



# Meeting Agenda

The Provincetown Board of Selectmen will hold a public meeting on Monday, February 23, 2015, at 6:00 p.m. in Judge Welsh Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657.

*Consent Agenda – Approval without objection required for the following items:*

- A. *Parade Permit Application Submitted by Sean McCabe, on Behalf of the Provincetown 10K Charity Road Race to be held on Sunday, May 31, 2015, to benefit P.A.A.M. and Provincetown Aids Memorial.*
  - B. *Parade Permit Application Submitted by Reverend Brenda Haywood, on Behalf of the UU Meeting House for a Silent Peace March on Sunday, March 8, 2015.*
  - C. *Treasurer's Transfer – Library Gift Fund – Invoices in the Amount of \$790.23.*
  - D. *Appoint Max Cliggott-Perit as a Regular Member of the Bicycle Committee from an Alternate Member, with Term to Expire December 31, 2015.*
  - E. *Public Safety Agreement with the Cape Cod National Seashore- Acting Police Chief Jim Golden*
  - F. *Assessors Implementation of Fiscal 2016-18 Valuation Program*
1. Public Hearings - Votes may be taken on the following items:
    - A. Land Bank Fund – Possible Discontinuance and Consolidation with the Community Preservation Fund
    - B. Economic Development Permit – 293 Commercial St - Kung Fu Dumplings, Stephen Rome, applicant; Steven Boggess, property owner. Request to add 20 fast food seats to the existing restaurant.
    - C. Economic Development Permit – 293 Commercial St – Twisted Pizza Julie Knapp, applicant; Steven Boggess, property owner. Request to add 7 fast food seats to the existing restaurant.
  2. Public Statements – Five minutes maximum, Selectmen do not respond to Public Statements.
  3. Selectmen's Statements – Initial comments from the Selectmen. Discussion dependent Votes may be taken.
  4. Joint meeting / Presentations - Votes may be taken on the following items:
  5. Appointments - Votes may be taken on the following items:
  6. Requests - Votes may be taken on the following items:
    - A. Request to Clear Title to 305-7 Commercial Street –Provincetown Chamber of Commerce.

- B. 2020 Steering Committee Organizational Structure – Discussion Cheryl Andrews
- C. New Year's 2016 Fireworks - Discussion

7. Town Manager / Assistant Town Manager - Votes may be taken on the following items:
  - A. Refer Zoning Articles to Planning Board; Inclusionary By-Law Discussion – Gloria
  - B. Discuss Articles for Warrant
  - C. Other - Other matters that may legally come before the board not known at the time of posting - votes may be taken.
8. Minutes – Approve minutes of previous meetings. Vote may be taken.
9. Closing Statements/Administrative Updates - Closing comments from the Selectmen. Discussion dependent, motions may be made, votes may be taken
  - A. Letter to Commissioner Martin Suuberg, Massachusetts Department of Environmental Protection re: Use of a Hydraulic Dredge in Coastal Resource Areas.

Posted: [www.provincetown-ma.gov](http://www.provincetown-ma.gov) 2/19/15 8:45 am dj



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

00

## CONSENT AGENDA

Approval required for the following items:

Requested by: BOS Chair Tom Donegan

Action Sought: Approval

### Proposed Motion(s)

***MOVE that the Board of Selectmen vote to approve items listed on the consent agenda as submitted.***

### Additional Information

See attached materials for each of the following consent agenda items:

- A. *Parade Permit Application Submitted by Sean McCabe, on Behalf of the Provincetown 10K Charity Road Race to be held on Sunday, May 31, 2015, to benefit P.A.A.M. and Provincetown Aids Memorial.*
- B. *Parade Permit Application Submitted by Reverend Brenda Haywood, on Behalf of the UU Meeting House for a Silent Peace March on Sunday, March 8, 2015.*
- C. *Treasurer's Transfer – Library Gift Fund – Invoices in the Amount of \$790.23.*
- D. *Appoint Max Cliggott-Perit as a Regular Member of the Bicycle Committee from an Alternate Member, with Term to Expire December 31, 2015.*
- E. *Public Safety Agreement with the Cape Cod National Seashore- Acting Police Chief Jim Golden*
- F. *Assessors Implementation of Fiscal 2016-18 Valuation Program*

### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

00A

# PARADE PERMIT REQUEST

## Provincetown 10K Charity Road Race

Requested by: Sean McCabe

Action Sought: Approval

### Proposed Motion(s)

***MOVE that the Board of Selectmen vote to approve the Parade Application Permit submitted by Sean McCabe on behalf of Provincetown 10K, 4 Sunset Avenue #2, Jamaica Plain, MA to hold a fundraiser walk on Sunday, May 31, 2015, starting at 9:00 AM to 12 Noon, to benefit P.A.A.M. and Provincetown Aids Memorial.***

### Additional Information

See attached application. Route will begin at the base of MacMillan Pier and end on Commercial Street.

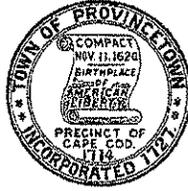
### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

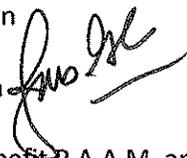
# Town of Provincetown

# Police Department

James F. Golden  
Chief of Police, Acting  
jgolden@provincetown-ma.gov



26 Shank Painter Road  
Provincetown, MA 02657  
Phone: (508) 487-1213  
Fax: (508) 487-4077  
www.provincetown-ma.gov

To: Provincetown Board of Selectmen  
From: Acting Police Chief James Golden   
Subject: Parade Permit Charity 10K to benefit P.A.A.M. and Provincetown Aids Memorial  
Date: February 07, 2015

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Please know that I have reviewed the parade application for Mr. Sean McCabe for a 5<sup>th</sup> annual charity 10K road race event on Sunday, May 31, 2015. They estimate 250-300 attendees a slight increase from 2014.

The event is scheduled from 9am to 12pm and will navigate a route beginning at the base of MacMillan Pier and ending on Commercial Street. This event also involves permitting from both the National Park Service and State DOT as well.

- Three special duty police detail officers will be needed for 4 hours and would cost them approximately \$1,056.00.
- Special duty detail Officers are there to escort the procession per the Provincetown 10K parade permit and provide a public safety presence at the starting and finishing lines only. One additional police officer is being added this year and will be stationed at Allerton Street and Commercial Street at the petitioner's request.
- The petitioner must acknowledge that event users are not guaranteed exclusivity of Commercial Street or any public way as a condition of their permit and that they may have to share the road with bikes, pedestrians and all local vehicle and essential delivery traffic. The road essentially remains open while the group is escorted.

Could you please remind them to contact Lisa Cook at the Police Department about 2-3 weeks before the event to make arrangements for the traffic officers?

FYI: I am not aware of any other event that conflicts but this event.

This event started with 50-75 entrants and has been steadily growing to this year's 300 entrants. With that, the finish line could become a problem with congestion near the Mews Restaurant complex on a Sunday afternoon. They should also be prepared to notify Saint Mary's of the Harbor as this event will coincide with Sunday church services.

# Town of Provincetown

## Parade Permit Application

**Note:** This form must be submitted to the Board of Selectmen's office at least four weeks prior to the date of your event.

Applicant's Name: Sean McCabe  
Address: 4 Sunset Ave. #2 Phone: 617 524-0175  
City/Town: Jamaica Plain State: MA Zip Code: 02130  
Email: race@provincetown10K.com

Applicant is:  Private Individual     Business     Non-Profit Corp

Individual Responsible: Name: Sean McCabe  
Address: 4 Sunset Ave. #2 JP MA 02130  
Phone: 617 -524-0175  
Email: race@provincetown10K.com

Will charges or fees be collected?     Yes     No

Name & Purpose of Parade: The Provincetown 10K charity road race

Date of Parade: May 31st, 2015    Rain Date (if any) : \_\_\_\_\_

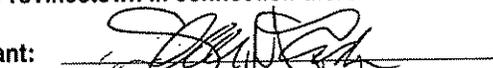
Schedule: Start Time: 9:00 AM    Finish Time: 12:00 PM

Number of Marchers: 250 CAP per police    Number of Vehicles: None

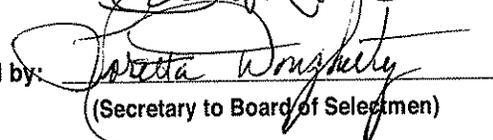
(Please indicate actual or estimated.)

**Note:** Use the attached map, highlight and provide a written plan of parade route including assembly and disassembly locations, special parade features or events as well as stopping locations if any are requested.

The undersigned applicant agrees that the applicant and parade participants will conform with applicable laws, by-laws, and regulations as well as with special requirements that may be made a condition of the granting of a parade permit pursuant to this application. I/we agree to hold the Town of Provincetown harmless from any and all liability and will defend the Town of Provincetown in connection therewith

Signature of Applicant: 

Date: 01/29/2015

Application received by:   
(Secretary to Board of Selectmen)

Date: 2/2/15

**CONDITIONS and REQUIREMENTS**

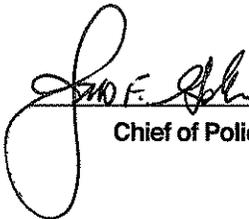
It is the obligation of applicants, organization(s) and responsible individuals to assure that their parade(s) is (are) orderly. Unless specifically authorized, there will be no parades held during the hours of darkness and no stopping of the parade to advertise or perform.

All parades will be assigned and will follow a police cruiser on the approved route. If the Chief of Police deems it necessary to assign additional officers as part of the parade permit, then the cost of such special duty officers will be borne by the applicant.

Any violation of applicable laws, by-laws, regulations, the above requirements, and/or special requirements made a condition of the granting of a Parade Permit will be grounds for immediate revocation of the Parade Permit, prosecution, and denial of future parade permissions.

**PARADE ROUTE. SPECIAL CONDITIONS. REQUIREMENTS. ETC.** (Please PRINT or TYPE and allow margin space)

**APPROVALS**

  
\_\_\_\_\_  
Chief of Police, *Acting*

Date 02-08-2015

**Board of Selectmen**

\_\_\_\_\_  
Chairman, Board of Selectmen

\_\_\_\_\_  
Selectman

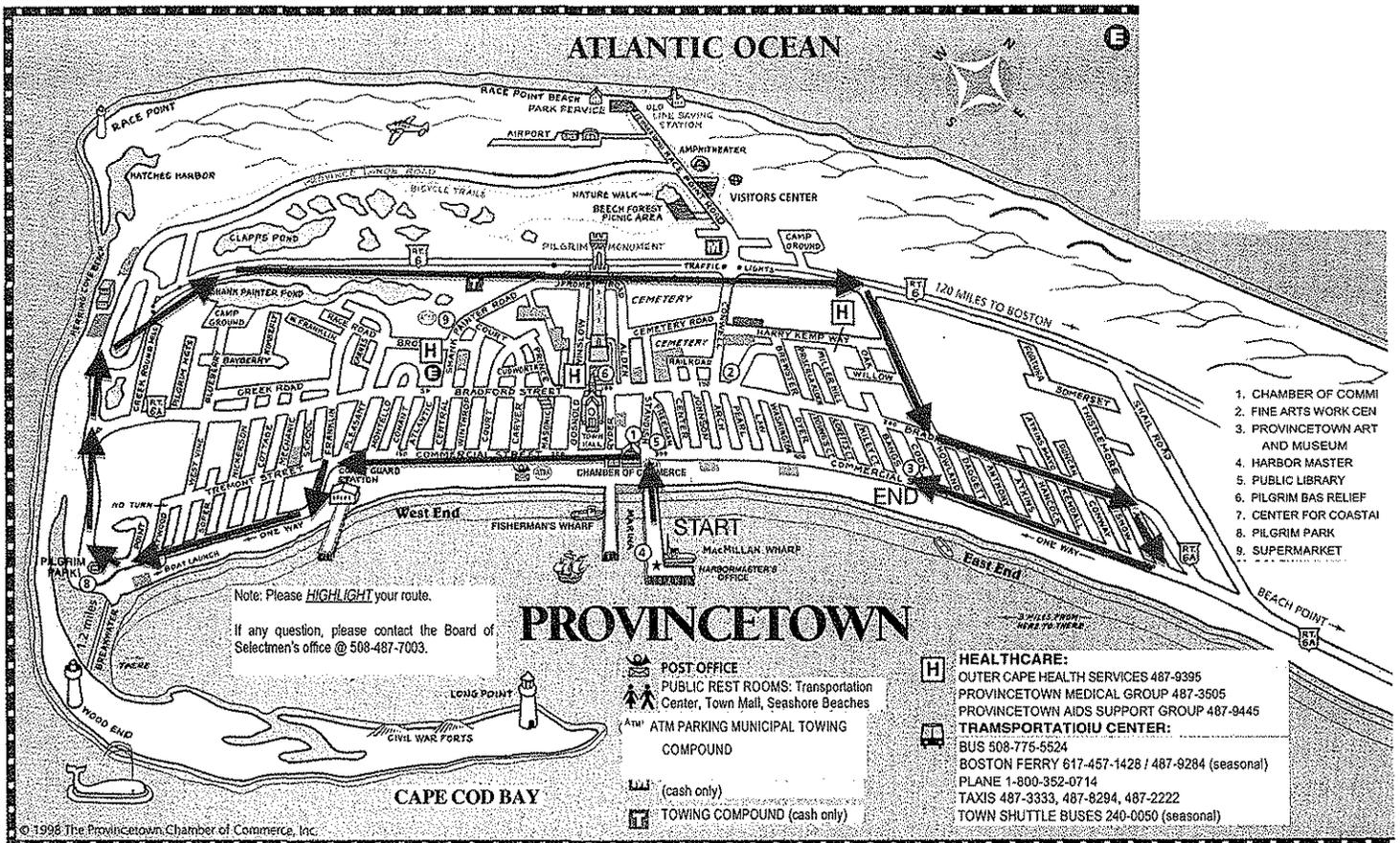
\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

Date: \_\_\_\_\_

Please **HIGHLIGHT** and type or print your parade route. (Pg 4 of 4)





Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

00B

## PARADE PERMIT REQUEST

Unitarian Universalist Meeting House Silent Peace March

Requested by: Reverend Brenda Haywood, Community Minister

Action Sought: Approval

### Proposed Motion(s)

***MOVE that the Board of Selectmen vote to approve the Parade Application Permit submitted by Reverend Brenda Haywood on behalf of the Unitarian Universalist Meeting House, 236 Commercial Street, Provincetown, MA to hold a Silent Peace March on Sunday, March 8, 2015, starting at 1:00 PM to 2:00 PM***

### Additional Information

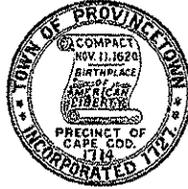
See attached application. Route will begin on Commercial Street in front of Town Hall and end on Commercial Street at the UU Meeting House.

### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

# Town of Provincetown

James F. Golden  
Chief of Police, Acting  
jgolden@provincetown-ma.gov



# Police Department

26 Shank Painter Road  
Provincetown, MA 02657  
Phone: (508) 487-1213  
Fax: (508) 487-4077  
www.provincetown-ma.gov

To: Provincetown Board of Selectmen  
From: Acting Chief of Police James Golden   
Subject: Unitarian Universalist Meeting House Silent Peace March  
Date: February 12, 2015

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Please know that I have reviewed the parade application of Reverend Brenda Haywood for a Silent Peace Parade to be held on Sunday, March 08, 2015. They estimate between 30-40 attendees.

The event is scheduled from 1pm to 2pm and will navigate a route beginning and ending on Commercial Street.

This adult attended event will walk in a manageable group with traffic from the front of Town Hall.

- North on Ryder Street, take a
- East on Bradford Street
- South on Standish Street
- Enter Lopes Square
- Traverse around the Anchor Island
- Enter Commercial Street

The group will then move down Commercial Street and end at the Unitarian Universalist Meeting House.

As this group does not desire to close any streets, is holding this event on a Sunday afternoon in March and most importantly that this group assures me that they can keep the event safe.

I do not, at this time, see a need for them to hire any public safety assets. I will ask shift members to check in on them.

Please let me know what questions you may have.

**Town of Provincetown**  
260 Commercial Street  
Provincetown, MA 02657  
508-487-7003 Fax: 508-487-9560

RECEIVED  
BOS - Vernon *[Signature]*

FEB 12 2015

CC: BOS/TM/ATM

**PROTOCOL FOR PARADE PERMITS**

You may obtain the Parade Permit from the Board of Selectmen's office anytime during business hours on Monday through Friday from 8 am to 5 pm or on line at [www.provincetown-ma.gov](http://www.provincetown-ma.gov)

**Please read the application carefully.**

Your parade route must be indicated on the map provided, as well as in writing. You may either use the special conditions section to type your map route or type it on page 4 at the top of the map or attach a separate sheet. Note that the application must be returned to the Board of Selectmen's Secretary for signature - then forwarded to the Chief of Police for his approval ***4 weeks prior to the date of your event*** so that it may be screened and sent back to the Board of Selectmen's office to be scheduled as an agenda item at one of their meetings.

The Board of Selectmen meetings are held the **2<sup>nd</sup> and 4<sup>th</sup> Monday's of every month.** So, please plan your event *well in advance.*

1. Filled out the application ASAP and returned it to the Board of Selectmen's office four (4) weeks prior to your scheduled event.  
**Note:** *Larger events (i.e., Portuguese Festival, etc.) must go through the Licensing Agents Office (487-7020) - however, Parade Permits still are through this office.*
2. BOS Secretary sends application to Police Dept. for Chief of Police signature.
3. Chief of Police office sends application back to BOS Secretary.
4. BOS Secretary adds to future BOS Agenda for approval and signature.
5. After Board of Selectmen's approval/denial - the applicant is notified either via phone, email or in writing and the original permit is sent back to Police Department to be kept on file.

Please feel free to call the Board of Selectmen's office if you require any further assistance.

**Mail or Fax your application to:**

*Joetta Dougherty*  
~~Vernon G. Porter~~

Secretary to Board of Selectmen  
508-487-7003 Fax: 508-487-9560

Email: [vporter@provincetown-ma.gov](mailto:vporter@provincetown-ma.gov)

*ldougherty@provincetown.gov*

# Town of Provincetown Parade Permit Application

**Note:** This form must be submitted to the Board of Selectmen's office at least four weeks prior to the date of your event.

Applicant's Name: UNITARIAN UNIVERSALIST MEETING HOUSE  
Address: 236 COMMERCIAL STR Phone: 508 487 9344  
City/Town: PROVINCETOWN State: MA Zip Code: 02657  
Email: IREKATE@UUMH.ORG

Applicant is:  Private Individual  Business  Non-Profit Corp

Individual Responsible: Name: REV. BRENDA HAYWOOD/COMMUNITY MINISTER  
Address: 21 A BAUGS ST. PROVINCETOWN - MA 02657  
Phone: LU (508) 487-9344 (H) 508 487 7923  
Email: BRENDALHAYWOOD@YAHOO.COM

Will charges or fees be collected?  Yes  No

Purpose of Parade: SILENT PEACE PARADE

Date of Parade: SUN MARCH 8, 2015 Rain Date (if any): \_\_\_\_\_

Schedule: Start Time: 1pm Finish Time: 2pm

Number of Marchers: 30 Number of Vehicles: 0

(Please indicate actual or estimated.)

**Note:** Use the attached map, highlight and provide a written plan of parade route including assembly and disassembly locations, special parade features or events as well as stopping locations if any are requested.

The undersigned applicant agrees that the applicant and parade participants will conform with applicable laws, by-laws, and regulations as well as with special requirements that may be made a condition of the granting of a parade permit pursuant to this application. I/we agree to hold the Town of Provincetown harmless from any and all liability and will defend the Town of Provincetown in connection therewith

Signature of Applicant: Rev. Brenda L. Haywood

Date: February 12, 2015

Application received by: Loretta Waghel  
(Secretary to Board of Selectmen)

Date: February 12, 2015

**CONDITIONS and REQUIREMENTS**

It is the obligation of applicants, organization(s) and responsible individuals to assure that their parade(s) is (are) orderly. Unless specifically authorized, there will be no parades held during the hours of darkness and no stopping of the parade to advertise or perform.

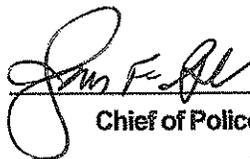
All parades will be assigned and will follow a police cruiser on the approved route. If the Chief of Police deems it necessary to assign additional officers as part of the parade permit, then the cost of such special duty officers will be borne by the applicant.

Any violation of applicable laws, by-laws, regulations, the above requirements, and/or special requirements made a condition of the granting of a Parade Permit will be grounds for immediate revocation of the Parade Permit, prosecution, and denial of future parade permissions.

**PARADE ROUTE. SPECIAL CONDITIONS. REQUIREMENTS. ETC. (Please PRINT or TYPE)**

ASSEMBLE: START: TOWN HALL / COMMERCIAL ST  
ROUTE: RYDER → BRADFORD → STANDISH → AROUND LOPES SQ.  
TO COMMERCIAL ST.  
END AT: UD MEETING HOUSE 236 COMMERCIAL

**APPROVALS**

  
\_\_\_\_\_  
Chief of Police, Acting

Date 02-12-2015

**Board of Selectmen**

\_\_\_\_\_  
Chairman, Board of Selectmen

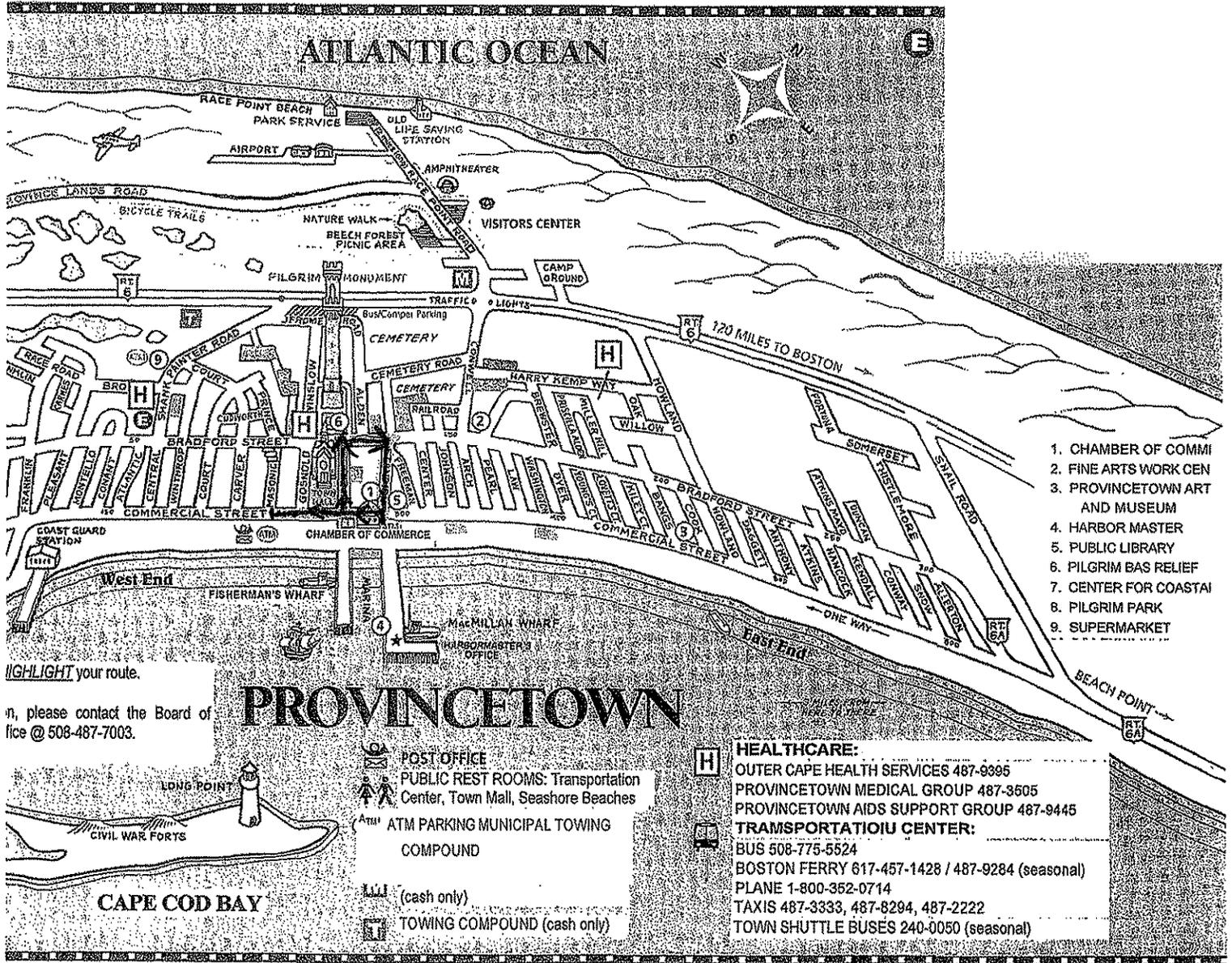
\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

Date: \_\_\_\_\_



HIGHLIGHT your route.

For more information, please contact the Board of Selectmen at 508-487-7003.

✳ SILENT DEACE MARCH: SUN. MARCH 8, 2015 @ 1p - 2p:

- START @ TOWN HALL (ASSEMBLE)
- RYDER → BRADFORD → STANDISH → LOPES SQ → COMMERCIAL (AROUND)
- TO: UU MEETING HOUSE (END)



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

00C

## TREASURER'S TRANSFERS

### Library Gift Fund

Requested by: Treasurer Constance Boulos, 02/11/2015

Action Sought: **Approval**

#### Proposed Motion(s)

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 **\$790.23** from the Library Gift Fund to pay for the attached invoice(s).

#### Additional Information

Attached are the authorized Voucher(s) to Pay this request totaling **\$790.23** from the Library Gift Fund leaving a balance of **\$57,282.29**.

#### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



# TOWN OF PROVINCETOWN

## REQUEST FOR TRANSFER OF FUNDS

Date: February 23, 2015  
To: Constance Boulos, Treasurer  
From: Board of Selectmen

As Commissioners of the Town of Provincetown Gift Funds, permission is hereby granted to you, the Treasurer of the Town of Provincetown, to approve the use of **\$790.23** from the Library Gift Fund for the payment of the attached invoice(s):

<u>\$ 150.00</u>	Matt Clark Reimbursement Angel Foods December 2014 Invoice
<u>\$ 640.23</u>	Sir Speedy December 2014 Invoice #63692
<b>\$ 790.23</b>	<b>TOTAL</b>

The Honorable Board of Selectmen:

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Thomas N Donegan, Chair

---

Erik Yingling, Vice Chair

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Cheryl Andrews, Selectman

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Raphael Richter, Selectman

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Robert Anthony, Selectman



V #54477

Sir Speedy #81650  
 180 Rte 6A \* Hilltop Plaza  
 Orleans MA 02653  
 (508) 240-0882 Fax: (508) 240-0884

**Matt Clark**  
**Provincetown Library**  
**356 Commercial Street**  
**Provincetown MA 02657-2322**

Invoice	
<b>No: 63692</b>	<b>Date: 12/15/14</b>

SHIP TO:  
 < Same as Bill To >  
 Pickup 11/17/2014

Acct.No	Ordered by	Phone	P.O. No	Prepared by	Sales Rep	Ship By
3238	Matt Clark	508.816.6373		Tom		Pickup
Quantity	Description					Price
375	<b>2014 Year in Review Letter (4/0) 2 Originals</b> Offset: 60# Williamsburg white 11 x 8.5 White (1 Original) Front: Color Offset: 60# Williamsburg white 11 x 8.5 White (1 Original) Front: Black 8.5x11, 80-105gsm Cut: to fin sz (1 Cuts/Sheet) Fold: Auto Letter fold-head OUT					199.59
375	<b>#10 regular envelope (1/0) 1 Original</b> Plate: Digital plate Env: Business: 24#Reg # 10 White (1 Original) Front: Black Press: One color press					61.17
375	<b># 6.75 reg envelope (1/0) 1 Original</b> Plate: Digital plate Env: Business: 24#Reg # 6 3/4 White (1 Original) Front: Black Press: One color press					59.72
311	<b>Mailing Services 1 Original</b> ByEach: Mail: 1.list conversion ByEach: Mail: 2b.Move Update cert. ByEach: Mail: 3a.Zip+4 encoding ByEach: Mail: 4a.automation sort ByEach: Mail: 5a2.imprint label & indicia on #10 envelope ByEach: Mail: 6c.insert 3 pieces ByEach: Mail: 7a.USPS report(s) prep ByEach: Mail: 8.delivery to PO ByEach: Mail: 9a. nfp use of mail permit					233.80

continued...

Sir Speedy #81650  
 180 Rte 6A \* Hilltop Plaza  
 Orleans MA 02653  
 (508) 240-0882 Fax: (508) 240-0884

**Matt Clark**  
**Provincetown Library**  
**356 Commercial Street**  
**Provincetown MA 02657-2322**

Invoice	
<b>No: 63692</b>	<b>Date: 12/15/14</b>

SHIP TO:

Page 2

< Same as Bill To >

Pickup 11/17/2014

Acct.No	Ordered by	Phone	P.O. No	Prepared by	Sales Rep	Ship By
3238	Matt Clark	508.816.6373		Tom		Pickup
Quantity	Description					Price
	ByEach: Mail: 9c.seal ...continued					
					Subtotal	554.28
					Shipping	0.00
					Postage	85.95
					Tax	0.00
					TOTAL	640.23
					Paid	0.00
					<b>BALANCE</b>	<b>640.23</b>
Received by <u><i>Matt Clark</i></u> Date <u><i>2/1/15</i></u>					Terms	Net 10 Days

**We accept Visa, MC, Discover, Amex**

Sir Speedy #81650 · 180 Rte 6A \* Hilltop Plaza · Orleans MA 02653 · (508) 240-0882

(print# 1)



✓ # 54478



Provincetown  
Public Library

INVOICE

Invoice Title: 2014 Staff Holiday Party

To: Provincetown Public Library  
356 Commercial Street  
Provincetown, MA. 02657

From: Matt Clark  
165 Scudder Ave.  
Hyannis, MA 02601

ANGEL FOODS  
PROVINCETOWN, MA. 02657  
(508) 487-6666

12/20/2014 000000  
#0355 11:56AM SERV.01 0001

PREPARED FOOD \$150.00

\*\*\*TOTAL \$150.00  
CASH \$150.00  
CHANGE \$0.00

Description	Date	Unit Price	Total
Matt Clark purchased \$150 worth of food from Angel Foods for the annual staff Holiday party.	December 20, 2014	\$ 150	\$ 150.0
		Total	\$ 150

Contact:  
Matt Clark  
Acting Director  
Provincetown Public Library  
508-816-6373  
mpclark@provincetown-ma.gov

Thank you for your work with the Provincetown Public Library!

Hi Susan,  
This was approved by BOLT, & will come out of the gift fund



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

OOD

## APPOINTMENT

### From an Alternate Member to a Regular Member

Requested by: Town Clerk

Action Sought: **Approval**

#### Proposed Motion(s)

***MOVE that the Board of Selectmen vote to approve Max Cliggott-Perit be appointed as a regular member to the Bicycle Committee with a term to expire on December 31, 2015. He is currently an alternate member of the Bicycle Committee.***

#### Additional Information

See attached application.

#### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



**TOWN OF PROVINCETOWN**

***Application for Town Board Membership***

Name: MAX Cloggott-PEARL  
Please type or print

Resident Address: 2 CREEK HILL RD Provincetown, MA 02657

Mailing Address (if different): \_\_\_\_\_

Telephone #: (914) 419-6951 Work # (\_\_\_\_) \_\_\_\_\_

Email address: MAXCP@MARLBORO.EDU

Please consider this as my application for  membership [ ] reappointment on the following Town Board(s).  
(Please list order of preference.)

1. CURRENTLY AN ALTERNATE WANT TO BECOME
2. FULL MEMBER
3. \_\_\_\_\_

Listed below are the applicant's skills, experience, background, or other factors which would contribute to these committees:

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*I hereby certify that I am a resident of the Town of Provincetown.*

2-17-15  
 Signature of Applicant Date

**TO THE APPLICANT: FILE COMPLETED FORM WITH THE TOWN CLERK**

Town Clerk Certification: Applicant is a registered voter: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u></u> Name of Town Clerk	This application will remain on file in the Town Clerk's Office for 364 days from the date received. Application Termination Date: <u>2/17/16</u>
--	--

Date Received by Board of Selectmen

Date Received by Town Clerk

**RECEIVED**

FEB 17 2015

**TOWN CLERK**



*Certificate of Appointment*  
**Town of Provincetown**  
PROVINCETOWN, MASSACHUSETTS 02657

To: Max Cliggott-Perit  
2 Creek Hill Road  
Provincetown, MA 02657

Date: February 23, 2015  
Phone: 914.419.6951  
Email: maxcp@marlboro.edu

In accordance with the Charter of the Town of Provincetown by the voters on April 17, 1990,  
You are hereby appointed a member of Bicycle Committee - Regular

For and within the Town of Provincetown for a term expiring December 31, 2015 or until your  
successor is chosen and qualified.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Board of Selectman

Banstable, ss.

Date: \_\_\_\_\_

Personally appeared the above-named Max Cliggott-Perit appointee to the office of  
Bicycle Committee - Regular and took the oath necessary to qualify  
him/her for said office.

\_\_\_\_\_  
TOWN CLERK

I hereby accept this appointment.

\_\_\_\_\_  
Signature of Appointee

I acknowledge that the Town Clerk has provided me with a copy of the Massachusetts General Law 268A§ 23  
Supplemental Provisions; Standard of Conduct.

\_\_\_\_\_  
Signature of Appointee

**TO THE APPOINTEE:** RETAIN ONE COPY AS PROOF OF APPOINTMENT AND PRESENT ORIGINAL TO THE TOWN CLERK FOR  
PROCESSING. IF NOT ACCEPTED WITHIN 30 CALENDER DAYS THIS POSITION WILL BE CONSIDERED VACANT.

Bicycle Committee		Term End				
1	First Last	Term End				
1	David Moorman	12/31/17				
2	Rik Ahlberg	12/31/17				
3	MJ 1/15/15	12/31/16				
4	Jeffrey Epstein	12/31/16				
5	Roger Chauvette, Chair	12/31/15				
Alt Max	Cilggot-Perit	12/31/15	if Max moves to the regular vacancy William would fill this position.			



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

OOE

## PUBLIC SAFETY AGREEMENT

### Cape Cod National Seashore

Requested by: **Acting Police Chief Jim Golden**

Action Sought: **Approval**

#### Proposed Motion(s)

*Move that the Board of Selectmen vote to approve the General Agreement By and Between the U.S. Department of the Interior National Park Service, Cape Cod National Seashore and the Town of Provincetown, Massachusetts.*

#### Additional Information

See attached agreement

#### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

**GENERAL AGREEMENT**  
**By and Between**  
**THE U.S. DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE**  
**CAPE COD NATIONAL SEASHORE**  
**And the**  
**TOWN OF PROVINCETOWN, MASSACHUETTS**

**Article I. BACKGROUND & OBJECTIVES**

WHEREAS, pursuant to 16 U.S.C. Section 1a-6 the United States Department of the Interior, National Park System (NPS) has the authority, jurisdiction, and responsibility to detect, investigate, and apprehend persons violating the criminal laws of the United States, and to provide law enforcement and emergency services within areas of the National Park System, including the Cape Cod National Seashore; and

WHEREAS, Title 16 U.S.C. Sections 1b(1) authorizes the National Park Service to render emergency and other cooperative assistance to other agencies outside the boundaries of units of the National Park Service; and

WHEREAS, the Town of Provincetown Police Department, herein referred to as Provincetown, has the authority, jurisdiction, and responsibility to detect, investigate, and apprehend persons violating State Law, and provide law enforcement and emergency services for the Town of Provincetown and

WHEREAS, pursuant to Ch. 350 of the Acts of 1984, the Commonwealth of Massachusetts and the National Park Service, exercise Concurrent Jurisdiction on those lands and buildings within the boundary of Cape Cod National Seashore.

WHEREAS, in order to facilitate day to day law enforcement and emergency operations and to ensure that the public safety is best served and that the coordinated, mutual efforts of both parties hereto are facilitated: At the request of the National Park Service Cape Cod National Seashore, and with the concurrence of the Chief of Police, National Park Service Law Enforcement Officers employed at Cape Cod National Seashore, may be granted Special Police Officer Status in the Town of Provincetown.

WHEREAS, criminal activity on a regional, statewide, and national level affect the quality of life inside Cape Cod National Seashore; and

WHEREAS, the NPS Park Rangers and Special Agents are sometimes called to investigate criminal violations that originate within the park but may lead to suspects, evidence and investigative leads outside the park boundary; and

WHEREAS, the Provincetown Officers are sometimes called to investigate criminal violations that originate within the Town of Provincetown but may lead to suspects, evidence, and investigative leads inside Cape Cod National Seashore; and

WHEREAS, both the NPS and Provincetown have personnel, equipment, and skills suited to the task of managing law enforcement incidents and providing emergency services in their respective areas; and

WHEREAS, by pooling the resources of the NPS and Provincetown in mutual assistance, the combined strengths and efforts of these two agencies will provide more extensive and effective law enforcement, emergency services, search and rescue efforts, and a safer working environment for officers of both agencies in such a manner that will coordinate best considering geographic, economic, population, and other factors influencing the needs of outlying communities;

NOW THEREFORE, the parties entering into the following agreement with respect to mutual law enforcement assistance.

## **Article II. STATEMENT OF WORK**

### **The National Park Service and the Town of Provincetown agree as follows:**

(1) To ensure that each of the entities referred to above may enjoy effective and the most efficient law enforcement, investigations, and police protection, as well as emergency services (search and rescue, public assistance, and other emergency assistance) the NPS and Provincetown agree to assist each other in carrying out law enforcement activities and other emergency operations on properties which are normally the concern of the other, as resources and circumstances allow.

(2) Provincetown agrees that in the event that law enforcement or emergency assistance (beyond routine incidents) is needed, any request for such mutual assistance will be placed. Absent a request, NPS may take action in an emergency situation as defined as follows:

#### *AN EMERGENCY SHALL BE DEFINED AS THE FOLLOWING:*

- a. The commission of a felony or serious misdemeanor which presents a direct threat to human life and/or safety;
- b. Officer “in trouble” (needing emergency assistance);
- c. Any incident resulting in a death;
- d. Assistance needed to preserve a crime scene;
- e. Serious injury and/or fatal motor vehicle accidents;

- f. Natural or man-made disasters, such as severe storms, floods, radiological emergencies, hazardous material incidents, train or aircraft accidents, fires, bomb threats, or other incidents involving injury or risk of injury to persons;
  - g. Incidents such as accidents, downed trees, and similar emergencies which block roadways and which require control or rerouting of traffic to prevent hazards to the public;
  - h. Search and/or rescue incidents involving missing, lost, stranded, or injured persons;
  - i. Emergency medical incidents where human life and/or safety is threatened due to injury or illness.
- (3) The NPS agrees that in the event that law enforcement or emergency assistance (beyond routine incidents) is needed, any request for assistance will be placed.
- (4) Criminal investigations within Cape Cod National Seashore can be conducted by NPS Park Rangers and Provincetown Police Officers. The NPS or Provincetown may request mutual assistance on criminal investigations, in cases that have a relationship with both jurisdictions, or have events that have occurred in both jurisdictions.
- (5) Mutual assistance provided by and to each agency may include, but not be limited to, conducting interviews, surveillance, record checks, vehicle searches, K-9 use, sharing of informants and sensitive intelligence and case information, and assistance with arrests and warrant service.
- (6) Law enforcement or emergency incidents within the Town of Provincetown will be directed by the Police Chief, or his/her representative. Law enforcement or emergency incidents within Cape Cod National Seashore will be directed by the Chief Ranger, or his/her representative.
- (7) The NPS and Provincetown each agree to permit personnel from each agency's enforcement and emergency services to attend training sessions and to use training facilities on a space available basis.
- (8) The NPS and Provincetown each agree that members or employees of the assisting agency shall at no time be considered employees of the agency being assisted under any circumstances or be entitled to compensation from the assisted agency, nor shall the employees of one agency be considered to be borrowed servants of the other agency.
- (9) The NPS and Provincetown agree to utilize the principles of the Incident Command System (ICS) to manage emergency responses. The following ICS principles will be observed.

- a) The legal and policy requirements of each agency shall be observed
- b) Planning will occur cooperatively
- c) The incident should be structured such that supervisors of each agency have control of their employees and shall ensure compliance with their policies. They may withdraw their personnel if the situation requires.
- d) In complex incidents the agencies will either:
  - 1) Establish a Unified Command or
  - 2) The lead agency will ensure that an Agency Representative from the other agency is requested. An Agency Representative's duties are to advise the Incident Commander (or equivalent person) of the abilities and limitations of their personnel.
  - 3) Incident Plans will meet the media relations needs of both agencies

**ARTICLE III - TERM OF AGREEMENT**

This Agreement will remain in effect for five (5) years from the date of approval by the County, and may be reaffirmed at the end of the five (5) year period by a reaffirmation memorandum.

**ARTICLE IV - KEY OFFICIALS**

The key official for the NPS shall be:

Chief Park Ranger  
Cape Cod National Seashore  
99 Marconi Site Road  
Wellfleet, MA 02667

Telephone: (540) 957-0735

The key official for the Town of Provincetown shall be:

Police Chief  
Town of Provincetown Police  
26 Shank Painter Road  
Provincetown, MA 02657

Telephone: (508) 487-1212

**ARTICLE V –AGREEMENT REVIEW**

The parties agree to confer on each anniversary date of this Agreement, or more often as necessary, to review the terms of this Agreement or other items of interest which will enhance their mutual cooperation.

## **ARTICLE VI – PROPERTY UTILIZATION**

In rendering mutual assistance, each party shall be responsible for providing its own equipment, material, and supplies, except in emergency cases where it is mutually agreed that the sharing of use of equipment loaned or furnished by another party is necessary or proper.

## **ARTICLE VII – REPORTS**

Nothing in this section shall purport to waive, limit, or remove confidentiality imposed or allowed by law in regard to any such reports or the content of the reports.

## **ARTICLE VIII – FINANCE AND BUDGET**

No special or separate financial arrangements are made under this agreement. Each entity represented shall provide for its own financing and budget to cover the anticipated requirements of this Agreement, unless agreed to prior to a specific incident.

## **ARTICLE IX – ORGANIZATION**

No separate legal entity shall be created by this Agreement.

## **ARTICLE X – GENERAL PROVISIONS**

A. No member or delegate to Congress, or resident commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise there from but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

B. As a result of the activities authorized hereunder, NPS Park Rangers shall not under any circumstances be considered employees, agents or “borrowed servants” of Provincetown. Under no circumstances shall Provincetown Officers be considered Federal employees, agents or “borrowed servants” of NPS; nor shall employees of either party receive or be entitled to any compensation or benefits from the other party for any service performed under the terms of this Agreement. NPS Park Rangers will be subject to the policies, regulations and laws of the federal government while rendering emergency law enforcement assistance and will conform to state and local procedures where there is no contradiction of federal policy, regulation or law.

C. This Agreement and the obligations of the NPS and Provincetown hereunder are subject to the availability of funds and resources, and nothing contained herein shall be construed as binding The DEPARTMENT OF THE INTERIOR ( DOI) to expend in any fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purposes of this Agreement for that fiscal year or as involving DOI in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations, or as obliging Provincetown to expend funds, other than as may be lawfully appropriated. Participation in this Agreement in no way obligates either the NPS or Provincetown to provide any funding to successfully implement the terms or conditions herein contained. The cost of furnishing services

shall be borne by the agency furnishing the services and no claims for reimbursement shall be made upon the other.

D. Nothing contained herein shall be construed to be a waiver of any immunity against suit or as a limitation on the rights of the parties to assert any otherwise available defense, nor shall anything contained herein be construed as creating any third party beneficiary rights.

E. Each of the parties shall waive any and all claims against the other party hereto that may arise out of activities undertaken pursuant to this Agreement. Each party shall be responsible for administration of any claims or legal actions arising from the conduct of its own personnel pursuant to this Agreement, including the expense of investigation and/or defense of any such claim or legal actions, including, but not limited to, judgments, settlements, attorney and expert witness fees.

F. NPS Park Rangers and Provincetown Officers will identify themselves by their credentials.

G. NPS Park Rangers will wear only the official NPS uniform or, if required and approved by the Chief Ranger or designee, plain clothes.

H. At all times while rendering emergency law enforcement assistance NPS Park Ranger shall remain under the authority and control of NPS Supervisors.

I. At all times while rendering emergency law enforcement assistance Provincetown Officers shall remain under the authority and control of Provincetown Officers Supervisors.

J. NPS Park Ranger will be subject to the policies, regulations, and law of the federal government while rendering emergency law enforcement assistance and will conform to state and local procedures where there is no contradiction of federal policy, regulation, or law.

K. This Agreement may be amended only by mutual agreement of the parties. The Agreement may be terminated by mutual agreement or by either party upon sixty (60) days notice in writing to the other party.

#### **ARTICLE XI – ASSEST FORFEITURE**

The Cape Cod National Seashore Chief Ranger or their designee and Provincetown shall work toward establishing a fair and equitable agreement in individual case forfeiture. The NPS and Provincetown will comply as provided by applicable federal and state law for the equitable sharing of federally forfeited property for state and local law enforcement agencies.

#### **ARTICLE XII – APPROVALS OF SUPERINTENDENT, CAPE COD NATIONAL SEASHORE – FILING**

This General Agreement must be submitted to and meet the approval of the Superintendent, Cape Cod National Seashore. The agreement shall be filed in the Chief Ranger's Office, Cape Cod National Seashore.

**ARTICLE XIII – APPROVALS OF THE TOWN OF PROVINCETOWN**

As a condition precedent to this Agreement becoming effective, this Agreement must be submitted to and receive the approval of the Provincetown Board of Selectmen, which may delegate authority for execution to the Provincetown Police Chief. When Provincetown Board of Selectmen approves this Agreement, the Agreement shall be filed with the Provincetown Police Department and with the Town of Provincetown, Office of the Town Clerk.

**National Park Service – Cape Cod National Seashore**

By \_\_\_\_\_  
Superintendent

Date \_\_\_\_\_

By \_\_\_\_\_  
Chief Ranger

Date \_\_\_\_\_

**Town of Provincetown  
Board of Selectmen**

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

Date \_\_\_\_\_



# United States Department of the Interior

NATIONAL PARK SERVICE  
Cape Cod National Seashore  
99 Marconi Site Road  
Wellfleet, MA 02667  
508.771.2144  
508.349.9052 Fax

IN REPLY REFER TO:  
A16

January 12, 2015

The Honorable Daniel A. Wolf  
Massachusetts State Senator  
State House, Room 511B  
Boston, MA 02133

Dear Senator Wolf:

I am writing at the request of the Cape Cod National Seashore Advisory Commission to express their support, as noted in the meeting on November 17, 2014, for legislation to expand the radiological Plume Exposure Emergency Planning Zone around the Pilgrim Nuclear Power Station in Plymouth, an approximately 10 mile-radius area, to include all of Barnstable, Dukes and Nantucket counties.

Sincerely,

George E. Price, Jr.  
Superintendent

cc: Advisory Commission



# Radiation Emergency Reference Sheet

## For Cape Cod Residents and Visitors



GET INSIDE



STAY INSIDE



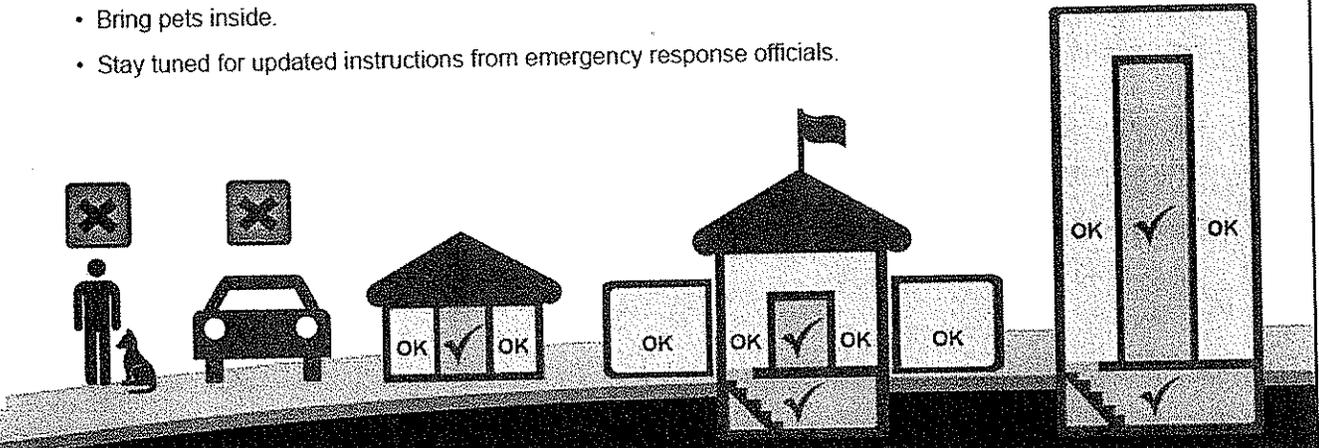
STAY TUNED

- NOT SAFE
- SAFER
- SAFEST

If a radiation emergency happens in your area, you should get inside immediately.

No matter where you are, the safest action to take is to: **GET INSIDE. STAY INSIDE. STAY TUNED.**

- Close and lock all windows and doors.
- Go to the basement or the middle of the building. Radioactive material settles on the outside of buildings; so the best thing to do is stay as far away from the walls and roof of the building as you can.
- If possible, turn off fans, air conditioners, and forced-air heating units that bring air in from the outside. Close fireplace dampers.
- Bring pets inside.
- Stay tuned for updated instructions from emergency response officials.



### Cape Cod and the Pilgrim Nuclear Power Station

Over 50,000 Cape Cod residents live within 20 miles of the Pilgrim Nuclear Power Station (PNPS).

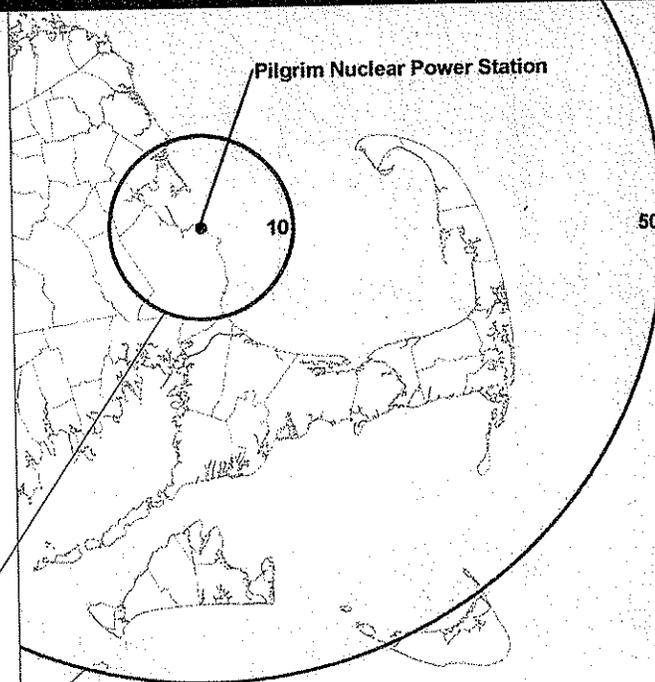
All 215,000 (Barnstable County) and 17,000 Martha's Vineyard (Dukes County) residents live within a 50-mile radius (see map at right). That number increases substantially in the summer months.

#### Emergency Planning

For planning purposes, the Nuclear Regulatory Commission (NRC) defines two types of zones.

**1. The Emergency Planning Zone (EPZ)** is a 10-mile radius around a plant. Its primary concern is the exposure of the public to, and the inhalation of, airborne radioactive contamination.

**2. The Ingestion Pathway Zone (IPZ)** extends about 50 miles in radius around a plant. Its primary concern is the ingestion of food and liquid that is contaminated by radioactivity.



### No Plans for Cape Cod

Depending on the wind direction, Cape Cod could be subject to the effects of a general emergency at the PNPS.

Radioactive materials from a PNPS release could settle on buildings, crops and gardens, and water. Consuming contaminated materials could put you at risk.

Federal regulations provide for emergency evacuation plans for areas within the 10-mile EPZ.

Cape Cod lies outside the 10-mile EPZ so no emergency evacuation is planned.

### Stay Calm. Stay Indoors.

In the event of a radiation emergency that affects Cape Cod, residents and visitors should

- Stay calm
- Stay indoors
- Stay tuned: monitor the Emergency Alert System for official information



STAY TUNED

### Stay Tuned

Cape Cod Emergency Alert System Radio Station  
**WQRC 99.9 FM**

Follow the Barnstable County REPC on Twitter @bcrepc



# Radiation Emergency Reference Sheet

*For Cape Cod Residents and Visitors*

## Shelter in Place

Go inside and close all doors and windows. Turn off all window fans, air conditioners, clothes dryers, kitchen and bath exhaust fans, and other sources of outside air.

