange. [Roll Call Vote].*

**Roll Call**: Michele Couture - Yes Sarah Peake - Yes  
Richard Olson - Yes Cheryl Andrews - Yes

**Motion by**: Michele Couture **Seconded by**: Richard Olson Yea 4 Nay 0

*Sarah Peake closed the door.*

**MOTION:** *Move that the Board of Selectmen vote to extend the deadline of February 28, 2003 for execution of a lease agreement with the Provincetown Public Pier Corporation and to so inform the Pier Corporation and Profish.*

**Roll Call:** Michele Couture - Yes Sarah Peake - Yes  
Richard Olson - Yes Cheryl Andrews - Yes

**Motion by:** Michele Couture **Seconded by:** Sarah Peake Yea 4 Nay 0

**MOTION:** *Move that the Board of Selectmen vote to go out of executive session for Clause 6 and into open session.*

**Roll Call:** Michele Couture - Yes Sarah Peake - Yes  
Richard Olson - Yes Cheryl Andrews - Yes

**Motion by:** Sarah Peake **Seconded by:** Michele Couture Yea 4 Nay 0

*Sarah Peake opened the door.*

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, Section 23B, clause 6, to go into executive session for the purpose of discussing strategy with respect to litigation; and to convene in open session thereafter. [Roll Call Vote].*

**Roll Call:** Michele Couture - Yes Sarah Peake - Yes  
Richard Olson - Yes Cheryl Andrews - Yes

**Motion by:** Sarah Peake **Seconded by:** Michele Couture Yea 4 Nay 0

*Sarah Peake closed the door. Mary-Jo Avellar returned.*

Nextel - Town Counsel

1. Settlement with agreement for judgment at applicants house.
2. Settle to agree to relocate.

**MOTION:** *Move that the Board of Selectmen vote to authorize Town Counsel to obtain an extension in the litigation to explore a settlement with Nextel to allow location of a facility on the two water tanks in the center of town subject to issuance of the necessary RFP and appropriate zoning amendments.*

**Roll Call:** Michele Couture - Yes Sarah Peake - Yes Richard Olson - Yes  
Cheryl Andrews - Yes Mary-Jo Avellar - yes

**Motion by:** Sarah Peake **Seconded by:** Michele Couture Yea 5 Nay 0

**MOTION:** *Move that the Board of Selectmen vote to adjourn this executive session and reconvene in open session at 7:18 pm.*

**Roll Call:** Michele Couture - Yes Sarah Peake - Yes Richard Olson - Yea  
Mary-Jo Avellar - Yes Cheryl Andrews - Yes

**Motion by:** Michele Couture **Seconded by:** Richard Olson Yea 5 Nay 0

Minutes transcribed by: Vernon Porter, Secretary to Board of Selectmen  
April 22, 2003