Go to an interior space, basement, or lowest level possible. *Stay away from all windows – glass will not protect you.* If you must be in a room with windows, sit on the floor below window level.

Bring a radio with you. Listen to your Cape Cod Emergency Alert System radio station WQRC 99.9 FM. Keep pets indoors. If you have livestock, shelter them too.

**Stay inside until officials say otherwise.**

## For Official Emergency Information



### Emergency Alert System Radio Stations

In the event of an emergency, official information will be transmitted over these radio stations:

- Cape & Islands Primary Radio Station: **WQRC FM 99.9**
- State Primary Radio Station: **WBZ AM 1030, FM 98.5**
- State Alternate Radio Station: **WBMX FM 104.1**

### Emergency Information via Cellphone

The Massachusetts Emergency Management Agency (MEMA) provides two methods to receive emergency information on your cellphone:

- **Massachusetts Alerts**, a free app for your Android or iPhone devices
- **Wireless Emergency Alerts (WEAs)**: If you have a WEA-enabled phone, you are automatically enrolled. If your device has the WEA logo (above right), then it is WEA-capable. To confirm WEAs are available in your area and your device is capable of receiving them, please check with your carrier.



## Don't Drive

It is unwise and potentially dangerous to attempt to drive off Cape in the early hours of a serious radiological accident.

The traffic flow out of the Plymouth EPZ will make off-Cape travel over the Sagamore Bridge impossible, cause congestion at the Bourne Bridge, and create gridlock on Cape Cod.

Immediate evacuation will place individuals attempting to leave the Cape at higher risk for radiation exposure.

*Vehicles provide little to no protection.* If you are in a motor vehicle in an affected area, close the windows and all systems that let outside air in – vents, air conditioner, and heater.

**Seek shelter in the best, immediately available structure.**

## People with Access and Functional Needs

Let your local Emergency Management Director know in advance if you or someone in your household needs any special assistance or notification during an emergency.

Your local Emergency Management Office is prepared to help you if you need assistance during a public emergency, but it is best planned before an emergency occurs.

If you are hearing-impaired and would need to be notified on a TTY of a public emergency, please notify your local Emergency Management Office.

## High Risk Groups

Infants, children, the elderly, pregnant women, and people with compromised immune systems are more vulnerable to radiation exposure.

## For more information about preparedness, sheltering, and radiation emergencies:

**Centers for Disease Control:** [www.bt.cdc.gov/radiation](http://www.bt.cdc.gov/radiation)

**MEMA:** [www.mass.gov/mema](http://www.mass.gov/mema)

**BCREPC:** [www.bcrepc.org/prepare](http://www.bcrepc.org/prepare)

Follow the Barnstable County REPC on Twitter @bcrepc

Follow MEMA @MassEMA

## Potassium Iodide (KI)

KI is a pill or liquid that can be used in radiation emergencies that involve radioactive iodine. KI helps prevent radioactive iodine absorption by the thyroid gland.

Only take KI on the advice of a physician or public health or emergency management officials. Children can benefit the most from KI. Dosages vary by weight and age.

Improper use of KI can have serious health risks.

To obtain KI, contact your local health department.

## Senior Citizens

Senior Citizens should seek the best possible shelter in their

- Home
- Retirement community
- Assisted living/care facility

and listen to Emergency Alert System radio stations for official information and instructions.

Seniors with special needs please refer to the "People with Access and Functional Needs" section of this document.

Hospitals, nursing homes and assisted living/care facilities should have emergency plans in place.

## Children

Because children spend much of their time away from home during the school year, colleges, schools, and day cares should have emergency plans in place to keep children safe at the facility.

Parents and care givers should teach children to stay inside during an emergency.

Contact your college, school department, or day care to learn about their radiation emergency planning policy.

## At Work

Listen to official information and recommendations when making decisions about sheltering in place at your work location or traveling home.

If you are working outside, seek shelter indoors as quickly as possible.

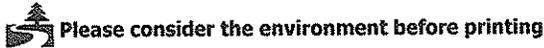
## Loretta Dougherty

---

**From:** David Gardner  
**Sent:** Thursday, January 29, 2015 12:58 PM  
**To:** Cheryl Andrews; Elisabeth Verde; Erik Yingling; Loretta Dougherty; Raphael Richter; Robert Anthony; Tom Donegan  
**Subject:** FW: Proposed Legislation re: Pilgrim Nuclear Plant  
**Attachments:** An Act increasing nuclear power plant protections to a fifty mile radius.docx; An Act relative to emergency planning.docx; An Act relative to radiological air monitoring.docx

Fyi. This information also relates to our February 9<sup>th</sup> agenda item regarding the Pilgrim Plant and Seashore.

David Gardner  
Acting Town Manager  
Town of Provincetown  
508-487-7002



**From:** Doucette, Nancy [[mailto:nancy\\_doucette@nps.gov](mailto:nancy_doucette@nps.gov)]  
**Sent:** Monday, January 26, 2015 2:20 PM  
**To:** Bob Summersgill; Donald Nuendel; David Gardner; George Price; Jay Coburn; Joseph Craig; Judith Stephenson; Kathy Tevyaw; Larry Spaulding; Lauren McKean; Lilli Green; Mark Robinson; Mary Jo Avellar; Maureen Burgess; Nat Goddard; Rich Delaney; Sheila Lyons; Ted Thomas; Thomas Reinhart; William Clark  
**Subject:** Proposed Legislation re: Pilgrim Nuclear Plant

Hi all,

Please find, attached, information about Senator Wolf's bill proposals. Also, here is a link to a Wicked Local article out of Plymouth:

<http://plymouth.wickedlocal.com/article/20150125/NEWS/150128000>

Please note that our offices will be closing at 3pm today and will be closed tomorrow (Tuesday 1/27). You can check the "park alerts" section at the top of our website (<http://www.nps.gov/caco/index.htm>) for updates on the weather closure.

I hope everyone is able to stay safe and warm in this storm!

Best,

Nancy

Nancy Doucette  
Superintendent's Assistant  
Cape Cod National Seashore

National Park Service  
99 Marconi Site Road  
Wellfleet, MA 02667  
508-957-0701  
[nancy\\_doucette@nps.gov](mailto:nancy_doucette@nps.gov)

Follow Cape Cod National Seashore on [Facebook](#) and [Twitter](#)!

Did you know that there are 15 national park units in [Massachusetts](#)?



An Act relative to radiological air monitoring.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Subsection E of Section 5K of Chapter 111 of the General Laws is hereby amended by striking the text of the section and inserting in place thereof the following:

The department is hereby authorized to make assessments against (i) the operator of each existing and proposed nuclear power plant in the commonwealth and (ii) electric companies in the commonwealth which own, in whole or in part, or purchase power from the Seabrook nuclear power plant to defray costs incurred by the department's radiation control program in the performance of its duties under this section. Costs that shall include, but not be limited to, the purchase, installation, maintenance of real-time radiological air monitoring station to be located in Massachusetts communities impacted by: Pilgrim, including Cape Cod and Seabrook Nuclear Power Stations, including Essex county. With respect to the fiscal year in which this section becomes effective, the department is authorized to make assessments in the amount of not less than \$400,000 with respect to each of such nuclear power plants. With respect to subsequent fiscal years, the department is authorized to make assessments in amounts that, in the aggregate, are equal to the costs incurred in the prior fiscal year by the department's radiation control program in the performance of its duties under this section. The department is hereby further authorized to make a collection, based on such assessments, of monies from said operators of nuclear power plants to defray the cost of such activities. The department shall send notice of its assessment to the individual company against which an assessment is made, and said company shall pay such assessment within 30 days of the notice of the assessment; provided, however, that such company shall have a reasonable opportunity to submit objections concerning said assessment to the department for review. If, after completion of such review, the department determines the assessment is valid, the department shall issue a demand for such assessment, and the company against which such assessment is made shall pay such assessment immediately. If a company subject to assessment under this section fails to pay the assessment within 30 days of the notice of the assessment, or fails to pay the demand for assessment upon completion of the final review, whichever occurs later, the department may refer such matter to the department of revenue for the collection of the assessment in accordance with applicable enforcement provisions pursuant to chapter 62C. The amount so collected shall be deposited into the General Fund and credited to the department.

An Act increasing nuclear power plant protections to a fifty mile radius.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Subparagraph (1) of Paragraph (B) of Section 5K of Chapter 111 of the General Laws, as appearing in the 2010 Official Edition is hereby amended by inserting after the first sentence the following sentence:- The monitoring stations shall be set throughout a 50 mile radius of the nuclear power plant, which shall also include cities and towns located in Barnstable, Dukes and Nantucket counties, as well as in the area known as Cape Ann in Essex county.

SECTION 2. Paragraph (F) of Section 5K of Chapter 111 of the General Laws as appearing in the 2010 Official Edition is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The department of public health shall stockpile thyroid-blocking agents according to regulations promulgated by the department for cities and towns located within a 50 mile radius of a nuclear power plant, which shall also include cities and towns located in Barnstable, Dukes and Nantucket counties, as well as in the area known as Cape Ann in Essex county.

SECTION 3. Section 5K of Chapter 111 of the General Laws as appearing in the 2010 Official Edition is hereby amended by adding the following paragraph:-

(I) The plume exposure pathway emergency planning zone, as defined in 44 C.F.R. section 350.2, shall be the area located within a 50 mile radius of the nuclear power plant, which shall also include cities and towns located in Barnstable, Dukes and Nantucket counties, as well as in the area known as Cape Ann in Essex county. Predetermined protective action plans shall be in place for the Plume Exposure Pathway Emergency Planning Zone which shall include sheltering and evacuation details.

SECTION 4. The department shall promulgate rules and regulations to implement the provisions of sections 1 to 3 inclusive within 180 days of the effective date of this act.

An Act relative to emergency planning.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. In order to assess the present preparedness in Barnstable and Essex Counties and to determine the need for, and appropriateness of, any additional specific steps for a radiological accident at Pilgrim Nuclear Power Station and Seabrook Nuclear Power Plant, Massachusetts Emergency Management Agency shall report to the Governor and the Legislature by January first, two thousand sixteen, its findings, recommendations and proposed legislation and assessments where appropriate concerning:

1. The need for and appropriateness of additional specific state and local activities or programs beyond those required by the accepted radiological emergency preparedness plans or provided for under existing law, including but not limited to:

- a) Plume transport and dose assessment models;
- b) Radiological and meteorological monitoring equipment;
- c) Emergency Notification, Methods and Procedures;
- d) Emergency Communications;
- e) Public Information and Education;
- f) Emergency Facilities and Equipment;
- g) Accident Assessment;
- h) Protective Response, Sheltering: Assessment of Shelters in Barnstable County suitable in a radiological emergency;
- i) Protective Response, Evacuation: Evacuation Routes, Evacuation Time Estimates, Traffic Control, Impediment Removal, Security Patrols, Reception Centers, monitoring and decontamination capability, Mass Care Shelters, Ingestion Exposure pathway Protective Measures;
- j) Transportation for transportation dependent;
- k) Medical and Public Health Support;
- l) Relocation, Re-Entry, and Return Planning and Post Accident Operations;
- m) Exercises and Drills;

- n) Radiological Emergency Response Training;
- o) Responsibility for Planning Effort: development, Periodic review and Distribution of Emergency Plans; and
- p) Maps with prevailing wind speeds around the compass rose.

SECTION 2. Any such recommendations shall be developed in consultation with all concerned public and private parties and shall:

- (a) Take into account proven safety effectiveness;
- (b) Outline any proposed costs and the means for meeting such costs;
- (c) Consider related activities of the United States Nuclear Regulatory Commission or others; and
- (d) When appropriate, discuss alternatives and various implementation stages.

SECTION 3. If at any time following the development, review or approval of state and local radiological plans, the Governor determines that said plans are no longer adequate to protect the public health and safety, he/she shall notify the Federal Emergency Management Agency to secure withdrawal of the plans and call on Nuclear Regulatory Commission to revoke the operating license and begin the decommissioning process.

**By Frank Mand**  
**fmand@wickedlocal.com**  
Posted Jan. 25, 2015 @ 6:00 am  
Updated Jan 26, 2015 at 6:56 PM

PLYMOUTH – Twenty-five million dollars per year for post-closure activities at nuclear power plants, \$30 million for spent fuel stored in the pool, \$400,000 to fund expanded radiation monitoring in Plymouth, Barnstable and Essex counties, and the effective expansion of the EPZ (emergency protection zone) around Pilgrim, from 10 to as many as 50 miles.

These fees and regulatory requirements aren't taken from a wish list put together by anti-nuclear power organizations. These and other fees and requirements are found in legislation filed by state senators and representatives for the new 189th General Court session in Boston.

There have been at least seven bills filed this year that are aimed at adding health and financial protections for residents of the commonwealth that live in communities that either host nuclear power plants, are in close proximity to them, or are within the plume exposure pathway emergency planning zone (PEPEPZ)

Three of the bills were filed by State Rep. Sarah Peake, who represents the 4th Barnstable District, two by Senator Daniel Wolf, representing the Cape and Islands, and two by Marshfield's Rep. James Cantwell, from the 4th Plymouth District.

Cantwell's first piece of legislation, which was originally filed in the previous session in Boston, seeks to expand the area around the Pilgrim plant that is monitored for radiation, from 10 to 20 miles, thereby including Cape Ann in Essex County and the communities that comprise Cape Cod and the Islands.

Cantwell's other proposal would require that nuclear power plants operating in the commonwealth and electric companies that own or purchase power from such plants, annually contribute \$400,000 to help defray the state's cost for implementing an expanded monitoring system.

Two of Peake's bills are similar to Cantwell's but would expand the monitored zone from 10 to a 50-mile radius around Pilgrim Nuclear Power Station.

The third bill put forth by Peake is specific to Cape Cod and the Islands and to Cape Ann on the North Shore, asking that the Massachusetts Emergency Management Agency (MEMA) "assess the present preparedness in Barnstable and Essex Counties to determine the need for, and appropriateness of, any additional specific steps for a radiological accident at Pilgrim Nuclear Power Station and Seabrook Nuclear Power Plant..."

That same act includes a doomsday scenario – once these plans are developed, if the governor determines that the plans in place cannot adequately protect public health and safety "he/she shall notify the Federal Emergency Management Agency (FEMA) to secure withdrawal of the plans and call on Nuclear Regulatory Commission to revoke the operating license and begin the decommissioning process."

One of Wolf's two pieces of legislation offers a novel incentive to encourage Pilgrim owner Entergy to expedite its transfer of spent fuel from the pool located in the reactor building to what many believe is safer dry cask storage.

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**» Comment or view comments** Prev 1 2

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11



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

OOF

Assessors: Implementation of Fiscal 2016-18 Valuation Program

Award Contract – pk Valuation Group, a Division of Paul S. Kapinos & Associates, Inc., \$66,900

Requested by: Principal Assessor, 02/12/2015

Action Sought: To Award Contract

Proposed Motion(s)

MOVE that the Board of Selectmen vote to award a contract to sole proposer pk Valuation Group, a Division of Paul S. Kapinos & Associates, Inc. of South Hadley, Massachusetts in the total amount of \$66,900 for: Fiscal 2016 Re-Certification Program (\$22,300), Fiscal 2017 Interim Year Update (\$22,300) and Fiscal 2018 Interim Year Update (\$22,300).

Additional Information

See attached recommendation from Principal Assessor, Scott Fahle. This work is required by the Department of Revenue in order for the Town to receive approval of next triennial recertification of property values in Fiscal Year 2016, and our Interim Valuation for Fiscal Year 2017 & Fiscal Year 2018. The Fiscal Year 2016 funding is budgeted under Contracted Services-Professional. FY' 2017 and FY' 2018 is subject to appropriation or other availability of sufficient funds to support continued performance.

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
Telephone: (508) 487-7017



**Assessor's Office**

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February 10, 2015

To: Mr. David Gardner  
Acting Town Manager/Chief Procurement Officer  
Town of Provincetown  
Provincetown, Ma 02657

Re: RFP - Implementation of Fiscal 2016-18 Valuation Program

Dear David,

After reviewing the sole proposal received for **RFP - Implementation of Fiscal 2016-18 Valuation Program**, I recommend that the Town of Provincetown award the bid to pk Valuation Group, a Division of Paul S. Kapinos & Associates, Inc., of South Hadley, MA.

The proposed cost of this project is as follows:

Fiscal 2016 Re-Certification Year:	\$22,300.00
Fiscal 2017 Interim Year:	\$22,300.00
Fiscal 2018 Interim Year:	\$22,300.00
<hr/>	
Total Proposed Cost	\$66,900.00

Per Diem Rates for Defense of Values: \$400 to \$1200

Please see the attached document that clearly states my findings on the above factors in regards to pk Valuation Group, a Division of Paul S. Kapinos & Associates, Inc of South Hadley, MA.

Sincerely,

Scott Fahle, MAA  
Principal Assessor

Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
Telephone: (508) 487-7017



## Assessor's Office

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February 10, 2015

From: Scott Fahle, MAA  
Principal Assessor  
Town of Provincetown  
Provincetown, Ma 02657

Re: Review of RFP: Implementation of Fiscal 2016-18 Valuation Program.

Proposal Submitted by: **pk Valuation Group**  
**Division of Paul S. Kapinos & Associates, Inc.**  
29 College Street  
South Hadley, MA 01075

To satisfy the requirements of M.G.L.c. 30B, §6 with respect to the use of RFP procedures to acquire the above services. I have determined that the nature of the services being acquired requires the comparative evaluation of factors other than price in order to identify the most advantageous offer.

The following factors have been considered in this matter:

1. **Experience on similar assessment projects (last five years):**
  - o Number of Re-Certification Projects: 43
  - o Re-Certification Projects (Cape Cod): 15
2. **Experience on similar assessment projects total**
  - o Number of Re-Certification Projects: 180
  - o Re-Certification Projects (Cape Cod): 62
    - Bourne – 1991, 2000, 2009, 2012, 2015
    - Brewster – 1995, 2007, 2010, 2014
    - Dennis – 1987, 1990, 1993, 1996, 1999, 2002, 2005, 2008, 2011, 2014
    - Eastham – 2004, 2007, 2010, 2014
    - Chatham- 2013
    - Harwich – 2001, 2004, 2007, 2010, 2013
    - Mashpee – 2002, 2005, 2008, 2011, 2015
    - Orleans – 1993, 1996, 1999, 2002, 2005, 2008, 2011, 2014
    - Provincetown – 2000, 2003, 2006, 2009, 2013
    - Truro – 1996, 1999, 2002, 2005, 2008, 2011, 2014
    - Wellfleet – 1992, 1995, 1998, 2001, 2004, 2007, 2010, 2014

### 3. Restructuring of contract to include Business Personal Property

If selected as the winning bid, the contractor has agreed to include a Commercial Personal Property recollection and inspection program as part of the FY16 –FY18 valuation program. This had previously been billed as a separate item at a cost of \$20,000.

### 4. Prior performance(s) of vendor in other communities (Cape Cod)

- o **Community – Contact – Rating (Excellent, Good, Poor)**
  - Bourne – Donna Barakauskas, Principal Assessor - Excellent



## Assessor's Office

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- Brewster – David Tately, Deputy Assessor – Excellent
- Eastham- Belinda Eyestone, Deputy Assessor- Excellent
- Harwich – David Scannell, Tax Assessor - Excellent
- Orleans - Ken Hull , Assessor - Excellent
- Wellfleet – Nancy Vail, Assessor - Excellent

### 5. Experience & availability of staff

- a. Paul S. Kapinos –Project Director/Principal Appraiser
  - i. 34 Years of appraisal experience in Massachusetts (Residential, Commercial, Industrial)
  - ii. Qualified expert witness for the Appellate Tax Board since 1984
  - iii. 180 Re-Certifications Projects in Massachusetts
  - iv. Member of International Association of Assessing Officers since 1987
  - v. Member of IAAO CAMA Section since 1990
  - vi. Member of IAAO, Massachusetts Chapter since 1992
- b. Moira Roach – Appraiser/Project Coordinator – Analysis & Documentation
  - i. 15 Years of appraisal experience in Massachusetts (Residential)
- c. Steven Lacasse – Analysis, Modeling, Database Management
  - i. 24 years of experience in all phases of Residential and Commercial/Industrial Valuation Maintenance and Revaluations in 20 Massachusetts Municipalities
  - ii. Appraisal Software System development including design, conversions, installation & support.

### 6. Familiarity with Provincetown's CAMA software - pkAppraisal System

- a. Owner, author of pkAppraisal System
- b. Number of communities using pkAppraisal System: 32
- c. Communities on Cape Cod using pk Appraisal System: 11
  - i. Bourne
  - ii. Brewster
  - iii. Chatham
  - iv. Dennis
  - v. Eastham
  - vi. Harwich
  - vii. Mashpee
  - viii. Orleans
  - ix. Provincetown
  - x. Truro
  - xi. Wellfleet

### 7. Relationship/rapport with Department of Revenue – Local Services – Local Assessment

- a. Community – Contact – Rating (Excellent, Good, Poor)
  - i. Bourne – Donna Barakauskas, Principal Assessor – Good

Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
Telephone: (508) 487-7017



### Assessor's Office

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- ii Brewster – David Tately, Deputy Assessor – Excellent
- iii Eastham- Belinda Eyestone, Deputy Assessor- Excellent
- iv. Dennis – Alan Ferguson - Good
- v. Harwich – David Scannell, Tax Assessor - Excellent
- vi. Orleans - Ken Hull , Assessor - Excellent
- vii. Wellfleet – Nancy Vail, Assessor - Excellent

Please let me know if you require additional information.

Sincerely,

Scott Fahle, MAA  
Principal Assessor

**TOWN OF PROVINCETOWN, MASSACHUSETTS**

**AGREEMENT FOR**

**The Implementation of Fiscal 2016-18 Valuation Program**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the **Town of Provincetown**, a municipal corporation duly organized under the laws of Massachusetts and having a usual place of business at **260 Commercial Street, Provincetown, MA 02657** hereinafter referred to as the “Town”, and **pk Valuation Group, a Division of Paul S. Kapinos & Associates, Inc.**, a (Massachusetts corporation) having a usual place of business at **29 College Street STE 10, South Hadley, MA 01075** hereinafter referred to as the “Contractor”.

**WITNESSETH:**

Whereas, the Town invited the submission of quotations/bids/proposals for the purchase and delivery of **The Implementation of Fiscal 2016-18 Valuation Program**, hereinafter referred to as “the Project”; and

WHEREAS, the Contractor submitted a quotation/bid/proposal to perform the work required to complete the Project, and the Town has awarded the contract therefore to the Contractor.

NOW, THEREFORE, the Town and the Contractor agree as follows:

1. Contract Documents. The Contract Documents consist of this Agreement, the purchase description, if any, the quotation submitted by the Contractor, if any, the Invitation to Bid or Request for Proposals, Instructions to Bidders/Proposers, Scope of Services and the Contractor’s quotation, bid or proposal. The Contract Documents constitute the entire Agreement between the parties concerning the work, and all are as fully a part of this Agreement as if attached hereto.
2. The Work. The Work consists of: (As stated in Schedule A & B of the RFP)

**Schedule A: Statement of Services**

**1. Fiscal Year 2016 Re-Certification:**

**RESIDENTIAL AND CONDOMINIUMS:**

1.1 MODELING AND ANALYSIS: Build Models and Tables on the *pk*Assessment that will yield Market Values within the Guidelines required by the Massachusetts Department of Revenue. Valuation Modeling, Market Analysis, Cost Analysis, Area Analysis, Water Influence Studies, Value Trend Analyses, Land Analysis and Valuation Testing are included in this phase.

1.2 FIELD REVIEW: A Field Review shall be performed on all Residential sales parcels to be used in the analysis. For the purposes of this section FIELD REVIEW is the process of viewing a property from the street for the purpose of general data verification and review of positive and negative location influences and for comparing its value with surrounding and comparable properties. This process does not include Re-measuring and Re-listing the property. Any discrepancies in the data will be brought to the Assessor's attention and the Assessor's will be responsible for re-collection and data entry of the revised information.

1.3 DOCUMENTATION: Provide all reports and analyses as required by the Massachusetts Department of Revenue, including all reports and analyses required by the LA-9-12 Form.

1.4 PRELIMINARY CERTIFICATION: Be present and participate in the DOR Certification process as required.

### **CIM AND EXEMPT (Including State Owned Lands)**

1.5 MODELING AND ANALYSIS: Build Models and Tables on the PK System that will yield Market Values within the Guidelines required by the Massachusetts Department of Revenue. Valuation Modeling, Market Analysis, Cost Analysis, Area Analysis, Water Influence Studies, Value Trend Analyses, Land Analysis, Income and Expense Analysis, and Valuation Testing are included in this phase. The Cost and Income Approaches to value supported by Market Data shall be utilized on all appropriate properties.

1.6 FIELD REVIEW: A Field Review shall be performed on all CIM Properties to be to insure accuracy of the data and the consistency of the application of the Valuation Schedules. For the purposes of this section FIELD REVIEW is the process of viewing a property from the street for the purpose of general data verification and review of positive and negative location influences and for comparing its value with surrounding and comparable properties. This process does not include Re-measuring and Re-listing the property. Any discrepancies in the data will be brought to the Assessor's attention and the Assessor's will be responsible for re-collection and data entry of the revised information except for the New Growth Parcels specified hereunder.

1.7 NEW GROWTH REVIEW AND DOR FORMS PRODUCTION: Review data collection and pricing of all CIM permits. Tabulate and produce the following DOR forms: LA-4 and LA-13.

1.8 DOCUMENTATION: Provide all reports and analyses as required by the Massachusetts Department of Revenue, including all analyses and reports required by the La9-12 Form.

1.9 PRELIMINARY CERTIFICATION: Be present and participate in the DOR Certification process as required.

### **COMMERCIAL PERSONAL PROPERTY: +/- 420**

1.10 Re-discover and revalue (Inspect) all Existing & New Accounts **(To be completed by September 15, 2015)**

1.11 Update Accounts, Pricing and Depreciation Tables on the Town's pkAssessmnt System,

1.12 Re-price and Review all values including comparison to the Forms of List,

1.13 Reconcile the Utility Values,

1.14 Value 508 Communications Accounts

1.15 Prepare required DOR Documentation

## **2. Interim Year Updates Fiscal Years 2017 and 2018:**

### **2.1 MARKET ANALYSIS:**

Analyze all qualified sales to determine assessment levels utilizing the pkAppraisal System. Stratify sales and produce ratio analyses by class, neighborhood, quarter, price quartile, style, net living area, land size, etc. This shall include review of all sales, and follow-up on prior year vacancies and rentals, and recalculation of capitalization rates as required. Produce a narrative summary of findings and recommendations to the Board of Assessors.

### **2.2 RE-CALIBRATE SYSTEM MODELS AND DOR DOCUMENTATION:**

Adjust valuation models on the Town's pkAppraisal System to reflect current market conditions after review and approval by the Town as required. Produce all required DOR reports required for approval of Interim Year Valuation Adjustments.

### **2.3 PERSONAL PROPERTY UPDATE:**

Perform data collection on all new accounts. Re-price all existing records as of 1/01/ of each year.

### **2.4 Value Class 508 Communications Accounts,**

### **2.5 NEW GROWTH REVIEW AND DOR FORMS PRODUCTION:**

Tabulate and produce the following DOR forms: INTERIM YEAR ADJUSTMENT FORM, LA-4, and LA-13.

## **Schedule B: Deliverable Products**

In addition to the products and services listed on Schedule A, the CONTRACTOR shall deliver the following:

All documents, reports, records, data or other material, in whatever form, manual or mechanized, obtained or produced during the performance of this project shall be the sole property of the TOWN and shall be delivered during an appropriated phase of or at the conclusion of the project, as required by the Assessors.

3. Term of Contract. This Agreement shall be in effect from **April 1, 2015** and shall expire on **June 30, 2018**, unless terminated earlier pursuant to the terms hereof.
4. Compensation. The Town shall pay, as full compensation for items and/or services furnished and delivered in carrying out this Agreement. Total Bid Price **\$66,900.00**. In the event the term of this Agreement shall extend beyond the current fiscal year, the continuation of the Agreement shall be subject to appropriation or other availability of sufficient funds to support continued performance. In the absence of such funding, the Town shall cancel this Agreement, with no further liability of any kind to the Contractor.
5. Payment of Compensation. The Town shall make payments within thirty (30) days after its receipt of Invoice, subject to the payment schedule stated in the Contract Documents, if any.
6. Liability of the Town. The Town's liability hereunder shall be to make all payments when they shall become due, and the Town shall be under no further obligation or liability. Nothing in this Agreement shall be construed to render the Town or any elected or appointed official or employee of the Town, or their successors in office, personally liable for any obligation under this Agreement.
7. Independent Contractor. The Contractor acknowledges and agrees that it is acting as an independent contractor for all work and services rendered pursuant to this Agreement, and shall not be considered an employee or agent of the Town for any purpose.
8. Indemnification. The Contractor shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of the contractor's breach of this Agreement or the negligence or misconduct of the contractor, or the contractor's agents or employees.
9. Insurance. A. The Contractor shall obtain and maintain during the term of this Agreement the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts, and acceptable to the Town, as set out in Attachment A.  
  
B. All policies shall identify the Town as an additional insured (except Workers' Compensation) and shall provide that the Town shall receive written notification at least 30 days prior to the effective date of any amendment or cancellation. Certificates evidencing all such coverages shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement. Failure to provide or to continue in force such

insurance shall be deemed a material breach of this Agreement and shall be grounds for immediate termination.

10. Assignment. The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Agreement, except by and with the written consent of the Town.
  
11. Termination. A. Termination for Cause. If at any time during the term of this Agreement the Town determines that the Contractor has breached the terms of this Agreement by negligently or incompetently performing the work, or any part thereof, or by failing to perform the work in a timely fashion, or by failing to perform the work to the satisfaction of the Town, or by not complying with the direction of the Town or its agents, or by otherwise failing to perform this Agreement in accordance with all of its terms and provisions, the Town shall notify the Contractor in writing stating therein the nature of the alleged breach and directing the Contractor to cure such breach within ten (10) days. The Contractor specifically agrees that it shall indemnify and hold the Town harmless from any loss, damage, cost, charge, expense or claim arising out of our resulting from such breach regardless of its knowledge or authorization of the actions resulting in the breach. If the Contractor fails to cure said breach within ten (10) days, the Town may, at its election at any time after the expiration of said ten (10) days, terminate this Agreement by giving written notice thereof to the Contractor specifying the effective date of the termination. Upon receipt of said notice, the Contractor shall cease to incur additional expenses in connection with this Agreement. Upon the date specified in said notice, this Agreement shall terminate. Such termination shall not prejudice or waive any rights or action which the Town may have against the Contractor up to the date of such termination, and the Contractor shall be liable to the Town for any amount which it may be required to pay in excess of the compensation provided herein in order to complete the work specified herein in a timely manner. Upon such termination, the Contractor shall be entitled to compensation for all satisfactory work completed prior to the termination date, as determined by the Town.  
  
B. Termination for Convenience. The Town may terminate this Agreement at any time for convenience by providing the Contractor written notice specifying therein the termination date which shall not be sooner than ten days from the issuance of said notice. Upon receipt of said notice, the Contractor shall cease to incur additional expenses in connection with this Agreement. Upon such termination, the Contractor shall be entitled to compensation for all satisfactory work completed prior to the termination date, as determined by the Town, such payment not to exceed the fair value of the services provided hereunder.
  
12. Inspection and Reports. The Town shall have the right at any time to inspect the work of the Contractor, including the right to enter upon any property owned or occupied by Contractor, whether situated within or beyond the limits of the Town. Whenever requested, Contractor shall immediately furnish to the Town full and complete written

reports of his operation under this Contract in such detail and with such information as the Town may request.

13. Successor and Assigns. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Contractor shall assign or transfer any interest in the Agreement without the written consent of the other.
14. Compliance with Laws. The Contractor shall comply with all Federal, State and local laws, rules, regulations and orders applicable to the work provided pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work. The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence.
15. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.
16. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
17. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the Contractor submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
18. Entire Agreement. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

I certify that an appropriation is available in the amount of this Contract.

TOWN OF PROVINCETOWN, MA

\_\_\_\_\_  
**Daniel Hoort,  
Municipal Finance Director**

By: \_\_\_\_\_  
**David Gardner  
Acting Town Manager/Chief  
Procurement Officer**

Approved as to Form:

pk Valuation Group, a Division of  
Paul S. Kapinos & Associates, Inc.  
(Contractor)

\_\_\_\_\_  
**Town Counsel**

By: \_\_\_\_\_

Name: **Paul S. Kapinos**  
(Type or Print)

Title: \_\_\_\_\_

#225936



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

1A

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## PUBLIC HEARING

### Land Bank Fund

Requested by: Board of Selectmen

Action Sought: Conduct Public Hearing

### Proposed Motion(s)

**Take public comment.**

### Additional Information

See public hearing notice attached along with documents.

### Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

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Board of Selectmen

# Public Hearing

## Land Bank Fund

The Provincetown Board of Selectmen will hold a public hearing on **Monday, February 23, 2015, at 6 p.m.** in the Judge Welsh Room, Provincetown Town Hall, 260 Commercial Street, Provincetown MA 02657, to review a proposal to combine the Land Bank Fund with the Community Preservation Fund.

The public is encouraged to submit any comments in writing by February 17, 2015, to the Board of Selectmen, Town Hall, 260 Commercial Street, Provincetown, MA 02657, or to [selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov) or in person at the hearing.

*Thomas N. Donegan  
Chairman, Board of Selectmen*

Posted - Town Hall, <http://www.provincetown-ma.gov> 12/23/14 9:35 am dj  
Published - Provincetown Banner: February 5, 2015, and February 12, 2015



Finance Director

# Memo

**To: Provincetown Board of Selectmen  
David Gardner, Acting Town Manager**

**From: Dan Hoort, Finance Director**

**Date: February 17, 2015**

**Re: Modified CPA Fund**

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The Town of Provincetown has the option of discontinuing the Land Bank fund and rolling the existing Land Bank funds into the newly created Modified CPA fund. There are three steps to follow should the town decide to take this action.

1. Vote to revoke the current CPA fund authorization
2. Vote to enact a modified CPA fund
3. End the Land Bank fund and transfer uncommitted funds to the modified CPA fund.

There are two options available.

## **Option 1**

Make no changes to the current structure of the Community Preservation Fund and the Land Bank Fund.

Under this option the Town would continue to assess two 3% surcharges on property taxes with 3% each deposited to the Community Preservation Fund and the Land Bank Fund. On June 30, 2020 the authorization for the Land Bank expires. After June 30, 2020 the Town would then assess a single 3% surcharge with the receipts being deposited into the Community Preservation Fund.

The Land Bank fund is projected to have an unencumbered balance of \$1,164,914 as of June 30, 2015. It will continue to collect the 3% surcharge until June 30, 2020 and is projected to accumulate an additional \$2,574,439 which may be used for open space purchases.

Pros:

- The Town will be able to make an additional \$3,736,353 in open space purchases.
- 10% of Land Bank receipts are transferred to the Affordable Housing Trust Fund, an additional \$257,444 will go into the Affordable Housing Trust Fund.
- The second 3% surcharge for the Land Bank would end on June 30, 2020.

Cons:

- The Land Bank may purchase properties for open space where affordable or community housing could be constructed.
- The Land Bank funds may be used for open space only and may not be used for housing.

## **Option 2**

Eliminate the current Community Preservation Fund and vote to create a Modified Community Preservation Fund with the unencumbered balance of the Land Bank Fund being transferred to the new Modified Community Preservation Fund.

There are currently two 3% surcharges. One 3% surcharge is deposited into the Land Bank Fund. The second 3% surcharge is deposited into the Community Preservation Fund. The current 3% Community Preservation surcharge would continue to appear on the tax bill until enough funds are collected to satisfy all existing obligations of the current CPA fund. In a worst case scenario the 3% surcharge would extend through early FY 2023. It may be possible for this to happen sooner if we refinanced some of our existing debt and were able to pay off some of our existing CPA debt. The 3% Land Bank surcharge would end on June 30, 2015. A new 3% surcharge would fund the new Modified Community Preservation Fund and the new fund would also be eligible to receive matching funds.

All of the current Community Preservation Fund debt would remain in that fund with the 3% surcharge continuing until it was paid off in full. The June 30, 2015 balance of debt is \$3,720,000 in principle and \$1,002,000 in interest.

Pros:

- The \$1,164,914 balance transferred from the Land Bank Fund to the Modified Community Preservation Fund would be immediately (July 1, 2015) available for housing.
- The new Modified Community Preservation Fund would have no liability for debt.
- Up to 80% of the Modified Community Preservation Fund receipts could be used each year for housing, no debt service is paid out of those funds. In FY 2015 this could have meant that \$505,704 would be available for housing with no borrowing required.
- Housing could be the primary focus of the town.

Cons:

- The two 3% surcharges would continue until approximately 2023 in the worst case scenario if no debt refinancing occurred. Under option 1 the Land Bank 3% surcharges would end on June 30, 2020.
- There would be no automatic funding of the Affordable Housing Trust Fund.
- While open space purchases could still happen, it would be much more difficult to garner funds for open space purchases with funding via a debt exclusion.
- The new Modified Community Preservation Fund, if it maintains the same percentages of the prior fund, guarantees 10% for open space. That would amount to approximately \$50,000 a year. It would take a number of years to accumulate enough funds for a major purchase using these funds alone.

**Loretta Dougherty**

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**From:** FRANK BARRINGER <brownpillow@icloud.com>  
**Sent:** Tuesday, February 17, 2015 7:52 AM  
**To:** Loretta Dougherty  
**Subject:** Maintain Land Bank

Dear Select board Members,

I fully support maintaining the Land Bank as it currently exists. What little open space that remains in Provincetown enhances a very special place. Let's protect it.

Respectfully,  
Frank Lee Barringer

10-AA Seashore Park

## Loretta Dougherty

---

**From:** Vicky Barstow <vbarstow@hotmail.com>  
**Sent:** Tuesday, February 17, 2015 1:28 PM  
**To:** Loretta Dougherty  
**Subject:** Maintaining the Land Bank

Provincetown Board of Selectmen

Town of Provincetown

Town Hall

260 Commercial St.

Provincetown, MA 02657

[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simply know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition.

Sincerely,

Victoria T. Barstow

690 Commercial Street

[Your Name]  
4 Willow Drive  
Provincetown, MA 02657

February 16, 2015

Provincetown Board of Selectmen  
Town of Provincetown, Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my unconditional support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are several Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

I support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Surely the Selectmen be more creative in generating the funds needed to support affordable housing?

The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know we can do better.

Sincerely,

---

**From:** Stephen Borkowski <stephenborkowski@aol.com>  
**Sent:** Monday, February 16, 2015 6:42 PM  
**To:** Loretta Dougherty  
**Subject:** Support Letter  
**Attachments:** Sample\_Letter\_to\_Selectmen.docx

4

## Loretta Dougherty

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**From:** Jeannette Bragger <jeannette.bragger@gmail.com>  
**Sent:** Monday, February 16, 2015 2:59 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank Fund Proposal

To: Board of Selectmen, Provincetown  
From: Jeannette Bragger  
1 Thistlemore Way  
Provincetown, MA 02657  
508-487-8043

I am writing to rigorously OPPOSE the proposal to combine our Land Bank Funds with the Community Preservation Act Fund. It is my opinion that doing so would reduce the amount of funding for the acquisition of open spaces so significantly that it would become meaningless. And there is no reason for this to happen.

As a community, and as our elected representatives, it is your responsibility to find creative ways to separately fund both affordable housing AND protect the flora and fauna that constitute one of our most precious assets. The two need not be mutually exclusive.

Many of us chose to move to Provincetown because, among other reasons, we treasure the beauty of our natural surroundings and because we believe that this community is especially sensitive to the wildlife that shares our space. At the same time, it is of course, important to provide adequate affordable housing. But it will not and should not be by folding the Land Bank Funds into the Community Preservation Act Fund.

The two should not be mutually exclusive, and one should not be favored to the detriment of the other. Furthermore, combining these funds will not solve the affordable housing problem in this town. All it will do is minimally strengthen one side while having a negative impact on the natural beauty that we and our visitors believe to be essential for our well-being.

As a tax payer and year round resident who pays a 3% surcharge into both the Land Bank Fund and the Community Preservation Act Fund, I expect my taxes to be used as designated. And that will clearly not happen if the funds are combined. What WILL happen is that we will lose our ability to acquire and protect precious wildlife resources without saving any money (I'll still be expected to pay both surcharges even beyond the 2020 "sunset" of the Land Bank). That would not only be unconscionable but would constitute a misleading and deceptive way to run the town's business.

For all of us who care about our flora and fauna, who care about our environment, and who believe that it is one of our most important assets, I urge you to drop the proposal to combine the two funds. It's not by destroying important natural habitats that we will solve the affordable housing problem.

Jeannette Bragger

Sent from my iPad

## Loretta Dougherty

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**From:** aija briga <aijabriga@yahoo.com>  
**Sent:** Tuesday, February 17, 2015 6:23 PM  
**To:** Loretta Dougherty  
**Subject:** Fw: In support of OPEN SPACE...To leave the Land Bank funds as they are/were intended...No "folding in"..

----- Forwarded Message -----

**From:** aija briga <aijabriga@yahoo.com>  
**To:** Dennis Minsky <dminsky4@comcast.net>  
**Sent:** Tuesday, February 17, 2015 6:08 PM  
**Subject:** In support of OPEN SPACE...To leave the Land Bank funds as they are/were intended...No "folding in"..

Dear select folk,

Do not want to "fold in" on any open space that might still be available. These little gems for solitude, "reflection with nature" for humans to connect to our natural world, keeping open corridors for critters of all sizes, plants like milkweed to possibly help the monarch butterflies plight. These are my reasons for open space.

Wrote to Richard LeBlond ... (founding president for the Provincetown Conservation Trust. Also worked for the Provincetown Center for Coastal Studies as a contract botanist). requesting some words of wisdom...His reply was as stated below:

There is nothing I can say that will improve on Dennis' document....The little land that remains has limitless possibilities. Development is the last possibility.

and to that I will add..have sat with many folks through the 32 years of living in Provincetown to hear/see what has replaced the open spaces to cement, fancy and whatever ..we remember when the west end breakwater area held a dune that was demolished for pricey homes. Let's keep open space alive/not just a memory. We need it for diversity of environment and for our souls.

In love of our beautiful town,

Irene aija briga

## Loretta Dougherty

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**From:** Carole Carlson <carolecarlson123@gmail.com>  
**Sent:** Sunday, February 15, 2015 1:10 PM  
**To:** Loretta Dougherty  
**Subject:** Redirecting of Land Bank Funds

To the Provincetown Board of Selectmen

15 February 2015

I am a strong supporter of Affordable Housing and a strong supporter of the Land Bank. To pit one against the other in this debate is of great disservice to the value and import each contributes to our town. As a year-round resident and homeowner, I gladly have paid a 3% surcharge on my property taxes, trusting it was funds reserved to buy land thus protecting further decrease in wildlife "corridors" and the loss of flora and fauna. Without the Land Bank funds, for example, the purchase of Coastal Acres campground, with associated wetlands and bogs, a globally significant habitat, will not be possible. I do not want the funds I have contributed to be redirected.

The redirecting of Land Bank Funds will not decrease our taxes and more importantly will not solve our affordable housing needs. It is a band-aid at the expense of preserving natural habitats. One only has to walk through our town in the winter months to see how few dwellings are occupied, yet the number of dwellings, particularly condominiums, has increased significantly over the past few years alone. The property next to my home, once 2 year-round apartments and 2 seasonal rentals is now being renovated to 3 upscale condominiums.

I support Affordable Housing and the Land Bank and strongly believe that our town needs both and one does not preclude the other.

Carole Carlson PhD

25 Nickerson Street

Provincetown MA 02657-0032

[carolecarlson123@gmail.com](mailto:carolecarlson123@gmail.com)

## Loretta Dougherty

---

**From:** Marianne Clements <marianne5985@gmail.com>  
**Sent:** Monday, February 16, 2015 8:14 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank and Affordable Housing

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657

February 16, 2015

Dear Provincetown Board of Selectmen:

As members of the Provincetown community we are writing to express our full support for maintaining the Land Bank as it currently exists. We strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

We understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

My wife was born and raised in Provincetown, her lineage goes back to the Pilgrims, her father, Franklin Oliver (District Chief, Firehouse 4) is the only volunteer fireman to die on duty while fighting a fire, and she has a number of cousins also born and raised here that no longer can find affordable housing and since have moved to other towns. So we understand the need and fully support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is clearly not the answer. We can and should be investing in both.

We and other citizens enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. We have already loss so many open spaces and we and others do not wish for every last piece of our precious town to be developed in our town.

We strongly urge you to move forward and address the issue of affordable housing without using funds for potential future open space acquisition, as we know you can find other ways to fund for affordable housing.

Sincerely,

Marianne Clements and Sheila Oliver

February 17, 2015

Provincetown Board of Selectmen

Town of Provincetown

Town Hall

260 Commercial St.

Provincetown, MA 02657

Dear Board of Selectmen,

I am writing to express my full support in maintaining the Land Bank as it currently exists. Open space in Provincetown is important to the overall beauty and peacefulness that our town seems to be losing with the addition of what seems to be so many condos and developments everywhere.

While I agree we need to create more affordable housing, I hope funds will not be taken away from any program that promotes the overall beauty that every town needs for its residents and visitors. Perhaps a more creative solution can help both promote open space and affordable housing.

I believe many visitors come to Provincetown knowing how beautiful our downtown is and especially our natural beauty that many towns wish they had.

When I am out in the sand dunes of the Cape Cod National Seashore, it amazes me how vast and beautiful the entire area is and how fortunate we are that it is protected land for all to enjoy in its natural state. Can you imagine if the dunes and beaches were not protected and we had huge hotels, condos and no dunes on our coast.

Please do not take away our town's funding that protects our beautiful town and its beautiful natural places. Keep our town looking like a beautiful seaside resort and not a Province-city.

Sincerely,

Rob Costa

Art's Dune Tours

February 17, 2015

36 Shank Painter Rd #17  
Provincetown, MA 02657  
617-412-1057

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

[Your Name]

**David Dolbashian**  
Vice President  
Treasury Services  
Eastern Bank  
195 Market Street  
Lynn, MA 01901  
617-897-1060 (phone)  
781-598-7478 (facsimile)

## Loretta Dougherty

---

**From:** Margo Ether-Reyes <sparklestuf@comcast.net>  
**Sent:** Monday, February 16, 2015 8:19 PM  
**To:** Loretta Dougherty  
**Subject:** Maintaining the Land Bank

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing?

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I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

Margo Ether-Reyes

BOSTON STRONG  
Sent from my iPhone

## Loretta Dougherty

---

**From:** Jan <jbptown37@gmail.com>  
**Sent:** Wednesday, February 18, 2015 10:19 PM  
**To:** Loretta Dougherty  
**Subject:** Open space in Provincetown

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing? There were several promising ideas generated through the initial DART meetings. I urge you to explore those ideas to come up with a responsible solution.

I am a resident home owner and one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy open spaces that provide access to our incredible marine resources, or simply know and enjoy the spaces that have already been preserved. The open spaces in this community add value to our lives and beautiful character to our town. I believe the proposal to divert the Land Bank funds is short sighted and the effect will be to end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

Jan Fox  
37 Bayberry Ave.

Sent from my iPad

## Loretta Dougherty

---

**From:** Pat Fox <pat.fox037@gmail.com>  
**Sent:** Tuesday, February 17, 2015 9:42 AM  
**To:** Loretta Dougherty  
**Subject:** Open Space in Provincetown

**Pat Fox**

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing? There were several promising ideas generated through the initial DART meetings. I urge you to explore those ideas to come up with a responsible solution.

I am a resident home owner and one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy open spaces that provide access to our incredible marine resources, or simply know and enjoy the spaces that have already been preserved. The open spaces in this community add value to our lives and beautiful character to our town. I believe the proposal to divert the Land Bank funds is short sighted and the effect will be to end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

**Pat Fox**

Pat Fox

781-296-7341 (mobile)  
[pat.fox037@gmail.com](mailto:pat.fox037@gmail.com)

Honorable Selectmen, Town Hall, 260 Commercial St, Provincetown, Ma 02657

February 17<sup>th</sup> 2015

Dear Robert Anthony, Thomas N. Donegan, Raphael Richter, Erik P. Yingling, Cheryl Andrews,

There are many reasons to maintain our Landbank Funds to save more precious land in Provincetown. Saving land in Provincetown is not just about recreation and pleasure for people. Saving forests and wetlands protect our terrain, our home, us. Wetlands need to be protected because they are like sponges, absorbing flood/storm waters. Trees need to be protected because they guard us from storms and wind. Yes, we have saved some important lands over the years; but there has been much more loss from development than saved.

Provincetown sits on sand. We are very vulnerable; and our top soil is extremely thin (please see the photo enclosed). At one time, in our Provincetown history, it was illegal to cut down a tree because so many trees had been removed that homes were sliding on the sand. Over the years we grew back some of the forest.

One of the reasons we started to try and save forests and open spaces in Provincetown has not changed. To this day, most of the rich deciduous forest remains within our town of Provincetown. The National Seashore Provincelands consists mostly of un-vegetated dune, dune grass and scrub pine.

Our affordable housing is important, maintaining healthy forests and wetlands are important. They are two separate issues. Please protect our open spaces by maintaining the Landbank for its' original purpose and intent.

Sincerely,



Celine Gandolfo, P.O Box 391, Provincetown, Ma 02657

LA

**Why do we need to save Provincetown habitat when we have the National Seashore?**

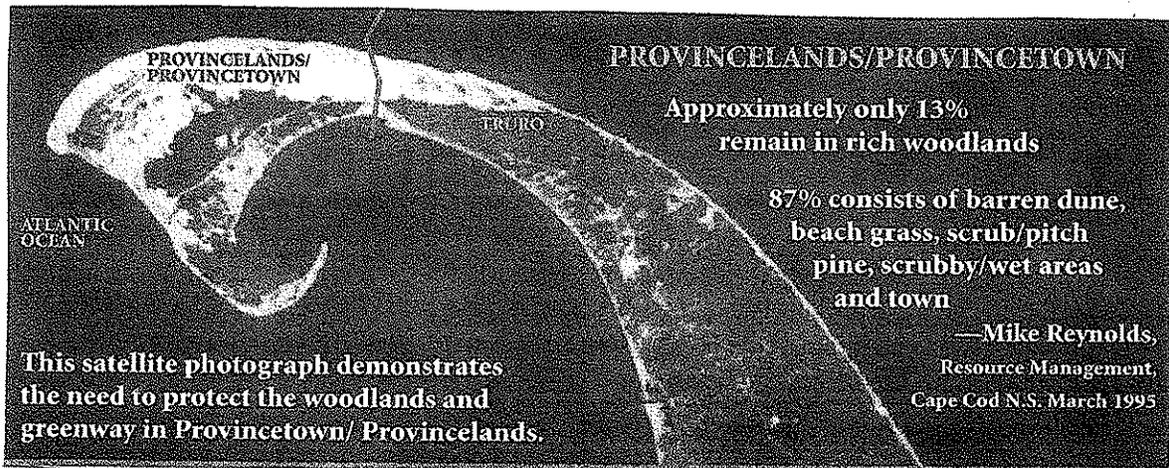
"Approximately on 13% remain of rich woodlands. 87% consists of unvegetated dune, dune grass, scrub/pitch pine, scrubby/wet areas and town." *Mike Reynolds, Resource Management, Cap Cod N.S. March 1995.*

The majority of the rich and diverse forests remaining are within Provincetown borders. In the last 10 years twice the amount of land (37.56 acres) have been developed (*assessors office information for developed parcels 4/2008*) than has been put into conservation via Landbank. Cape studies show that protecting and conserving Open space actually saves tax money for towns by saving money for costs of such infrastructure items as roads, sewer systems and water usage.

**Why is Provincetown Land unique and Special?**

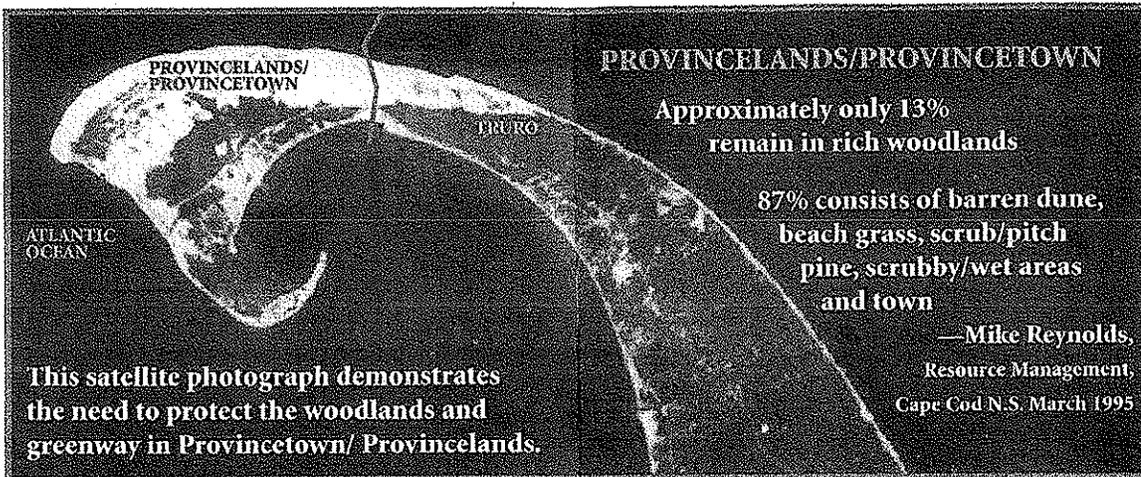
"No other town on Cape Cod offers the birding potential of Provincetown...In the Spring, migrating songbirds and hawks are funneled northward along the Outer cape, and, reluctant to cross the water, become concentrated in Provincetown, often in large numbers" *Birding Cape Cod published by the Cape cod Bird Club and Mass Audubon Society (1994)*

"Provincetown is one of the top two towns in the state of Massachusetts listed as having the greatest density per square mile of state-listed rare species" *Our irreplaceable heritage by Massachusetts Natural Heritage and the nature Conservancy, Published Fall 1998*



Information provided by Provincetown Open Space Committee

15



## PROVINCELANDS/PROVINCETOWN

Approximately only 13%  
remain in rich woodlands

87% consists of barren dune,  
beach grass, scrub/pitch  
pine, scrubby/wet areas  
and town

—Mike Reynolds,

Resource Management,

Cape Cod N.S. March 1995

This satellite photograph demonstrates  
the need to protect the woodlands and  
greenway in Provincetown/ Provincelands.

### PROVINCETOWN'S NATURAL HISTORY

At one time High Head in North Truro,  
where the glacial deposit ends, was the tip of  
Cape Cod.

Provincetown was born from the slow accretion  
of sand and gravel carried by wind and water  
from the outer shores of Truro and Wellfleet.  
On this ever-changing sandy terrain hangs the  
balance of Provincetown's fragile ecosystem.

Remarkably, on this thin layer of soil atop sand  
a "whole countrie full of woods and thicket"  
greeted the Pilgrims, on their arrival in 1620,  
"all wooded with oaks, pines, sassafras, juniper,  
birch, holly, some ash, walnut." But by the  
mid-1800's, the settlers had felled most of the  
forest for building and heat and left the sand to  
ravage the remaining lands: "By 1800 it was  
reported that the dune ridges themselves were  
advancing on the town and harbor at a rate of  
90 feet a year." As Thoreau described it "there  
was little enough soil to 'fill a teacup'."

### VISION

One hundred and fifty years later the woodlands  
have slowly begun to restore themselves. But once  
again they are under grave pressure from the threat  
of development sprawl. Our goal is to protect this  
vital greenway corridor by a program of land  
acquisition and conservation restrictions, which  
would include managed preserves, footpaths and  
pocket parks. The corridor stretches from the  
protected lands of Foss Woods at the east end to  
the protected Shankpainter Pond Uplands at the  
west end. Shankpainter Pond is the largest known  
quaking bog on a barrier beach in the world.

This project would safeguard the important belt of  
woodlands and wetlands that divide the ocean  
dunes and the harbor. Our vision is to protect for-  
ever these woodlands as well as educating residents  
and visitors about the importance of preserving  
this unique environment. It is our intention to  
create a prototype to enable other small towns to  
save open space and critical wildlife habitat and to  
be able create their own version of Boston's  
outstanding "Emerald necklace" park system.

Our Very Thin Topsoil  
Please notice how dense the forest  
looks. Then notice how thin and  
vulnerable our topsoil is in  
Provincetown.



Photo of cut into forest on  
snail Road... about 10 years ago.

## Loretta Dougherty

---

**From:** mgia <mgia@vermontel.net>  
**Sent:** Friday, February 13, 2015 7:36 PM  
**To:** Loretta Dougherty  
**Subject:** open spaces

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)  
BOS Secretary: Loretta Dougherty  
<mailto:ldougherty@provincetown-ma.gov>

Dear Provincetown Board of Selectmen :

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Can not the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Can not the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town be developed.

I urge you to do move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,  
Mary Giammarino

RECEIVED  
BOS - *Verm*  
FEB 17 2015

CC: BOS/TM/ATM

David Hale  
36 Shank Painter Rd.  
Provincetown, MA 02657

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657

Dear Provincetown Board of Selectmen:

I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I have been a member of the Conservation Commission and the Open Space Committee for the past 8 years and have also served for two years on the Community Preservation Committee helping to support both Open Space and affordable housing in Provincetown. I understand well the urgent and ongoing needs of both projects but am deeply troubled that the Board of Selectmen may choose to propose an article that pits one good cause vs. another.

I urge you to withdraw this proposed article and get back to work developing real solutions to our town's needs. Is it really possible that the Board lacks the leadership to develop ways to accomplish both goals? If, in fact, this is true, then I would argue the Board has failed in its leadership responsibilities and is simply attempting to pass the buck to the voters in the form of this article. If true, this would constitute a failure on the part of the Board to come forward with actual problem solving solutions, the solutions you have all committed to when running for office.

Now is the time for each Board member to show creativity and leadership in addressing these issues. Please work to fix the underlying issues and not take the easy way out by looking for simplistic and unimaginative quick fixes that do nothing to help our town in the long run.

I know you can do better.

Sincerely,



David Hale

## Loretta Dougherty

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**From:** Susan Hale <susanhale7863@hotmail.com>  
**Sent:** Friday, February 13, 2015 3:53 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Can not the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Can not the Selectmen be more creative in generating the funds needed to support affordable housing? .

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

Susan Hale

36 Shank Painter Rd, #19

## **Loretta Dougherty**

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**From:** Billy at Far Land Provisions <Billy@FarLandProvisions.com>  
**Sent:** Monday, February 16, 2015 12:51 PM  
**To:** Loretta Dougherty  
**Subject:** Save the Land Bank

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both.

I am one of thousands of citizens that enjoy the benefits of our opens spaces. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

William P. Hamlin  
2 Browne St.  
Provincetown, MA 02657

**Loretta Dougherty**

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**From:** Will Hapgood <whapgood@fastmail.fm>  
**Sent:** Monday, February 16, 2015 5:46 PM  
**To:** Loretta Dougherty  
**Subject:** Folding land bank funds into Community Preservation Act Funds

To the Provincetown selectmen:

We support keeping Land Bank funds as is, and urge you not to transfer them to the admittedly attractive cause of Community Preservation. Both causes deserve support. Do not set these two worthy causes against each other.

Once open space is built upon, it is evermore lost and Provincetown has an ever-shrinking amount of it.  
Thank you for your consideration,

William Hapgood 2a Allerton St

Julie Schecter 207a Bradford St

## Loretta Dougherty

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**From:** Robin Haueter <robin@haueter.net>  
**Sent:** Monday, February 16, 2015 4:19 AM  
**To:** Loretta Dougherty  
**Subject:** Land bank

To the Provincetown Board of Selectmen:

As a year-round Provincetown resident, I fully support keeping the Land Bank as it currently exists. I oppose efforts to change the intended purpose of the fund or to divert the money for any other use.

I understand and support the efforts to address affordable housing, however, pitting open space against affordable housing is not the answer. We can and should be investing in both. I am deeply opposed to seeing every last piece of the town turned into a real estate development.

I urge you to address affordable housing without taking the funds that we as a town originally designated for open space acquisition. I know you can find alternatives.

Sincerely,

Robin Haueter

4 Somerset Road  
Provincetown, MA 02657

## Loretta Dougherty

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**From:** Deborah Heller <dheller@hellercunningham.com>  
**Sent:** Thursday, February 12, 2015 1:08 PM  
**To:** Loretta Dougherty  
**Cc:** Ann Sanders  
**Subject:** Land Bank Funds

To the Board:

We do not support the proposal to “fold in” our Land Bank Funds into the Community Preservation Act Fund.

Deborah Heller and Ann Sanders  
30 West Vine  
A1  
Provincetown, MA -02657

Deborah Heller  
[dheller@hellercunningham.com](mailto:dheller@hellercunningham.com)  
617 513 7141

## Loretta Dougherty

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**From:** ThomRealEstate@aol.com  
**Sent:** Monday, February 16, 2015 5:49 PM  
**To:** Loretta Dougherty  
**Subject:** LAND BANK FUNDS  
**Attachments:** LAND BANK.docx

Thom Hochard, Larry Mahan  
10 Somerset Road  
Provincetown

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657

Dear Provincetown Board of Selectmen:

As members of the Provincetown community we are writing to express our full support for maintaining the Land Bank as it currently exists. We strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

we understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

We are two of thousands of citizens that enjoy the benefits of our opens spaces. We enjoy our plot at the B-Street Community Garden and appreciate Foss Woods and the conservation land that surrounds our home. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. We do not wish for every last piece of our precious town to be developed.

Please we urge you to keep the Land Bank as it is.

Sincerely,

Thom Hochard & Larry Mahan

February 14, 2015

TO: The Provincetown Board of Selectmen

RE: Folding the Land Bank into the Community Preservation Bank

I respectfully ask that you maintain the current division of the Land Bank and the Community Preservation Bank. Preserving the town of Provincetown requires more affordable housing, a year-round economy AND green space. They are not mutually exclusive. The beauty of our point of land is no doubt what has brought many, if not all, here. Do not fill in our few bits of view and nature with more condos/apartment complexes.

Please vote NO on folding the Land Bank into the Community Preservation Bank.

Sincerely,

Priscilla Jackett  
192 Bradford Street  
Provincetown

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## Loretta Dougherty

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**From:** Jeff Knudsen <jeffmknudsen@outlook.com>  
**Sent:** Monday, February 16, 2015 9:27 AM  
**To:** Loretta Dougherty  
**Subject:** maintaining the Land Bank as it is

Dear Select Board Members,

I am writing you to ask that you preserve and maintain the Land Bank as it currently exists and functions. I fully understand the urgent need for more affordable housing. However, I believe the Town should seek other means and funds (including taxes) to achieve this.

As a long-time part-time resident, I believe that our open spaces benefit all of our full and part-time residents, visitors, and businesses and is one of the things that makes Provincetown so special.

Thank you.

Jeff Knudsen  
36 Shank Painter Rd #18  
Provincetown, MA 02657  
508-487-4417

18 Park Vale Ave #1  
Allston, MA 02134  
617-208-8811

## Loretta Dougherty

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**From:** Elizabeth Larson <ejl41067@gmail.com>  
**Sent:** Thursday, February 12, 2015 6:16 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank funds comment

Dear Provincetown Selectmen,

I am still a new resident in Provincetown, having lived here only five years, but I do vote and take an interest in this community. It is my understanding that there is a movement to combine the Land Bank funds with Community Preservation Funds, the motive to do so being to use the extra money to help solve the problem of a lack of affordable housing for year round residents. I would like to communicate my preference that current Land Bank funds be maintained separately as they are now for the specific use of acquiring desirable land that helps preserve the community's flavor. Affordable housing is certainly a need in this town, but I do not think that we should trade one priority for another.

Sincerely,

Elizabeth Larson

Research Assistant  
Provincetown Center for Coastal Studies  
5 Holway Ave.  
Provincetown, MA 02657

"Harmony with land is like harmony with a friend; you cannot cherish his right hand and chop off his left." Aldo Leopold

## Loretta Dougherty

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**From:** Laura Ludwig <lldowneast@gmail.com>  
**Sent:** Monday, February 16, 2015 9:01 AM  
**To:** Loretta Dougherty  
**Subject:** Land Bank

Dear Chairman Donegan, Ms. Andrews, Mr. Richter, Mr. Yingling and Mr. Anthony,

I wanted to lend my support to the structure, intent and purpose of Provincetown's Land Grant, and at the same time encourage the town to seek creative solutions in its pursuit of affordable housing.

When I was being courted by Charles "Stormy" Mayo in 2010, he invited me to visit Provincetown for the first time since I was 9 years old. He didn't take me to the movies, or downtown to go shopping, or ask me to sit at home in front of the TV (that came later!) -- he brought me out into the Provincetown Wilderness, because he knew that's where its real heart is.

We walked along Whistlepath and Fox Run to get out to the dunes; he showed me Suzanne's beautiful Garden just down the road; and took me to Nicky's Park, describing how the latter was in the running at one point for the site of the "new" Center for Coastal Studies building. Instead, the value of that property in its natural state was recognized in the process, and Land Bank funds helped preserve it for all time -- and the research lab soon found a home in an abandoned school.

I understand that the Land Bank is funded through a 3% tax, and that those funds are being considered for re-direction to pursue affordable housing solutions in town. I wonder whether instead there might be better ways to fund that initiative, leaving the meager Land Bank funds to continue their good work. I'm sure the board and its committees on housing have already thought of anything I could come up with, but one thing that does come to mind is a state program I participated in when I lived in Maine, called "One Percent for Art". Anytime state funds were used in the construction or renovation of a building, 1% of the overall budget was required to be spent on public art for that building. Would that model work for a Provincetown program called "One Percent for the 99 Percent", or some such thing, whereby any new real estate transactions, construction projects, or development would be required to contribute to the cause?

At the very least, if taxes are to be re-appropriated, the full matter should be brought to Town Meeting; perhaps this is already in the works. Meantime, I hope the discussion currently underway can weigh the value of non-developed land -- the thing that sealed the deal for me -- as on par with housing that is affordable.

Good luck with this difficult issue, and thank you all for the great work you do for Provincetown.

Best wishes,

Laura Ludwig

*Laura Ludwig  
1 Duncan Lane  
Provincetown, Massachusetts  
02657 USA  
[lldowneast@gmail.com](mailto:lldowneast@gmail.com)  
207-263-5300*

~~~~~ ) ~~~~~

## Loretta Dougherty

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**From:** Genevieve Martin <ptowngazelle@fastmail.fm>  
**Sent:** Sunday, February 15, 2015 8:52 AM  
**To:** Loretta Dougherty

Genevieve Martin  
211 Bradford St. # 5  
Provincetown, Ma 02657  
2015

February 15,

To the selectmen and selectwoman of Provincetown

I want to assure you that I am a strong supporter of Affordable Housing not only in words but in deeds as well. I manage 4 apartments year round, 2 of which are Affordable Housing. I was not always in landlords' shoes. I lived the hunt for year round housing for many years. I have suffered the departure of dear friends because of lack of affordable housing. I have seen how our community has been impoverished by the loss of those who were family to me. I relate to the anger, frustration of those placed in such perilous situations.

On the other hand I will never want to see our natural world pay for Affordable Housing. The funds for Affordable Housing should not affect those raised for the Land Bank since the two are unrelated. Now as a property taxpayer, I have paid my land bank bill since this bill started. I trusted it was money reserved to buy land to protect our natural habitats. I feel betrayed at this suggestion of taking funds from the Land Bank. If the Conservation Trust has to protect any land, it will need to ask for financial assistance for the purchase from other sources, such as state grants, which we have done in the past. We need our Land Bank contribution in order to be able to make any further purchases of land such as Coastal Acres. How legal is it to take this money for another purpose than Land Bank? The town has bought other properties for Affordable Housing before. Why not keep doing what the town has done previously? The town has more condominiums than ever that are vacant for much of the year. Why we don't reserve more of those for Affordable Housing? Affordable Housing should use funds other than those set aside for the Land Bank. Once the land is built upon it is gone forever.

Without the Land Bank funds, the purchase of Coastal Acres campground by Shankpainter Pond, with its associated wetlands and bogs, a globally significant habitat, will not be possible.

I support 100% Affordable Housing and 100% Land Bank and strongly believe that one does not preclude the other.

Genevieve Martin  
[ptowngazelle@fastmail.fm](mailto:ptowngazelle@fastmail.fm)

--  
Genevieve Martin  
[ptowngazelle@fastmail.fm](mailto:ptowngazelle@fastmail.fm)

RECEIVED  
BOS - Vernon  
FEB 17 2015

Lynne Martin  
4 Aunt Sukeys Way  
Provincetown, MA 02657

CC: BOS/TM/ATM

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community and the Conservation Commission, I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,



Lynne Martin

RECEIVED  
BOS - Vernon *fo*

FEB 17 2015

CC: BOS/TM/ATM

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Stephen R. Martin  
4 Aunt Sukeys Way  
Provincetown, MA 02657

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

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I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

  
Stephen R. Martin

## Loretta Dougherty

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**From:** Bruce Mason <bruce\_mason@sbcglobal.net>  
**Sent:** Monday, February 16, 2015 10:06 PM  
**To:** Loretta Dougherty; Tom Donegan; Erik Yingling; Cheryl Andrews; Raphael Richter; 'ranthony@provincetown-ma.gov.'  
**Subject:** The "fold in" of our Land Bank funds into Community Preservation Act fund

Dear Selectmen,

I write to you asking you not to approve the "fold in" of Land Trust funds to the Community Preservation funds. I firmly believe that we need both funds to appropriately survive as a small town that cares. We cannot lose potential land for public use anymore than we can say "you cannot live here." Worthwhile living requires a balance to be successful, and the robbing of Peter to pay Paul will not do it. This situation should end up as a "win-win" Both funds represent a bond for humanity – neither exclusive of the other.

I believe that there are many opportunities out there to shore up affordable housing without the proposed "fold in". Please vote NO.

Sincerely,

Bruce Mason  
100 Alden St, Unit 100  
Provincetown, MA 02657  
508.776.5958

**Loretta Dougherty**

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**From:** Jim McGuire <jfpmcguire@aol.com>  
**Sent:** Monday, February 16, 2015 10:34 PM  
**To:** Loretta Dougherty  
**Subject:** I support the Land Bank

Provincetown Board of Selectmen/Selectwomen

Town of Provincetown

Town Hall

260 Commercial St.

Provincetown, MA 02657

Dear Provincetown Board of Selectmen/Selectwomen:

I recently read that Raphael Richter, Cheryl Andrews and possibly other selectmen/selectwomen are considering a proposal to divert existing and future Land Bank funds. In my understanding, the Land Bank funds are currently designated for the preservation of open spaces in Provincetown. On the receiving end of the proposal is Provincetown's affordable housing need. Undoubtedly, the housing concerns in Provincetown are very challenging, but only one in a number of critical issues facing our town. I fear that the route the Selectmen/Selectwomen are pondering by diverting Land Bank funds to affordable housing is but a short-term answer to a long-term problem.

I DO NOT support using the Land Bank Funds for anything but their intended purposes. Open spaces in Provincetown are quickly disappearing. The proposal will have a devastating and irreversible impact on the future of Provincetown. Once land has been taken for development, it will be gone FOREVER. Future generations will not know the same wonderful aspects of this town that we now share.

As a 15-year member of the Provincetown community, I have seen many intelligent women and men work together to find solutions to significant concerns. I implore the

selectmen/selectwomen to go back to the drawing table and look for affordable housing funding in another place. Your proposal is creating a choice between two unbearable options, and it's essentially a no-win a situation. You have, indeed created a "Sophie's Choice" by pitting the two issues against one another. And like that choice, I fear both sides of the issue will have a miserable outcome. A hastily made decision will leave the town in mourning, filled with guilt for generations that we cannot overcome.

Sincerely,

James F. McGuire



**Loretta Dougherty**

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**From:** roserugosa@aol.com  
**Sent:** Monday, February 16, 2015 7:54 PM  
**To:** Loretta Dougherty; dougherty@provincetown-ma.gov  
**Subject:** Open Space/Land Bank

Carol Noyes  
5 Center Street  
Provincetown, MA

Provincetown Board of Selectmen

Town of Provincetown

Town Hall

260 Commercial St.

Provincetown, MA 02657

[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

BOS Secretary: Loretta Dougherty

Dear Provincetown Board of Selectmen :

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Can not the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Can not the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town be developed.

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I urge you to do move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,  
Carol Noyes

**Loretta Dougherty**

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**From:** dorothy palanza <dorothy.palanza@gmail.com>  
**Sent:** Tuesday, February 17, 2015 5:01 PM  
**To:** Loretta Dougherty  
**Subject:** support of Landbanks

Dear Board of Selectman,

My name is Dorothy Palanza, a year round resident at 83 Franklin St. and President of the Provincetown Conservation Trust. I only wish to state that I am not in support of folding in the Landbank funds with the CPA funds especially now when the Coastal Acres Property is about to go up for sale. Thanks, dorothy palanza

--

dorothy palanza  
COLORFIELDS STUDIO LLC  
83 Franklin Street  
Provincetown, MA 02657  
508 487-0292 cell 917 747 1150  
artcurrent  
53 Bradford St.  
Provincetown, Ma. 02657

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## Loretta Dougherty

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**From:** Leslie Parsons <leslie@acrossthebay.com>  
**Sent:** Friday, February 13, 2015 7:00 PM  
**To:** Loretta Dougherty; Loretta Dougherty  
**Subject:** Open Space/Land Bank

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)  
BOS Secretary: Loretta Dougherty  
<mailto:ldougherty@provincetown-ma.gov>

Dear Provincetown Board of Selectmen :

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Can not the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Can not the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town be developed.

I urge you to do move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

Provincetown, MA 02657

Leslie Parsons  
19 Standish Street

Leslie Parsons *Broker*  
508-487-8888  
508-292-4501 cell



*Across the Bay Real Estate*

132 Commercial Street Provincetown, Massachusetts 02657

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## Loretta Dougherty

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**From:** gooselanetown@aol.com  
**Sent:** Friday, February 13, 2015 10:09 AM  
**To:** Loretta Dougherty  
**Subject:** land bank

We are sending this email to oppose the elimination of the Open Space Committee and putting the Land Bank funds into the CPC budget. The Town has already changed from more money to affordable housing, back to allowing the CPC to fund with less restrictions and back to more money for affordable housing. The fact is once open space is lost it is lost forever. The separation of these funds is essential to keep the wishes of those who still believe in conservation to have a separate funding source for those needs. This attack on open space is a poor use of your valuable time. We hope to be there in person to deliver this message but wanted to be on the record as opposed to this idea.

Sincerely,  
Barbara Prato  
Gerry Brennan

## Loretta Dougherty

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**From:** chartone1@aol.com  
**Sent:** Monday, February 16, 2015 7:43 PM  
**To:** Loretta Dougherty  
**Subject:** for years we ignored the then pending housing shortage. NOW: save the land. don't compound the mistake.

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657

[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

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I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simply know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better. Please don't throw the baby out with the bath water; save some for sorely needed open space, and look to other thoughtful ways to address the housing shortage.

Sincerely,

char priolo

p.o. box 1692

provincetown, ma. 02657

## Loretta Dougherty

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**From:** Lauren Richmond <lauren444@comcast.net>  
**Sent:** Tuesday, February 17, 2015 8:53 AM  
**To:** Loretta Dougherty  
**Cc:** Dennis Minsky  
**Subject:** Land Bank Funds

To the Board of Selectmen:

It has come to my attention that there will be an item on your agenda on Monday, February 23, 2015 regarding a proposal to 'fold' our Land Bank funds into the Community Preservation Act fund.

Many years ago I voted to support the Land Bank and its purchases of open space to preserve areas for conservation and have been pleased with all the acquisitions that have been made. It was NEVER my intention to have 3% of my tax dollars go toward 'affordable housing' and I do not want those lines to cross now. They are two very separate issues.

What would this town look like if the Cape Cod National Seashore hadn't been created? We should all thank our lucky stars and the Kennedy administration for enriching our lives with the preservation of the Province Lands that will remain unbuilt and available for everyone's enjoyment. We should be equally gratified that our Land Bank funds have helped to preserve other undeveloped open space. Open space clears the mind and fosters creativity. People flee the cities to come here because we have such incredible natural beauty. Let's not lose our unique landscape in a short-sighted effort.

I DO NOT support co-mingling Land Bank funds with funding for Affordable Housing.

We are losing the character and soul of our town for many reasons and in many ways: the influx of wealthy second homeowners without enough vested interest in the community, the decline and near extinction of the fishing fleet, the closing of our high school and the glorification of Provincetown as a party town. I, for one, want the Land Bank money reserved strictly for open space acquisitions before we lose these opportunities too.

Respectfully,

Lauren Richmond

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Lauren Richmond  
36 Commercial St.  
Provincetown, MA. 02657  
508/487-9580 - home  
508/237-3954 - cell

**Loretta Dougherty**

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**From:** michael rogovsky <beauxxarts@yahoo.com>  
**Sent:** Tuesday, February 17, 2015 9:30 AM  
**To:** Loretta Dougherty  
**Subject:** vote no on folding land Bank funds into the community Preservation Fund.

February 17, 2015

Dear Selectmen:

I am writing to voice my objection to the proposal to fold Land Bank funds into the Community Preservation Fund. As selectmen you are supposed to be the protectors of the town for all of us. If you do away with the land Bank Funds it will be the end of using this money for future projects to acquire town land for open space .

We need to protect what little open space the town has from overdevelopment. Think forward and save habitat, endangered species, and unique recreational and environmental opportunities for which the Land Bank Funds were created.

Sincerely

Michael Rogovsky

**Loretta Dougherty**

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**From:** Philip Scholl <phil\_scholl7@hotmail.com>  
**Sent:** Monday, February 16, 2015 2:36 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank Funds

Dear Selectmen of Provincetown,

I am completely confused by the talk of transferring land bank funds (as agreed upon in the past) to affordable housing? Can you just change what was agreed upon in the past. Seems to me if there is a change that these existing funds should be returned to tax payers or used only for the land bank.

Best regards,  
Philip Scholl

62 Bradford Street  
Provincetown

## Loretta Dougherty

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**From:** talillas@yahoo.com  
**Sent:** Monday, February 16, 2015 5:33 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank money

Dear Selectmen,

I vehemently oppose folding money from the Land Bank into the Community Preservation Act fund. Though the lack of affordable housing is a genuine crisis in our town, there are many more options available to us that do not involve sacrificing nature. The environment should not have to pay for our previous shortsightedness about providing affordable housing to our community. Once land is taken away from the environment, it can NEVER be returned - this is too high a price to pay. Wild, unbuilt land is a rare and unique resource that cannot be created by policies and social solutions, as affordable housing can be. With appropriate leadership, we can find tenable solutions for affordable housing - what about taxes on seasonal housing? Housing-at-sea, like the wonderful Provincia idea that was never fully given a chance? Co-housing? We need to look at creative, resourceful solutions, not just grab the lowest hanging fruit and call it a success. Taking money from the Land Bank speaks to a lack of motivation for genuine, sustainable practices. Who wants to live here, affordable or not, if our environment is degraded and minimized?

Please do not pursue this foolish proposal. Sincerely, Talilla A. Schuster

## **Loretta Dougherty**

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**From:** Jonathan Sinaiko <j.sinaiko@hideawayhill.com>  
**Sent:** Saturday, February 14, 2015 2:22 PM  
**To:** Loretta Dougherty; Dennis Minsky  
**Subject:** Land Bank

Provincetown Board of Selectmen,

I am writing to voice my strongest opposition to the move afoot to eliminate the Land Bank.

On the most basic level it is a mistake.

What is the Land Bank? It is an act of preservation in a world filled to the brim with destruction.

So why add even one more drop of destruction? For what?

Affordable housing. Since when has affordable housing come at the expense of this community's quality of life.

We need to have both.

Maybe none of you have ever walk the old railroad tracks out to tin pan alley and onto the dunes. It's kind of like walking barefoot on the beach except in the woods you're on the inside of Mother Nature instead of the outside.

And you want to stop protecting it and let the developers fight their way through the permitting process so that they can strip-mine what's left of the woods, waterfront, artists colony, fishing town in order to pack full of condos. Turn it into the mini Miami Beach of Cape Cod.

I'm sorry, I forgot what town are you the Selectmen in?

Jonathan Sinaiko

## Loretta Dougherty

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**From:** smileyaqua <smiley@aquaportrait.com>  
**Sent:** Tuesday, February 17, 2015 8:51 AM  
**To:** Loretta Dougherty  
**Subject:** Commentary re: Land Bank funds

Provincetown Board of Selectmen  
Town of Provincetown  
Town Hall  
260 Commercial St.  
Provincetown, MA 02657  
[selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov)

Dear Provincetown Board of Selectmen:

I am a registered voter in Provincetown and I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I do support the idea of affordable housing. I also support the idea of safe and affordable housing for summer workers. I don't think it should be at the expense of open space.

Provincetown has a serious problem with overdevelopment. It affects housing, it affects public access to beaches, it affects parking, across the board. It affects access to fresh water use in the summer. We can't keep saying YES to even more condos. We can't keep saying YES to even more visitors in an already stretched summer infrastructure.

It's time that Provincetown supports an economic model that isn't based on tourists and part time landowners. Is it possible to think out of the box for creative big picture solutions to the economic and space issues facing Provincetown?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simply know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

sam smiley

media artist and educator, business owner <http://aquaportraits.com>

HT

## Loretta Dougherty

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**From:** Sarah <poorrichardslanding@yahoo.com>  
**Sent:** Monday, February 16, 2015 9:47 AM  
**To:** Loretta Dougherty  
**Subject:** Please Maintain the Land Bank

Dear Provincetown Board of Selectmen:

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Cannot the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Cannot the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simply know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town to be developed.

I urge you to move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

Sarah Thompson

## Loretta Dougherty

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**From:** Dan Towler <dtowler@surglobal.net>  
**Sent:** Tuesday, February 17, 2015 12:31 PM  
**To:** Loretta Dougherty  
**Subject:** open space vs. affordable housing

Esteemed Board members,

I am writing to express my opposition to the usurpation of any existing or future Land Bank funds for affordable housing purchases.

I understand acutely the dire need for affordable housing in Provincetown, and I support the use of whatever funds might be available to incentivize or somehow provide more affordable housing. But, I also support the preservation of at least some of the available open space that's left in Provincetown, for which purpose the Land Bank Fund was created. I believe both causes are equally worthy uses of public funds, equally important to preserving what's left of the character of the town, and I believe both causes have very large and passionate constituencies for very good reasons, and I hate to see one of them promoted at the expense of the other.

The skyrocketing cost of real estate in Provincetown over the last several decades has had many, many ramifications for the quality of life here, few of them positive, in my view. We have seen a gradual but steady erosion of the year-round community, a decline in the year-round population and year-round economic opportunities, and a shrinkage in the diversity of people, in terms of age, income and numerous other factors, who can afford to live here and want to live here. It's a sad state of affairs, and depressing for many of us who have witnessed these changes over a long period of time.

Unfortunately, I'm afraid that our options for reversing these trends in any kind of meaningful way are severely limited. I would love to see a few more affordable housing units, if it would enable people to stay here who would otherwise have to leave. That would be a good thing. What I would NOT love to see is every square foot of woodland south of Route 6 built out with subdivisions of condos, whether they're affordable or not. We've seen a proliferation of new building here in recent years, with attendant destruction of woodlands, and who has benefited? Real estate agents, a few builders and tradespeople. We have more high-priced weekly rentals for summer visitors, and nobody home the other nine months of the year. Meanwhile, the visual character and integrity of our quaint fishing village goes to hell — permanently.

Even if we can only save a few of the remaining undeveloped parcels of land from the bulldozer, I'd like to see every effort made to do so. We have a mechanism in place which has been very successful to that end, and I think we should continue to take full advantage. There are mechanisms in place, and many volunteers and public servants working very hard to create more affordable housing. This is as it should be. Perhaps there are other approaches, and other sources of funding, that have not yet been fully explored. But, leave the Land Bank funds alone.

Respectfully,

Daniel Towler  
3 Allerton Street  
Provincetown

## Loretta Dougherty

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**From:** lisa ventre <laventre@gmail.com>  
**Sent:** Friday, February 13, 2015 6:43 PM  
**To:** Loretta Dougherty; Loretta Dougherty  
**Subject:** open space

Dear Provincetown Board of Selectmen :

As a member of the Provincetown community I am writing to express my full support for maintaining the Land Bank as it currently exists. I strongly oppose any effort to change the intended purpose of these funds or to divert these funds for any other use.

I understand there are some Selectmen that are putting forth the idea of transferring existing and future funds currently designated for the preservation of our precious open spaces and diverting these funds to be used for affordable housing needs.

All of us in Provincetown support the need for more affordable housing in our Town, however, pitting Open Space vs. affordable housing is not the answer. We can and should be investing in both. Can not the Selectmen come up with any other ideas to meet the demands of housing in Provincetown? Can not the Selectmen be more creative in generating the funds needed to support affordable housing?

I am one of thousands of citizens that enjoy the benefits of our opens spaces to walk our dogs, have a plot in the B-Street Community Garden, enjoy the "Appearances" Art exhibit each year, or simple know and enjoy the spaces that have already been preserved. The effect of this proposal however will effectively end the potential preservation of any additional pieces of land in town. I do not wish for every last piece of our precious town be developed.

I urge you to do move forward and address the issue of affordable housing without robbing funds for potential future open space acquisition. I know you can do better.

Sincerely,

lisa ventre  
provincetown

## **Loretta Dougherty**

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**From:** Lisa <lisawest19@aol.com>  
**Sent:** Monday, February 16, 2015 11:59 PM  
**To:** Loretta Dougherty  
**Subject:** Land Bank Funds - CPA issue, Meeting Feb. 23, 2015

To the Honorable Members of the Board of Selectmen:

Taking Land Bank monies and "folding them in" to the Community Preservation Act fund is a bad idea, however well-intentioned:

- 1) I believe it is a breach of the public trust, since the 3% surcharge was collected from our property taxes for the purpose of buying (or helping to buy) open space/conservation land;
- 2) Land Bank funds have been, and have the possibility to still be, leveraged for state and federal grants worth hundreds of thousands of dollars, making those funds worth far more than their face value;
- 3) Affordable Housing is one of the most urgent issues facing our town, particularly affordable housing for families, but trying to solve this multi-faceted problem at the expense of conservation lands, greenways and natural habitat robs us all.
- 4) Pitting conservation against affordable housing, when most of us care about both, **will needlessly drain our energy, spirit and creativity that we can better spend trying to solve the affordable housing crisis together.**

Thank you for your consideration.

Sincerely,

Lisa M. Westervelt

We are against diverting money paid into the Land Bank to use for affordable housing. That was not the intended purpose for Land Bank funds. It would be a breach of public faith to use these funds for anything other than the stated purpose.

We are further opposed to more development in this fragile landscape. Our sewer system has reached capacity, our Fire, Police, and Rescue Personnel are overburdened, and there is nowhere to park. We have enough shops and restaurants for any tourist destination. We are on our way to losing some of the reasons why people would want to come here to visit. We have already lost nearly all the reasons why people would want to stay here to live.

There is enough housing, much of it empty for much of the year, to go around. There are more creative ways to develop affordable housing using already existing housing. Incentives could be offered to landlords to give up a unit or two for year round affordable housing. We don't need more housing; we just need less expensive housing. It can be done. We know from our own experience how satisfying it is to provide year round affordable housing to productive members of our community.

Respectfully,

Janet R. Whelan

Roger H. Martin

RECEIVED  
BOS - Vernon *fo*

FEB 17 2015

CC: BOS/TM/ATM

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## Loretta Dougherty

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**From:** Mike Wright <mikewright12949@gmail.com>  
**Sent:** Thursday, February 12, 2015 1:28 PM  
**To:** Loretta Dougherty  
**Subject:** SAVE OUR LAND BANK

Esteemed Selectmen,

I humbly request your thoughtful consideration of the proposal to fold our Land Bank Funds into the Community Preservation Act Fund, and vote NO.

I have a short story that suggests my reasoning for a NO vote. Twenty-three years ago, my property had woods on two sides, I heard breezes thru leaves, birds flitting and chirping and "natural sounds" but those parcels were developed and what I heard and continue to hear are "people sounds" of motors running, hedge clippers, weed wackers, hammering, music(not my music choices) and of course, voices.

If our Land Bank Funds are folded into the Community Preservation Act Fund they will most likely be used toward building more affordable housing units, which for economic sense, must be built in larger structures, I fear there will be more "people sounds" and less natural quiet zones in and around our neighborhoods.

Please vote NO!

Thank you for your consideration on preserving our Provincetown Land Bank Fund as it currently is.  
Mike Wright



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

1B

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**PUBLIC HEARING - ECONOMIC DEVELOPMENT PERMIT**  
**293 Commercial Street, Unit D – Kung Fu Dumplings**

Requested by: Applicant

Action Sought: Approval

**Proposed Motion(s)**

*MOVE that the Board of Selectmen vote to approve Economic Development Permit 15-01 for 293 Commercial Street, Stephen Rome, applicant on behalf of Hake Nominee Trust Stephen Boggess, property owner, based on findings that the proposed use is consistent with the criteria set forth in Selectmen's Policy 2009-02-09, specifically:*

- *Support year-round incomes, and*
- *Support an extended employment season, and*
- *Create or enhance employment opportunities, and*
- *Help to diversify Provincetown's economic base, and*

*subject to the attached permit with conditions [as submitted] or [as revised with the following conditions added: \_\_\_\_]*

**Additional Information**

This EDP request is to add 12 fast food seats to the existing adjacent restaurant (12 x 20 gpd = 240 gpd) for a total of 20 seats. See attached "DRAFT" Economic Development Permit, along with supporting information including the EDP application, floor plan of the business.

**Board Action**

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |



## Board of Selectmen

# Public Hearing

### **Economic Development Permit:**

The Provincetown Board of Selectmen will hold a Public Hearing on **Monday, February 23, 2015, at 6:00 p.m.** in the Judge Welsh Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657 to receive comments from the public on the following Economic Development Permit request:

- EDP 15-01 – **293 Commercial Street - Kung Fu Dumplings** by Stephen Rome (applicant), o.b.o. Hake Nominee Trust Stephen Boggess TTEE (property owner), to increase the assigned Title 5 flow to the property by 400 gallons per day to increase the number of restaurant seats (20 seats x 20 gpd) from 8 to 28.
- EDP 15-03 – **293 Commercial Street – Twisted Pizza** by Julie Knapp (applicant), o.b.o. Stephen Boggess (property owner), to increase the assigned Title 5 flow to the property by 140 gallons per day to increase the number of restaurant seats (7 seats x 20 gpd) from 24 to 31.

Comments may be submitted in writing to the Office of the Board of Selectmen, 260 Commercial Street, Provincetown, MA 02657 or [selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov) by Tuesday, February 17, 2015, or in person at the hearing.

*Tom Donegan, Chairman*

Posted: Town Hall, <http://www.provincetown-ma.gov> 1/29/15 3:40 pm dj  
Published: Banner: February 5 and February 12, 2015

15-01

# Economic Development Sewerage Gallons Permit



Town of Provincetown  
Department of  
Community Development

Town Hall, 260 Commercial Street  
Provincetown, MA 02657  
Facsimile (508) 487-0032

Telephone (508) 487-7020

|                                                      |                                                |
|------------------------------------------------------|------------------------------------------------|
| Subject Property Address<br><b>293 Commercial St</b> | Assessors Data<br>11-3 015-0-001<br>Map Parcel |
|------------------------------------------------------|------------------------------------------------|

|                                               |                      |                                  |
|-----------------------------------------------|----------------------|----------------------------------|
| Owner of Record                               | Name and address     | <b>HARLE NOMINEE TRUST</b>       |
| Signature<br><i>Stephen J Bogges, Trustee</i> |                      | <b>Stephen J Bogges, TRUSTEE</b> |
|                                               |                      | <b>P.O. Box 280</b>              |
|                                               | Date <b>11-20-14</b> | <b>ONEANS, MA 02653</b>          |

|                              |                               |        |                           |
|------------------------------|-------------------------------|--------|---------------------------|
| Business Contact Information |                               | office |                           |
| company                      | <b>Kung Fu Dumplings</b>      | fax    |                           |
| contact                      | <b>Stephen Rome</b>           | mobile | <b>(941) 350-1194</b>     |
| address                      | <b>418 Commercial St</b>      | pager  |                           |
|                              | <b>Provincetown, MA 02657</b> | email  | <b>stephenrome@me.com</b> |

| Sewerage Information      |                  |
|---------------------------|------------------|
| Property on sewer?        | Yes___ No___     |
| If yes, assigned flow     | <b>4,102</b> gpd |
| Proposed sewer flow       | <b>4,422</b> gpd |
| Additional flow requested | <b>320</b> gpd   |
| Property on septic?       | Yes___ No___     |
| Current flow              | ___ gpd          |
| Proposed additional flow  | ___ gpd          |

Brief and Accurate Description of Proposed Project *we are requesting*  
*for 12 additional seats. All of which will*  
*be for outdoor seating. A total of 3 picnic*  
*tables will be added.*

| Economic Development Checklist                                                                                            |              |
|---------------------------------------------------------------------------------------------------------------------------|--------------|
| Is project consistent with Local Comprehensive Plan?                                                                      | Yes___ No___ |
| Does it help support year-round employment?                                                                               | Yes___ No___ |
| Does it help support an extended employment season?                                                                       | Yes___ No___ |
| Help diversify local economic base?                                                                                       | Yes___ No___ |
| Feature solutions to barriers to year-round economic success? -e.g. transportation, energy, water use, affordable housing | Yes___ No___ |
| Provide measurable public benefit?                                                                                        | Yes___ No___ |

Brief narrative about potential economic benefits to Town - *I feel that*  
*our economic benefit to the town of*  
*Provincetown is, we will be open year round,*  
*have affordable/ ~~fast~~ fast food for take*  
*out and Delivery, ~~the~~ The fact*  
*that we are a Diverse kind of restaurant.*  
*I have done a quick consensus of*  
*average costs of meals in town we*  
*are considerably more Affordable than*  
*others.*

| Other Municipal and State Approvals received to date (for reference only) |              |
|---------------------------------------------------------------------------|--------------|
|                                                                           | date _____   |
| ZONING                                                                    | date 10.2.14 |
|                                                                           | date _____   |

| Plan Submittal Checklist (use all that apply) |                                                                                                                |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/>                      | Site Plan (including property line survey and utilities as required by Building Commissioner and Health Agent) |
| <input checked="" type="checkbox"/>           | Existing floor plan (to scale)                                                                                 |
| <input type="checkbox"/>                      | Proposed schematic floor plan (to scale)                                                                       |
| <input type="checkbox"/>                      | Existing equipment / fixture / seating plan (to scale)                                                         |
| <input type="checkbox"/>                      | Proposed schematic equipment / fixture / seating plan (to scale)                                               |
| <input type="checkbox"/>                      | Condominium/Co-op/ Landlord authorization (if applicable)                                                      |
| <input type="checkbox"/>                      |                                                                                                                |
| <input type="checkbox"/>                      |                                                                                                                |

**For Official Administrative Use Only**

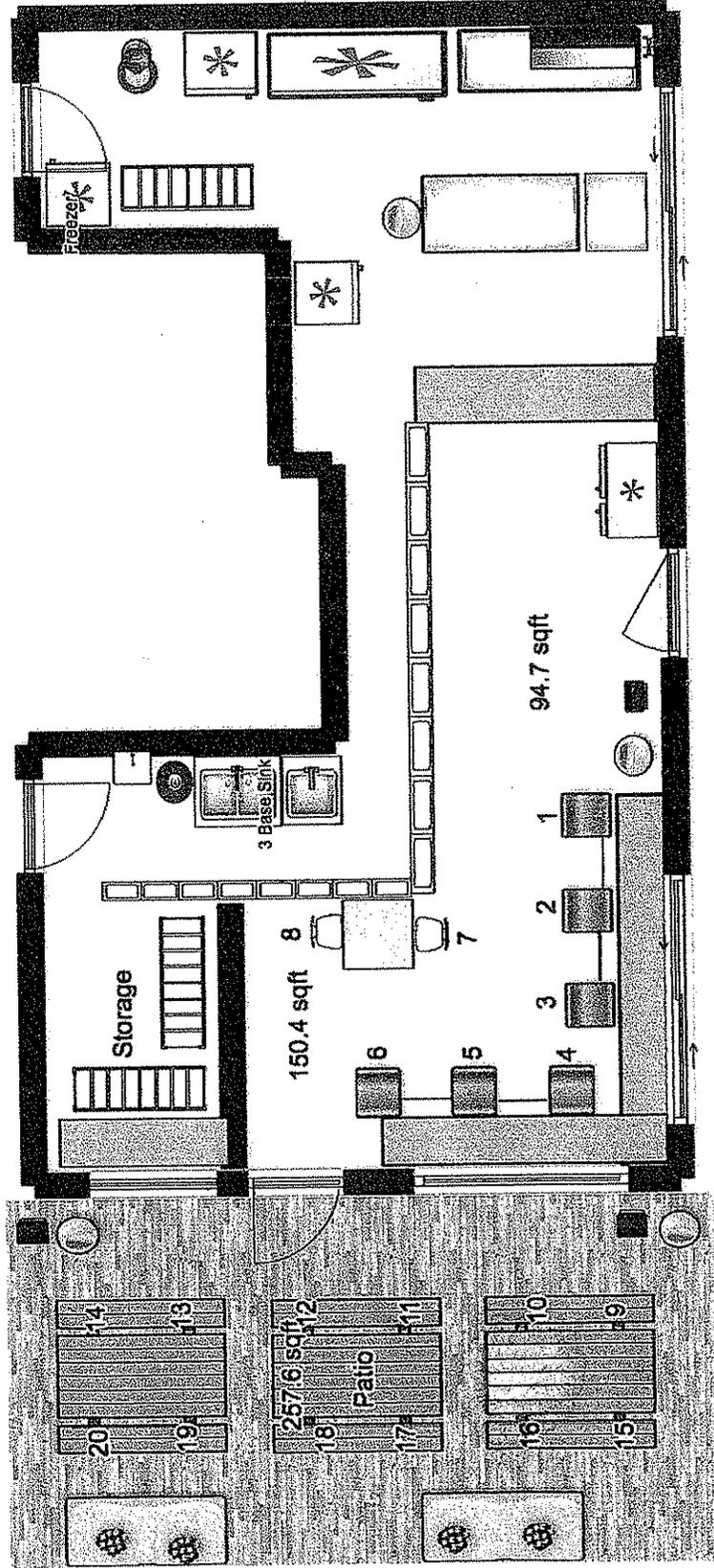
| Board Vote at Public Meeting held on _____ date _____               |                                  |         |           |
|---------------------------------------------------------------------|----------------------------------|---------|-----------|
| Sitting Board Member                                                | For                              | Against | Abstained |
|                                                                     |                                  |         |           |
|                                                                     |                                  |         |           |
|                                                                     |                                  |         |           |
|                                                                     |                                  |         |           |
|                                                                     |                                  |         |           |
| Approve and assign an Economic Development Permit for _____ gallons | Deny request of assigned gallons |         |           |

| Conditions of Approval (insert all that apply)                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Subject to approval from all applicable local, state and federal regulatory agencies                                                                                     |
| 2. If no building permit has been submitted to the building department within one year from this approval, then approval for the assignment of gallons is not longer valid. |
| 3. _____                                                                                                                                                                    |
|                                                                                                                                                                             |
|                                                                                                                                                                             |
|                                                                                                                                                                             |

|                                                                                                    |                                        |
|----------------------------------------------------------------------------------------------------|----------------------------------------|
| <p>The Honorable Board of Selectmen</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>chair: _____</p> | <p>_____</p> <p>_____</p> <p>_____</p> |
|----------------------------------------------------------------------------------------------------|----------------------------------------|

Indoor Seats 8  
 Outdoor Seats 12  
 Total Seats 20

Trash Can   
 Recycling bin 



Kung Fu Dumplings  
 293 Commercial St. Unit DA  
 Provincetown, MA  
 02657

February 3, 2015

0ft 12ft 24ft

F



AECOM  
701 Edgewater Drive  
Wakefield, MA 01880  
www.aecom.com

781 246 5200 tel  
781 245 6293 fax

## Memorandum

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Date: December 22, 2014

To: David Gardner, Provincetown Town Manager

From: Rob Adams, Project Director  
John Finnegan, Project Manager

Subject: **Economic Development Permit**

EDP: 293 Commercial Street, (Kung Fu Dumpling)  
Current Flow: 4,102 gpd (Title 5)  
Request: 400 gpd (20 fast food restaurant seats @ 20 gpd per seat)

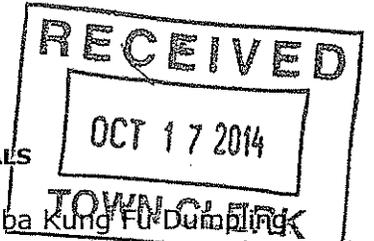
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Per your request, we have reviewed the subject Economic Development Permit (EDP) request and have determined that the sewer system has the capacity to accommodate the additional flow requested. Provided below is a summary of our review.

The property at 293 Commercial Street is located on parcel #11-3-015. The unit currently operates as a fast food restaurant doing business as Kung Fu Dumpling. The applicant is requesting an increase in seating from 8 seats to 28 seats, resulting in an increase of 20 fast food restaurant seats. Using the Title 5 design criteria of 20 gallons per day (gpd) per seat, the request for an additional 20 fast food restaurant seats is calculated to be 400 gpd.

This property is served by the vacuum sewer system and is located on the east vacuum main. This property is currently served by a single buffer tank (SBT) vacuum structure which also serves the adjacent property located at 291 Commercial Street, as well as, the Comfort Station located at 19 Ryder Street Extension. The sewer system has the capacity to accommodate the 400 gpd of additional flow.

Please note that the available capacity at the treatment plant, as well as, the vacuum sewer system is very limited at this time. EDP requests not currently under review will not be available before the fall of 2015. It is recommended that any additional EDP requests for additional sewer gallons be placed "on hold" until that time. After the fall of 2015 it is recommended that the procedures for EDP requests requiring additional sewer gallons be followed to assure that capacity will be available on the sewer to meet their increased flow needs. This will insure that business and property owners don't incur costs to obtain zoning or other approvals without first receiving approval of additional sewer gallons. If you have any questions or concerns, please do not hesitate to ask.



**FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS**

The applicant of Case FY15-15 is Stephen Rome/Provincetown Pilgrim Properties dba Kung Fu Dumpling. Steven Rome presented the application. The applicant petitioned the board for a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for an increase in seating from 8 seats to 28 seats. Subject property is 293 Commercial Street, Assessors Map & Parcel 11-3-15; in the TCC Zoning District; Barnstable County Land Court Registry Book 18752; Page 136.

After the required advertising, posting of notice and notification of parties of interest, a public hearing of application FY15-15 was held on October 2, 2014, in the Judge Welsh Room at Town Hall, 260 Commercial St, Provincetown, MA. Zoning Board of Appeals members sitting on the application were David Nicolau, Robert Littlefield, Amy Germain, Joe Vasta and Jeff Haley. The five members present met the legal quorum of the Board.

**Decision: By a vote of 5 in favor, 0 opposed, and 0 abstaining, the Zoning Board of Appeals approved this application.**

**GENERAL FINDINGS:**

1. The property is located on the South side of Commercial Street between Standish and Ryder Streets, in the Town House Mall - 291-293 Commercial St. The unit is located on the backside (harborside) of the premises.
2. The surrounding properties are primarily commercial with some mixed use establishments in proximity.

**APPLICABLE LAW AND DECISION CRITERIA:**

**Massachusetts General Laws Chapter 40A, Section 9 (Special Permits):**

Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards, and limitations on time or use.

**Section 2460 of the Zoning By-Laws:**

No hotel, motel, inn, restaurant or bar holding or seeking to hold a license granted pursuant to General Laws, Chapter 138, Section 12; General Laws, Chapter 140, Section 2; or General Laws, Chapter 140, Section 183A, respectively, shall be used for the service of food or alcoholic beverages to the public or public entertainment, nor any other premises or establishment for public entertainment, nor any establishment increase its Posted Occupant Load, unless such use has been authorized with a Special Permit from the Board of Zoning Appeals as provided for in Section 5300.

Any permit application under this section shall specify the area in which it is proposed that entertainment be offered, food or alcoholic beverages be served, and is to be accompanied by a plan showing the specific area of the proposed usage. \* To provide for the orderly implementation of this Section, the following guidelines shall prevail; an existing licensed use covered by this Section which does not have a Special Permit may continue (i.e. its license may be renewed or transferred) as non-conforming until a change, addition, or alteration (other than the name of the establishment) is made; all new licensed uses covered by this Section shall require a Special Permit.

6

**Section 5300 of the Zoning By-Laws: (Special Permits)**

**5310 Special Permit Granting** Special Permit applications shall be heard and decided by the Board of Appeals except where otherwise noted in this By-Law.

**5320 Public Hearings** Special Permits shall only be issued following public hearings held within sixty-five days after filing with the Special Permit Granting Authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

**5330 Consideration** Special Permits (other than those specified in Section 3420) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

**SPECIFIC FINDINGS:**

1. There were no speakers present and 1 letter in the file from the Town's Building Commissioner stating that the structure met the State Building Code requirements for an increase in seating.
2. The application included a copy of the lease between Hake Nominee Trust and Provincetown Pilgrim Properties, LLC.
3. The board relied on a seating plan provided by Steven Rome and were undated.
4. The increase in seating will result in a total of 28 seats; 12 indoor seats and 16 outdoor seats.
5. Mr. Rome has been the proprietor of Kung Fu Dumpling for the past year; the unit has operated as a fast food establishment prior to Mr. Rome's tenancy.
6. The requested change in seating is in keeping with the goals of the Local Comprehensive Plan, Chapter 5, Goal 1, Policy A, Goal 1, Policy B and Goal 5.
7. With respect to Article 5, Section 5300, the change will create no disruptions to the character of the neighborhood and there will be no detrimental effects such as hazard, congestion or environmental degradation.
8. The economic benefits to the Town would be an increase in meals taxes and additional food service options for visitors.
9. The Board found that the benefits of this application outweigh any adverse effects such as hazard, congestion or environmental degradation

**Based on the findings, the Zoning Board of Appeals granted the Special Permit for Application FY15-15 with the following condition(s):**

1. The Special Permit runs with the applicant only.
2. Revised plans are to be submitted showing all numbered seats and placement of outdoor trash and recycling containers.
3. No table service will be provided.
4. The Special Permit shall lapse twenty-four months following grant thereof (plus such time required to pursue or await the determination of an appeal referred to in Sec. 17, Ch. 40A, G.L.) if a substantial use thereof or construction has not sooner commenced except for good cause as determined by the Board of Appeals.

SIGNED BY:

DATE:

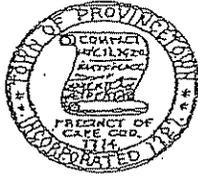
October 16, 2014

David M. Nicolau Chair

A copy of this application, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Special Permit and shall require further review by this Board. Furthermore, the Special Permit issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.

7

293 Commercial St  
Unit D Property address



FY15-15  
case number

### Town of Provincetown Zoning Board of Appeals

Town Hall - 260 Commercial Street, Provincetown, MA 02657 508-487-7020  
Fax: 508-487-0032

The Special Permit/Variance issued hereunder shall not be valid until it is properly recorded at the Registry of Deeds in Barnstable as provided in M.G.L. c40A Section II. The applicant shall furnish proof of said filing prior to obtaining a building permit.

A motion was made to Approve  Deny  Allow to withdraw without prejudice

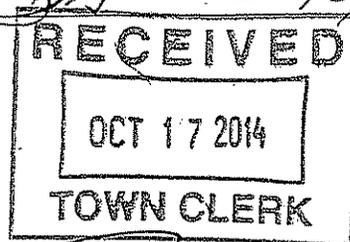
The Zoning Board of Appeals application/decision for case # FY15-15, by a  
Vote of 5 in favor, 0 against and 0 abstained.

| Board Members Sitting | In Favor | In Opposition | Abstained |
|-----------------------|----------|---------------|-----------|
| David Nicolau         | ✓        |               |           |
| Robert Littlefield    | ✓        |               |           |
| Amy Germain           | ✓        |               |           |
| Joe Vasta             | ✓        |               |           |
| Jeff Haley            | ✓        |               |           |

Board Members

Certified By

Chair \_\_\_\_\_ Date 10/16/14  
  
Clerk \_\_\_\_\_ Date 10/16/14

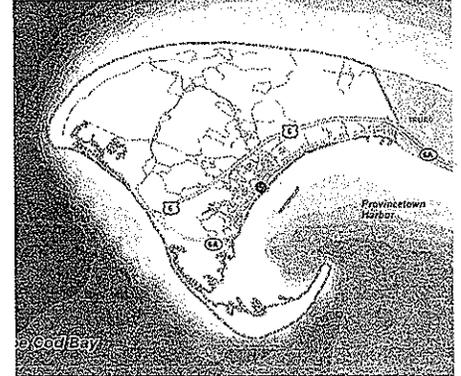


IMPORTANT: Any appeal from the decision of the Board of Zoning Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

# TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

|                   |             |             |      |                  |                      |
|-------------------|-------------|-------------|------|------------------|----------------------|
| <b>PARCEL ID:</b> | 11-3-15-00D | <b>KEY:</b> | 1904 | <b>LOCATION:</b> | 293 COMMERCIAL ST UD |
|-------------------|-------------|-------------|------|------------------|----------------------|

|                                            |  |                              |              |
|--------------------------------------------|--|------------------------------|--------------|
| <b>CURRENT OWNER</b>                       |  | <b>FY' 2015 PARCEL VALUE</b> |              |
| HAKE NOMINEE TR, STEPHEN J<br>BOGGESS TTEE |  | LAND VAL:                    | \$0.00       |
| PO BOX 280                                 |  | BUILDING VAL:                | \$181,400.00 |
|                                            |  | DETACH VAL:                  | \$0.00       |
| ORLEANS, MA 02653                          |  | APPR VAL:                    | \$181,400.00 |
|                                            |  | TAX VAL:                     | \$181,400.00 |



|                     |          |                    |      |
|---------------------|----------|--------------------|------|
| <b>STATE CLASS:</b> | 3430     | <b>ZONING:</b>     | TCC  |
| <b>DESCRIPTION:</b> | CI CONDO | <b>BILL SQ FT:</b> | 6987 |

| SALES HISTORY   |           |             |             |            |
|-----------------|-----------|-------------|-------------|------------|
| OWNER           | SALE TYPE | BOOK / PAGE | SALE DATE   | SALE PRICE |
| HAKE NOMINEE TR | CC        | 18752 / 136 | 24-Jun-2004 | \$ 0       |

|                    |            |             |      |                  |                      |
|--------------------|------------|-------------|------|------------------|----------------------|
| <b>BUILDING #:</b> | 1          | <b>KEY:</b> | 1904 | <b>LOCATION:</b> | 293 COMMERCIAL ST UD |
| YEAR BUILT         | 1972       |             |      |                  |                      |
| STYLE              | CONDO C//M |             |      |                  |                      |
| QUALITY            | A-         |             |      |                  |                      |
| NET SF             | 605        |             |      |                  |                      |

|               |             |
|---------------|-------------|
| DATE MEASURED | 18-Jul-2012 |
| DATE LISTED   | 08-Jul-2012 |

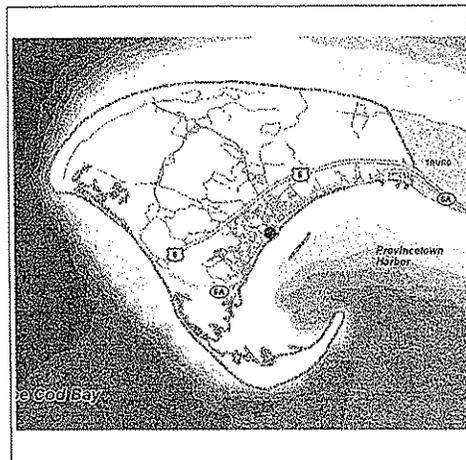
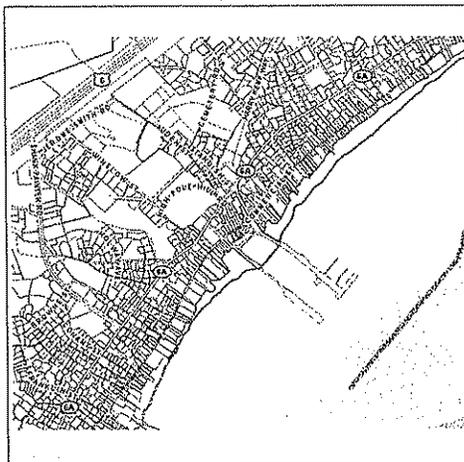


| ELEMENT       | DESCRIPTION | CD  |
|---------------|-------------|-----|
| COMPLEX       | TOWN HOUSE  | 313 |
| CONDO STYLE   | CD RETAIL   | 21  |
| EXT. COVER    | WOOD        | 1   |
| NBHD          | TOWN CENTER | 4   |
| VIEW          | <15°        | 2   |
| NET ADJ( MKT) | 100         | 100 |
| HEATING/COOL  | ELECTRIC BB | 5   |
| FUEL SOURCE   | ELECTRIC    | 3   |
| BEACH RIGHTS  | NO          | 1   |
| ABUTS CONS    | NO          | 1   |
| BASEMENT      | NONE        | 1   |
| SEPTIC FIELD  | SEWER       | 1   |

| CAPACITY   | UNITS |
|------------|-------|
| STORIES    | 1     |
| ROOMS      | 1     |
| BEDROOMS   | 0     |
| FULL BATHS | 0     |
| HALF BATHS | 0     |
| TOT        | 0     |
| # OF UNITS | 0     |
| KITCHENS   | 0     |
| AFFORD.HSG | 0     |

| CONDITION ELEMENT | DESCRIPTION | CD |
|-------------------|-------------|----|
| EXTERIOR          | AVERAGE     | A  |
| INTERIOR          | AVERAGE     | A  |
|                   |             |    |
|                   |             |    |
|                   |             |    |
|                   |             |    |
|                   |             |    |
|                   |             |    |
|                   |             |    |
|                   |             |    |

# TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT





Town of Provincetown  
**ECONOMIC DEVELOPMENT PERMIT**  
(Town of Provincetown General By-laws Section 5-15-4)  
and  
**DECLARATION OF COVENANTS**

Property Owner: HAKE NOMINEE TR, STEPHEN J BOGGESS TTEE  
Property Owner Address: PO Box 280, Orleans, MA 02653  
Property Address: **293 Commercial Street, Unit D, Provincetown, MA 02657**  
Assessor's Map Number: 11-3-15-00D  
Title Reference: **Barnstable County Registry of Deeds Bk. 18752, Pg. 136**  
Applicant (if different): Stephen Rome  
Business Entity: Kung Fu Dumpling

Economic Development Permit No. 15-01

Existing Use(s) of Property: Restaurant

Sewage Assigned Flow for Existing Use(s) of Property: The property at 293 Commercial Street Unit D, henceforth referred to as "Premises", has a total existing Title V flow of 160 gpd.

Proposed Use(s) of Property or Proposed Expansion of Existing Use(s) of Property: The owner would like to add 12 fast food seats to the existing 8 seat restaurant (20 gpd per seat).

Title V Design Flow for Proposed or Expanded Use(s) of Premises: 240 gpd for a property total of 400 gpd.

The Town of Provincetown, acting by and through its Board of Selectmen, hereby grants an Economic Development Permit, pursuant to Town of Provincetown General By-laws Section 5-15-4, to the Property Owner for the use of the property located at 293 Commercial Street Unit D, (the "Premises"), as a 20 seat fast food restaurant (the "Approved Use"), subject to the Owner's covenants stated below.

The Owner hereby covenants with the Town of Provincetown, a Massachusetts municipal corporation with an address of 260 Commercial Street, Provincetown, Massachusetts 02657, acting by and through its Board of Selectmen pursuant to Provincetown General By-laws Section 5-15-6 (the "Town") as follows:

1. The Owner shall commence the Approved Use of the Premises described above on or before the date that is one year following the date of grant of this Permit and shall thereafter continuously maintain said Approved Use of the Premises. If the Approved Use of the Premises is discontinued for a period of thirty (30) days after commencement thereof, such discontinuance shall be deemed a failure to continuously maintain. The one-year and the thirty (30) day periods may be extended by the Town for good cause shown.
2. This Declaration of Covenants shall run with the Premises and be binding upon the executors, administrators, heirs, devisees, successors and assigns of the Owner.
3. Upon prior written notice to the Owner at the Property Address above or such new address as the Owner shall notify the Selectmen of in writing, the Town shall have the permanent right and easement to enter upon the Premises for the purpose of determining compliance with the terms of this Declaration of Covenants.
4. The Town shall have the option to enforce this Declaration of Covenants, but shall not have the obligation to do so.
5. The Owner hereby covenants and agrees, for the Owner and the Owner's successors and assigns, to reimburse the Town for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Declaration of Covenants, provided the Owner has been determined by a court of law to be in violation of the terms of this Declaration of Covenants.
6. This Declaration of Covenants sets forth rights, liabilities, agreements and obligations upon and subject to which the Premises or any portion thereof, shall be improved, held, used, occupied, leased, sold, mortgaged, encumbered, or conveyed. The rights, liabilities, agreements and obligations herein set forth shall run with the Premises and any portion thereof and shall inure to the benefit of and be binding upon the Owner and all parties claiming by, through or under Owner. This Declaration of Covenants shall have a term of ninety-nine years or the longest period allowed by law. The Owner agrees that this Declaration of Covenants is an "other restriction held by a governmental body" as that term is used in G.L. c.184, §26 and thus not subject to the limitations on the enforceability of restrictions in G.L. c.184, §§26-30. Nevertheless, if recording of a notice is ever needed to extend the time period for enforceability of this Declaration of Covenants, the Owner(s) hereby appoints the Board of Selectmen of the Town of Provincetown as the Owner's agent to execute and record such notice and agrees that the Owner shall execute and record such notice upon request.
7. The Owner agrees to incorporate this Declaration of Covenants, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Premises, or any portion thereof, is conveyed.

8. If any court or other tribunal determines that any provision of this Declaration of Covenants is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this Declaration of Covenants as though it had never been included herein. In either case, the remaining provisions of this Declaration of Covenants shall remain in full force and effect.
9. The Owner is the sole owner in fee simple absolute of all the Premises and there are no mortgages of record or otherwise on the Premises or any portion thereof except for those described below, if any, and the present holders of said mortgages have assented and subordinated to this Declaration of Covenants prior to the execution by the undersigned. It is agreed that any subsequent mortgages shall be subordinate to this Declaration of Covenants.
10. It is agreed that this Declaration of Covenants shall take effect only upon the execution of this Economic Development Permit by the Town of Provincetown Board of Selectmen and the recordation with the Barnstable County Registry of Deeds or filing with the Barnstable County Registry District of the Land Court of this Economic Development Permit and Declaration of Covenants.
11. A true copy of the Owner's application for this Economic Development Permit including all documents and plans submitted therewith, is attached hereto as Exhibit A and is incorporated herein except as specified below:  

\_\_\_\_\_  
N/A
12. The Town's remedies shall include, without limitation, revocation of this Economic Development Permit by order of the Board of Selectmen, which order may be made thirty (30) days after the date notice is given by mail to the Property Owner of the Selectmen's determination that the Owner has failed to continuously maintain the Approved Use, or that the Owner has commenced a use on the Premises other than, or in addition to, the Approved Use, whereupon all rights arising from this Economic Development Permit shall be forfeited, including without limitation any Growth Management Permit or increased sewage flow allocation that may have been granted with respect to the Premises, notwithstanding that the Premises may have been assessed a betterment or special assessment relating to the increased sewage flow allocation and the Allowed Use shall be deemed to be an expressly abandoned by the Property Owner, pursuant to Section 6200-3 of the Growth Management By-Law of the Town.
13. The Owner must apply for and obtain all other necessary permits and approvals in order to proceed with the Approved Use.

14. The Owner further covenants and agrees that the Owner shall comply with the following additional conditions:
- (a) The additional gallons be utilized for the use as proposed (restaurant) only and not be subsequently converted to any other use including residential use without prior approval of the Board of Selectmen.
  - (b) The business will remain open year round unless otherwise approved by the Board of Selectmen.
15. This Economic Development Permit and Declaration of Covenants may be amended only by written agreement of the Board of Selectmen and the Property Owner.

WITNESS our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

OWNER

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Name:

Title:

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2015 before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding or attached document as \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

On this day, \_\_\_\_\_, the Board of Selectmen of the Town of Provincetown, pursuant to Town of Provincetown General By-laws Section 5-15-4, hereby grants this Economic Development Permit authorizing the Proposed or Expanded Use(s) of Property described above, subject to the above Declaration of Covenants and all other necessary Town permits.

TOWN OF PROVINCETOWN,  
By its Board of Selectmen

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned notary public, personally appeared \_\_\_\_\_ member, Town of Provincetown, Board of Selectmen, as aforesaid, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name he/she signed on the foregoing instrument, and further acknowledged to me that he/she signed it voluntarily for its stated purpose as said member.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

Mortgagee(s) Consent and Subordination

The \_\_\_\_\_ by \_\_\_\_\_, the holder of a mortgage dated \_\_\_\_\_, recorded with the Barnstable County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, does hereby assent to the recording of this Economic Development Permit and Declaration of Covenants and subordinates said mortgage to this Economic Development Permit and Declaration of Covenant as if this Economic Development Permit and Declaration of Covenants had been recorded prior to said mortgage.

\_\_\_\_\_  
By: \_\_\_\_\_

Its, \_\_\_\_\_  
Duly authorized

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015 before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was a drivers license, to be the person whose name is signed on the preceding or attached document as \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

16



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

1C

---

**PUBLIC HEARING - ECONOMIC DEVELOPMENT PERMIT**  
**293 Commercial Street, Unit A – Twisted Pizza**

Requested by: Applicant

Action Sought: Approval

**Proposed Motion(s)**

*MOVE that the Board of Selectmen vote to approve Economic Development Permit 15-03 for 293 Commercial Street, Julesan Inc dba Twisted Pizza (Julie Knapp), applicant on behalf of Stephen Boggess, property owner, based on findings that the proposed use is consistent with the criteria set forth in Selectmen's Policy 2009-02-09, specifically:*

- *Support year-round incomes, and*
- *Support an extended employment season, and*
- *Create or enhance employment opportunities, and*
- *Help to diversify Provincetown's economic base, and*

*subject to the attached permit with conditions [as submitted] or [as revised with the following conditions added: \_\_\_\_]*

**Additional Information**

This EDP request is to add 7 fast food seats to the existing adjacent restaurant (7 x 20 gpd = 140 gpd) for a total of 31 seats. See attached "DRAFT" Economic Development Permit, along with supporting information including the EDP application, floor plan of the business.

**Board Action**

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |



## Board of Selectmen

# Public Hearing

## Economic Development Permit:

The Provincetown Board of Selectmen will hold a Public Hearing on **Monday, February 23, 2015, at 6:00 p.m.** in the Judge Welsh Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657 to receive comments from the public on the following Economic Development Permit request:

- EDP 15-01 – **293 Commercial Street - Kung Fu Dumplings** by Stephen Rome (applicant), o.b.o. Hake Nominee Trust Stephen Boggess TTEE (property owner), to increase the assigned Title 5 flow to the property by 400 gallons per day to increase the number of restaurant seats (20 seats x 20 gpd) from 8 to 28.
- EDP 15-03 – **293 Commercial Street – Twisted Pizza** by Julie Knapp (applicant), o.b.o. Stephen Boggess (property owner), to increase the assigned Title 5 flow to the property by 140 gallons per day to increase the number of restaurant seats (7 seats x 20 gpd) from 24 to 31.

Comments may be submitted in writing to the Office of the Board of Selectmen, 260 Commercial Street, Provincetown, MA 02657 or [selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov) by Tuesday, February 17, 2015, or in person at the hearing.

*Tom Donegan, Chairman*

Posted: Town Hall, <http://www.provincetown-ma.gov> 1/29/15 3:40 pm dj  
Published: Banner: February 5 and February 12, 2015

15-03

**Town of Provincetown  
Department of  
Community Development**



Town Hall, 260 Commercial Street  
Provincetown, MA 02657  
Telephone (508) 487-7020 Facsimile (508) 487-0882

**Economic Development  
Sewerage Gallons Permit**

|                          |        |                |
|--------------------------|--------|----------------|
| Subject Property Address | Unit A | Assessors Data |
| 293 Commercial St.       |        | Map Parcel     |

|                          |                  |
|--------------------------|------------------|
| Owner of Record          | Name and address |
| <i>Stephen J. Bigger</i> |                  |
| X<br>Signature           | 2-11-15          |

|                              |                                                 |        |                 |
|------------------------------|-------------------------------------------------|--------|-----------------|
| Business Contact Information |                                                 | office | 508-487-6973    |
| company                      | Julesan Inc. dba Twisted Pizza                  | fax    |                 |
| contact                      | Julie Knapp                                     | mobile | 617-676-5529    |
| address                      | 293 Commercial Street<br>Provincetown, MA 02657 | pager  |                 |
|                              |                                                 | email  | juliek@trac.net |

| Sewerage Information      |                |
|---------------------------|----------------|
| Property on sewer?        | Yes ___ No ___ |
| If yes, assigned flow     | _____ gpd      |
| Proposed sewer flow       | _____ gpd      |
| Additional flow requested | _____ gpd      |
| Property on septic?       | Yes ___ No ___ |
| Current flow              | _____ gpd      |
| Proposed additional flow  | _____ gpd      |

| Brief and Accurate Description of Proposed Project |
|----------------------------------------------------|
| addition of 7 additional seats                     |
| Zoning approve Oct, 2014                           |
|                                                    |
|                                                    |
|                                                    |
|                                                    |
|                                                    |

| Economic Development Checklist                                                                                            |                |
|---------------------------------------------------------------------------------------------------------------------------|----------------|
| Is project consistent with Local Comprehensive Plan?                                                                      | Yes ___ No ___ |
| Does it help support year-round employment?                                                                               | Yes ___ No ___ |
| Does it help support an extended employment season?                                                                       | Yes ___ No ___ |
| Help diversify local economic base?                                                                                       | Yes ___ No ___ |
| Feature solutions to barriers to year-round economic success? -e.g. transportation, energy, water use, affordable housing | Yes ___ No ___ |
| Provide measurable public benefit?                                                                                        | Yes ___ No ___ |

| Brief narrative about potential economic benefits to Town-                                                  |
|-------------------------------------------------------------------------------------------------------------|
| Additional seats enable Twisted Pizza to extend season as it allows for seating outside of the cold weather |
| good for town                                                                                               |
|                                                                                                             |
|                                                                                                             |
|                                                                                                             |
|                                                                                                             |
|                                                                                                             |
|                                                                                                             |

2

| Other Municipal and State Approvals received to date (for reference only) |               |
|---------------------------------------------------------------------------|---------------|
| ZONING                                                                    | date 10-16-14 |
|                                                                           | date _____    |

| Plan Submittal Checklist (use all that apply) |                                                                                                                |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/>                      | Site Plan (including property line survey and utilities as required by Building Commissioner and Health Agent) |
| <input type="checkbox"/>                      | Existing floor plan (to scale)                                                                                 |
| <input type="checkbox"/>                      | Proposed schematic floor plan (to scale)                                                                       |
| <input type="checkbox"/>                      | Existing equipment / fixture / seating plan (to scale)                                                         |
| <input type="checkbox"/>                      | Proposed schematic equipment / fixture / seating plan (to scale)                                               |
| <input type="checkbox"/>                      | Condominium/Co-op/ Landlord authorization (if applicable)                                                      |
| <input type="checkbox"/>                      |                                                                                                                |
| <input type="checkbox"/>                      |                                                                                                                |

**For Official Administrative Use Only**

**Board Vote at Public Meeting held on** \_\_\_\_\_ date \_\_\_\_\_

| Sitting Board Member | For | Against | Abstained |
|----------------------|-----|---------|-----------|
|                      |     |         |           |
|                      |     |         |           |
|                      |     |         |           |
|                      |     |         |           |
|                      |     |         |           |
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|                      |     |         |           |
|                      |     |         |           |
|                      |     |         |           |

|                                                                      |                                  |
|----------------------------------------------------------------------|----------------------------------|
| Approve and assign an Economic Development Permit for _____ gallons. | Deny request of assigned gallons |
|----------------------------------------------------------------------|----------------------------------|

**Conditions of Approval (insert all that apply)**

1. Subject to approval from all applicable local, state and federal regulatory agencies
2. If no building permit has been submitted to the building department within one year from this approval, then approval for the assignment of gallons is no longer valid.
3. \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

|                                  |       |
|----------------------------------|-------|
| The Honorable Board of Selectmen | _____ |
| _____                            | _____ |
| chair                            | _____ |



ZBA CASE # EV15-20  
 DATE 11/15/15  
 SIGNATURES [Signatures]

RECEIVED  
 NOV 17 2014  
 TOWN CLERK

Store total: 825 sq ft

Twisted Pizza  
 293 Commercial Street  
 Provincetown, MA 02657  
 508-487-6973

1 in = 5 ft

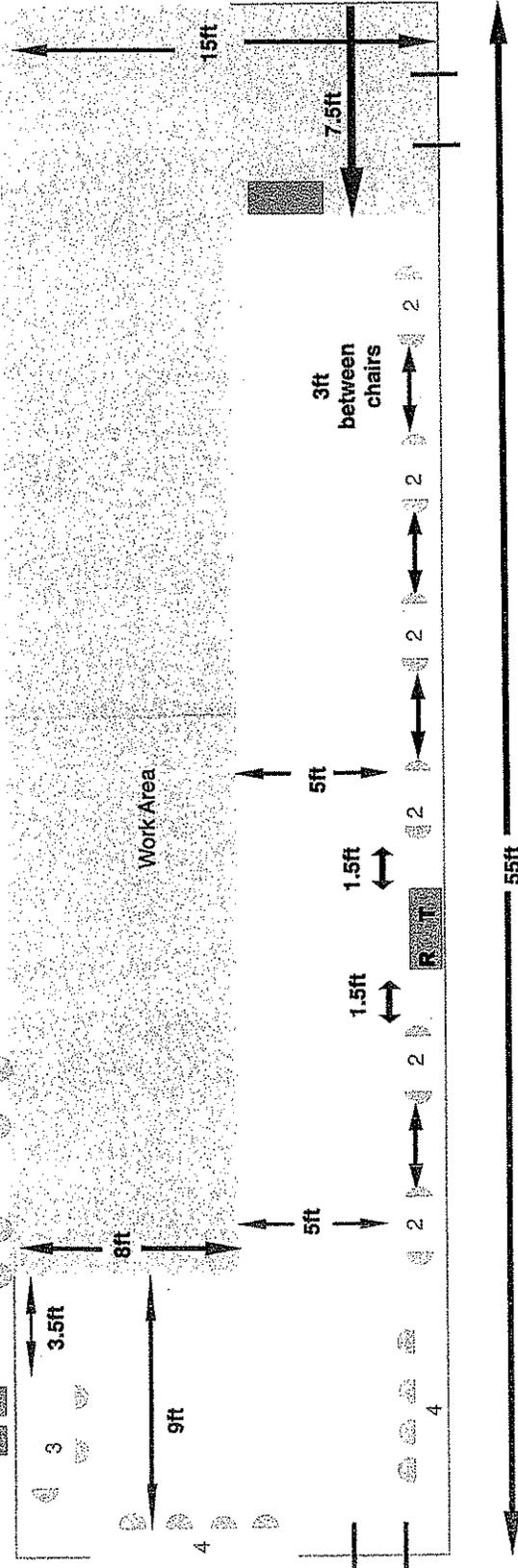
Table/Counter:

Seat:   
 Trash (T):   
 Recycle (R):   
 Keg: 

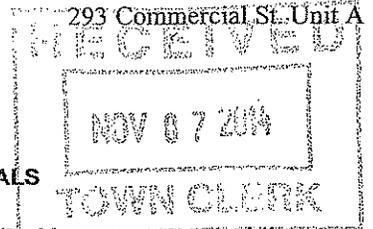
outdoor picnic bench area

What we want:

31 seat plan  
 23 indoor and 8 outdoor



6 November 2014



**FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS**

The applicant of Case FY15-20 is Julie Knapp; Julesan Inc. dba Twisted Pizza. Julie Knapp presented the application. The applicant petitioned the board for a Special Permit under Article 2, Section 2460 of the Zoning By-Laws for an additional 7 indoor seats. Subject property is 293 Commercial Street Unit A, Assessors Map & Parcel 11-3-15-0-00A; in the TCC Zoning District; Barnstable County Land Court Registry Book 19694; Page 121.

After the required advertising, posting of notice and notification of parties of interest, a public hearing of application FY15-20 was held on October 16, 2014, in the Judge Welsh Room at Town Hall, 260 Commercial St, Provincetown, MA. Zoning Board of Appeals members sitting on the application were David Nicolau, Robert Littlefield, Amy Germain, Joe Vasta and Jeff Haley. The five members present met the legal quorum of the Board.

**Decision:** By a vote of 5 in favor, 0 opposed, and 0 abstaining, the Zoning Board of Appeals approved this application.

**GENERAL FINDINGS:**

1. The property is located on the South side of Commercial Street between Standish and Ryder Streets, in the Town House Mall - 291-293 Commercial St. The unit is located on the East and Commercial Street side of the premises.
2. The surrounding properties are primarily commercial with some mixed use establishments in proximity.

**APPLICABLE LAW AND DECISION CRITERIA:**

**Massachusetts General Laws Chapter 40A, Section 9 (Special Permits):**

Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards, and limitations on time or use.

**Section 2460 of the Zoning By-Laws:**

No hotel, motel, inn, restaurant or bar holding or seeking to hold a license granted pursuant to General Laws, Chapter 138, Section 12; General Laws, Chapter 140, Section 2; or General Laws, Chapter 140, Section 183A, respectively, shall be used for the service of food or alcoholic beverages to the public or public entertainment, nor any other premises or establishment for public entertainment, nor any establishment increase its Posted Occupant Load, unless such use has been authorized with a Special Permit from the Board of Zoning Appeals as provided for in Section 5300.

Any permit application under this section shall specify the area in which it is proposed that entertainment be offered, food or alcoholic beverages be served, and is to be accompanied by a plan showing the specific area of the proposed usage. \* To provide for the orderly implementation of this Section, the following guidelines shall prevail; an existing licensed use covered by this Section which does not have a Special Permit may continue (i.e. its license may be renewed or transferred) as non-conforming until a change, addition, or alteration (other than the name of the establishment) is made; all new licensed uses covered by this Section shall require a Special Permit.

**Section 5300 of the Zoning By-Laws: (Special Permits)**

**5310 Special Permit Granting** Special Permit applications shall be heard and decided by the Board of Appeals except where otherwise noted in this By-Law.

6

**5320 Public Hearings** Special Permits shall only be issued following public hearings held within sixty-five days after filing with the Special Permit Granting Authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

**5330 Consideration** Special Permits (other than those specified in Section 3420) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

**SPECIFIC FINDINGS:**

1. There were no speakers present and no letters in the file.
2. The application included a copy of a letter from Steve Boggess, owner of this unit stating that Julesan, Inc. dba Twisted Pizza to have 2 picnic tables in the alley on the property adjacent to Unit A.
3. The board relied on a seating plan provided by Julie Knapp and were undated.
4. The increase in seating will result in a total of 31 seats; 23 indoor seats and 8 outdoor seats.
5. The unit has operated as a fast food establishment under Ms. Knapp's tenancy.
6. Ms. Knapp states that this will allow her to remain open for an extended shoulder seasons from March 1 to November 15.
7. Hours of operation are 11 am to 2 am, 7 days a week during the high season and may be adjusted to shorter hours as business dictates.
8. The requested change in seating is in keeping with the goals of the Local Comprehensive Plan, Chapter 5, Goal 1, Policy A, Goal 1, Policy B and Goal 5.
9. With respect to Article 5, Section 5300, the change will create no disruptions to the character of the neighborhood and there will be no detrimental effects such as hazard, congestion or environmental degradation.
10. The economic benefits to the Town would be an increase in meals taxes and additional food service options for visitors.
11. The Board found that the benefits of this application outweigh any adverse effects such as hazard, congestion or environmental degradation

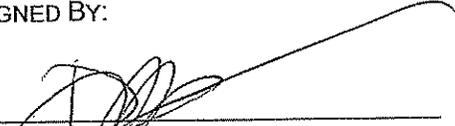
**Based on the findings, the Zoning Board of Appeals granted the Special Permit for Application FY15-20 subject to the following condition:**

1. The Special Permit runs with the applicant only.

The Special Permit shall lapse twenty-four (24) months from the date of filing with the Provincetown Town Clerk (plus such time as may be required to pursue or await the determination of an appeal referred to in MGL c. 40A, Section 17), if a substantial use thereof or construction has not commenced.

SIGNED BY:

DATE: 11-6-14

  
\_\_\_\_\_  
David M. Nicolau Chair

November 6, 2014  
\_\_\_\_\_

A copy of this application, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Special Permit and shall require further review by this Board. Furthermore, the Special Permit issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.

7

293 Commercial St  
Property address Unit A



FY15-20

case number

Town of Provincetown  
Zoning Board of Appeals

Town Hall - 260 Commercial Street, Provincetown, MA 02657

508-487-7020

Fax: 508-487-0032

The Special Permit/Variance issued hereunder shall not be valid until it is properly recorded at the Registry of Deeds in Barnstable as provided in M.G.L. c40A Section II. The applicant shall furnish proof of said filing prior to obtaining a building permit.

A motion was made to Approve  Deny  Allow to withdraw without prejudice

The Zoning Board of Appeals application/decision for case # FY15-20, by a

Vote of 5 in favor, 0 against and 0 abstained.

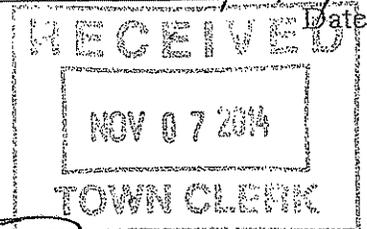
| Board Members Sitting | In Favor | In Opposition | Abstained |
|-----------------------|----------|---------------|-----------|
| David M. Nicolau      | ✓        |               |           |
| Amy Germain           | ✓        |               |           |
| Robert Littlefield    | ✓        |               |           |
| Joe Vasta             | ✓        |               |           |
| Jeff Haley            | ✓        |               |           |

Board Members

*[Signatures of Board Members]*  
Robert Littlefield

Certified By

*[Signature]* 11/6/14  
Chair Date



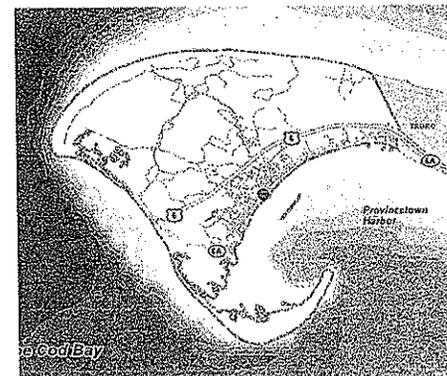
*[Signature]* 11-6-14  
Clerk Date

IMPORTANT: Any appeal from the decision of the Board of Zoning Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

# TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

|                   |             |             |      |                  |                      |
|-------------------|-------------|-------------|------|------------------|----------------------|
| <b>PARCEL ID:</b> | 11-3-15-00A | <b>KEY:</b> | 1901 | <b>LOCATION:</b> | 293 COMMERCIAL ST UA |
|-------------------|-------------|-------------|------|------------------|----------------------|

| CURRENT OWNER      | FY' 2015 PARCEL VALUE |              |
|--------------------|-----------------------|--------------|
| BOGGESS STEPHEN J, | LAND VAL:             | \$0.00       |
| PO BOX 280         | BUILDING VAL:         | \$257,200.00 |
|                    | DETACH VAL:           | \$0.00       |
| ORLEANS, MA 02653  | APPR VAL:             | \$257,200.00 |
|                    | TAX VAL:              | \$257,200.00 |



|                     |          |                    |      |
|---------------------|----------|--------------------|------|
| <b>STATE CLASS:</b> | 3430     | <b>ZONING:</b>     | TCC  |
| <b>DESCRIPTION:</b> | CI CONDO | <b>BILL SQ FT:</b> | 6970 |

## SALES HISTORY

| OWNER                  | SALE TYPE | BOOK / PAGE | SALE DATE   | SALE PRICE |
|------------------------|-----------|-------------|-------------|------------|
| BOGGESS STEPHEN J      | N         | 19694 / 121 | 06-Apr-2005 | \$ 225,000 |
| TOWN HOUSE CONDOMINIUM | CC        | 18752 / 136 | 24-Jun-2004 | \$ 0       |

|                    |   |             |      |                  |                      |
|--------------------|---|-------------|------|------------------|----------------------|
| <b>BUILDING #:</b> | 1 | <b>KEY:</b> | 1901 | <b>LOCATION:</b> | 293 COMMERCIAL ST UA |
|--------------------|---|-------------|------|------------------|----------------------|

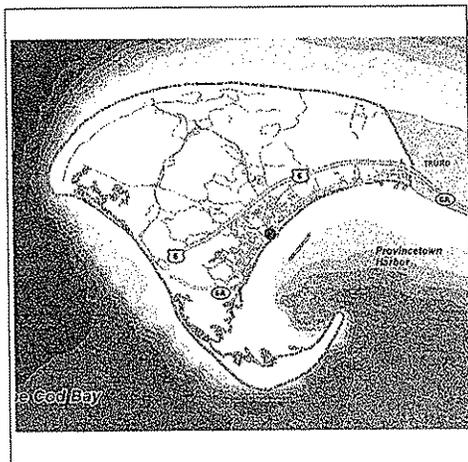
|            |            |
|------------|------------|
| YEAR BUILT | 1972       |
| STYLE      | CONDO C//M |
| QUALITY    | A          |
| NET SF     | 863        |



|               |             |
|---------------|-------------|
| DATE MEASURED | 18-Jul-2012 |
| DATE LISTED   | 18-Jul-2012 |

| ELEMENT       | DESCRIPTION | CD  | CAPACITY   | UNITS | CONDITION ELEMENT | DESCRIPTION | CD |
|---------------|-------------|-----|------------|-------|-------------------|-------------|----|
| COMPLEX       | TOWN HOUSE  | 313 | STORIES    | 1     | EXTERIOR          | AVERAGE     | A  |
| CONDO STYLE   | CD RETAIL   | 21  | ROOMS      | 2     | INTERIOR          | AVERAGE     | A  |
| EXT. COVER    | WOOD        | 1   | BEDROOMS   | 0     |                   |             |    |
| NBHD          | TOWN CENTER | 4   | FULL BATHS | 0     |                   |             |    |
| VIEW          | NONE        | 1   | HALF BATHS | 0     |                   |             |    |
| NET ADJ( MKT) | 100         | 100 | TOT        | 2     |                   |             |    |
| HEATING/COOL  | ELECTRIC BB | 5   | # OF UNITS | 0     |                   |             |    |
| FUEL SOURCE   | ELECTRIC    | 3   | KITCHENS   | 0     |                   |             |    |
| BEACH RIGHTS  | NO          | 1   | AFFORD.HSG | 0     |                   |             |    |
| ABUTS CONS    | NO          | 1   |            |       |                   |             |    |
| BASEMENT      | NONE        | 1   |            |       |                   |             |    |
| SEPTIC FIELD  | SEWER       | 1   |            |       |                   |             |    |

TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT





Town of Provincetown  
**ECONOMIC DEVELOPMENT PERMIT**  
(Town of Provincetown General By-laws Section 5-15-4)  
and  
**DECLARATION OF COVENANTS**

Property Owner: **STEPHEN J BOGGESS**  
Property Owner Address: **PO Box 280, Orleans, MA 02653**  
Property Address: **293 Commercial Street, Unit A, Provincetown, MA 02657**  
Assessor's Map Number: **11-3-15-00A**  
Title Reference: **Barnstable County Registry of Deeds Bk. 18752, Pg. 136**  
Applicant (if different): **Julie Knapp**  
Business Entity: **Twisted Pizza**

Economic Development Permit No. 15-03

Existing Use(s) of Property: **Restaurant**

Sewage Assigned Flow for Existing Use(s) of Property: The property at 293 Commercial Street Unit D, henceforth referred to as "Premises", has a total existing Title V flow of 480 gpd.

Proposed Use(s) of Property or Proposed Expansion of Existing Use(s) of Property: The owner would like to add 7 fast food seats to the existing 24 seat restaurant (20 gpd per seat).

Title V Design Flow for Proposed or Expanded Use(s) of Premises: 140 gpd for a property total of 620 gpd.

The Town of Provincetown, acting by and through its Board of Selectmen, hereby grants an Economic Development Permit, pursuant to Town of Provincetown General By-laws Section 5-15-4, to the Property Owner for the use of the property located at 293 Commercial Street Unit A, (the "Premises"), as a 31 seat fast food restaurant (the "Approved Use"), subject to the Owner's covenants stated below.

The Owner hereby covenants with the Town of Provincetown, a Massachusetts municipal corporation with an address of 260 Commercial Street, Provincetown, Massachusetts 02657, acting by and through its Board of Selectmen pursuant to Provincetown General By-laws Section 5-15-6 (the "Town") as follows:

1. The Owner shall commence the Approved Use of the Premises described above on or before the date that is one year following the date of grant of this Permit and shall thereafter continuously maintain said Approved Use of the Premises. If the Approved Use of the Premises is discontinued for a period of thirty (30) days after commencement thereof, such discontinuance shall be deemed a failure to continuously maintain. The one-year and the thirty (30) day periods may be extended by the Town for good cause shown.
2. This Declaration of Covenants shall run with the Premises and be binding upon the executors, administrators, heirs, devisees, successors and assigns of the Owner.
3. Upon prior written notice to the Owner at the Property Address above or such new address as the Owner shall notify the Selectmen of in writing, the Town shall have the permanent right and easement to enter upon the Premises for the purpose of determining compliance with the terms of this Declaration of Covenants.
4. The Town shall have the option to enforce this Declaration of Covenants, but shall not have the obligation to do so.
5. The Owner hereby covenants and agrees, for the Owner and the Owner's successors and assigns, to reimburse the Town for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Declaration of Covenants, provided the Owner has been determined by a court of law to be in violation of the terms of this Declaration of Covenants.
6. This Declaration of Covenants sets forth rights, liabilities, agreements and obligations upon and subject to which the Premises or any portion thereof, shall be improved, held, used, occupied, leased, sold, mortgaged, encumbered, or conveyed. The rights, liabilities, agreements and obligations herein set forth shall run with the Premises and any portion thereof and shall inure to the benefit of and be binding upon the Owner and all parties claiming by, through or under Owner. This Declaration of Covenants shall have a term of ninety-nine years or the longest period allowed by law. The Owner agrees that this Declaration of Covenants is an "other restriction held by a governmental body" as that term is used in G.L. c.184, §26 and thus not subject to the limitations on the enforceability of restrictions in G.L. c.184, §§26-30. Nevertheless, if recording of a notice is ever needed to extend the time period for enforceability of this Declaration of Covenants, the Owner(s) hereby appoints the Board of Selectmen of the Town of Provincetown as the Owner's agent to execute and record such notice and agrees that the Owner shall execute and record such notice upon request.
7. The Owner agrees to incorporate this Declaration of Covenants, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Premises, or any portion thereof, is conveyed.

8. If any court or other tribunal determines that any provision of this Declaration of Covenants is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this Declaration of Covenants as though it had never been included herein. In either case, the remaining provisions of this Declaration of Covenants shall remain in full force and effect.
9. The Owner is the sole owner in fee simple absolute of all the Premises and there are no mortgages of record or otherwise on the Premises or any portion thereof except for those described below, if any, and the present holders of said mortgages have assented and subordinated to this Declaration of Covenants prior to the execution by the undersigned. It is agreed that any subsequent mortgages shall be subordinate to this Declaration of Covenants.
10. It is agreed that this Declaration of Covenants shall take effect only upon the execution of this Economic Development Permit by the Town of Provincetown Board of Selectmen and the recordation with the Barnstable County Registry of Deeds or filing with the Barnstable County Registry District of the Land Court of this Economic Development Permit and Declaration of Covenants.
11. A true copy of the Owner's application for this Economic Development Permit including all documents and plans submitted therewith, is attached hereto as Exhibit A and is incorporated herein except as specified below:

\_\_\_\_\_  
N/A

12. The Town's remedies shall include, without limitation, revocation of this Economic Development Permit by order of the Board of Selectmen, which order may be made thirty (30) days after the date notice is given by mail to the Property Owner of the Selectmen's determination that the Owner has failed to continuously maintain the Approved Use, or that the Owner has commenced a use on the Premises other than, or in addition to, the Approved Use, whereupon all rights arising from this Economic Development Permit shall be forfeited, including without limitation any Growth Management Permit or increased sewage flow allocation that may have been granted with respect to the Premises, notwithstanding that the Premises may have been assessed a betterment or special assessment relating to the increased sewage flow allocation and the Allowed Use shall be deemed to be an expressly abandoned by the Property Owner, pursuant to Section 6200-3 of the Growth Management By-Law of the Town.
13. The Owner must apply for and obtain all other necessary permits and approvals in order to proceed with the Approved Use.

14. The Owner further covenants and agrees that the Owner shall comply with the following additional conditions:
- (a) The additional gallons be utilized for the use as proposed (restaurant) only and not be subsequently converted to any other use including residential use without prior approval of the Board of Selectmen.

15. This Economic Development Permit and Declaration of Covenants may be amended only by written agreement of the Board of Selectmen and the Property Owner.

WITNESS our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

OWNER

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Name:

Title:

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015 before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding or attached document as \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

On this day, \_\_\_\_\_, the Board of Selectmen of the Town of Provincetown, pursuant to Town of Provincetown General By-laws Section 5-15-4, hereby grants this Economic Development Permit authorizing the Proposed or Expanded Use(s) of Property described above, subject to the above Declaration of Covenants and all other necessary Town permits.

TOWN OF PROVINCETOWN,  
By its Board of Selectmen

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned notary public, personally appeared \_\_\_\_\_ member, Town of Provincetown, Board of Selectmen, as aforesaid, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name he/she signed on the foregoing instrument, and further acknowledged to me that he/she signed it voluntarily for its stated purpose as said member.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

15

Mortgagee(s) Consent and Subordination

The \_\_\_\_\_ by \_\_\_\_\_, the holder of a mortgage dated \_\_\_\_\_, recorded with the Barnstable County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, does hereby assent to the recording of this Economic Development Permit and Declaration of Covenants and subordinates said mortgage to this Economic Development Permit and Declaration of Covenant as if this Economic Development Permit and Declaration of Covenants had been recorded prior to said mortgage.

\_\_\_\_\_  
By: \_\_\_\_\_  
Its, \_\_\_\_\_  
Duly authorized

COMMONWEALTH OF MASSACHUSETTS

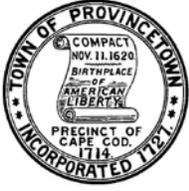
\_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015 before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was a drivers license, to be the person whose name is signed on the preceding or attached document as \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

367636/PROV/0307

16



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

2

## PUBLIC STATEMENTS

Requested by: Board of Selectmen

Action Sought: Open

Proposed Motion(s)

Five minutes maximum. Selectmen do not respond during Public Statements.

Additional Information

Board Action

| <i>Motion</i> | <i>Second</i> | <i>Yea</i> | <i>Nay</i> | <i>Abstain</i> | <i>Disposition</i> |
|---------------|---------------|------------|------------|----------------|--------------------|
|               |               |            |            |                |                    |



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**

Monday, February 23, 2015

3

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## SELECTMEN'S STATEMENTS

Requested by: Acting Town Manager David Gardner

Action Sought: Discussion

### Proposed Motion(s)

*Motions may be made and votes may be taken.*

**Robert Anthony**

**Raphael Richter**

**Erik Yingling**

**Cheryl Andrews**

**Tom Donegan**

### Additional Information

### Board Action

| <i>Motion</i> | <i>Second</i> | <i>Yea</i> | <i>Nay</i> | <i>Abstain</i> | <i>Disposition</i> |
|---------------|---------------|------------|------------|----------------|--------------------|
|               |               |            |            |                |                    |

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Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

4

# Joint Meeting

Requested by: Board of Selectmen

Action Sought: Discussion

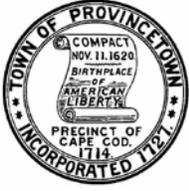
## Proposed Motion(s)

***Discussion Dependent – votes may be taken.***

## Additional Information

## Board Action

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

5

## BOARD OF SELECTMEN APPOINTMENT

Requested by: Town Clerk

Action Sought: **Approval**

Proposed Motion(s)

*None*

Additional Information

Board Action

| <i>Motion</i> | <i>Second</i> | <i>Yea</i> | <i>Nay</i> | <i>Abstain</i> | <i>Disposition</i> |
|---------------|---------------|------------|------------|----------------|--------------------|
|               |               |            |            |                |                    |



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

6A

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PROVINCETOWN CHAMBER OF COMMERCE

Clear Title to the property located at 305-307 Commercial Street

Requested by: Provincetown Chamber of Commerce

Action Sought: Discussion

Proposed Motion(s)

**MOVE that the Board of Selectmen vote to submit an article to town meeting to seek authorization to dispose of the Town's interest in the land at 305-307 Commercial Street.**

Additional Information

See attached documents

Board Action

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |

**From:** Candice Collins-Boden [<mailto:candy@ptownchamber.com>]

**Sent:** Thursday, February 12, 2015 10:39 AM

**To:** David Gardner

**Cc:** Hersh; Jeff Rogers; Linda Vital; Edward Rudd; Michael Janoplis; Custodio Silva; Mike Glasfeld; Vernon Porter; Dale Szczech Szczech; Patrick Patrick; Paul Endich; Susan Avellar; Elaine Quigley; Rob Costa; barbara knapp

**Subject:** Chamber Title Issue

Hi David...thank you for meeting with Mick, Custodio and I on the 6th of February.  
To follow up on our meeting our board of directors met last evening (February 11, 2015) and made the following motion:

Board of Directors of the Provincetown Chamber of Commerce are committed in cooperation with Provincetown's acting Town Manager and Board of Selectmen to place before 2015 April Town Meeting an Article to transfer title to a portion of land located under the chamber building at 307 Commercial Street to the Provincetown Chamber of Commerce, Inc.

I reported to my Board that you were going to place us on the agenda of the next Board of Selectmen meeting scheduled for the 23rd of February, 2015.

Do you need anything more then the synopsis we shared with you at our meeting for the BOS?

Please advise,  
Candy

Provincetown Chamber of Commerce  
PO Box1017  
Provincetown, MA 02657

508-487-3424

[www.ptownchamber.com](http://www.ptownchamber.com)  
[info@ptownchamber.com](mailto:info@ptownchamber.com)

## Provincetown Chamber of Commerce: SYNOPSIS OF STALEMATE DENYING THE CHAMBER CLEAR TITLE TO ITS ENTIRE PROPERTY PARCEL.

---

January 15, 2015

The Provincetown Chamber of Commerce seeks relief from the Town of Provincetown by way of resolving the long standing conflict created by competing claims to the ownership and/or use of the land under the Chamber building at 305-7 Commercial Street below the 1939 legal high water mark.

Since the Town has never asserted its alleged property rights to this parcel nor in any way preempted its use by the Chamber, title to it is primarily important to the Chamber to give it clear title to *all* the land under its building. This consolidation of ownership is essential for the Chamber in its application to lending institutions for a large equity loan, something banks have so far denied the Chamber in spite of its free and clear ownership of the building itself.

Such a loan would provide the major funding needed to stabilize and reconstruct parts of this historic building (1910). The building is used year-round by the Chamber for its offices and for the operation of its Tourist Information Center. It is used seasonally by five businesses as store fronts and a ticket office for the Bay State Boston ferry service.

The building's structural integrity is a primary responsibility of the Chamber Board of Directors to perform its due diligence to preserve the Chambers largest asset for perpetuity and to provide a place for the Chamber to carry out its mission.

The Town bases its claim to ownership of the parcel beneath the Chamber's building upon a Commonwealth Deed granted to the Town in 1961 after state submerged tidelands were filled under licenses issued by the State Department of Public Works to create the Municipal Parking Lot (entirely at the State's expense).

The stalemate is forged by contradictions in the delineations of new property boundaries and jurisdictions created by this enormous land fill project, disputes which neither party has been able to resolve to the other's satisfaction. This task is especially difficult 54 years after the fact, if not impossible.

While the Town claims irrefutable title to the seaward parcel under half the Chamber building, the Chamber has proven that its 1910 Commonwealth Harbor and Lands Commissioners' License #3469 has over time transformed into a current and valid MGLC 91 license which entitles the Chamber to the exclusive use of the 'landlocked tide lands' (DEP-1995) as the site of its building, within the strictures of permitted use.

Therefore, it would be logical to assert that while the Town might own the disputed parcel under the Chamber building, exclusive use of that parcel is granted to the Chamber by its MGLC 91 license in perpetuity.

Over the past thirty years the Chamber has sought legal redress from this stalemate. The Town of Provincetown has rebuffed the Chamber in each case and appears content to leave the matter in this ambiguous and intractable legal quandary. It is safe to assume that neither party can afford the time nor the legal expense to resolve this issue in court and therefore it appears pointless to pursue legal remedies as a way to resolve the stalemate.

The only resource left to solve this arcane boundary dispute at this late date, in the opinion of the Chamber Board of Directors, is a political one. Since ownership of public property is the domain of the Board of Selectmen and the Town Meeting, it would be to these entities that the Chamber board would appeal for relief.

Therefore, it is the considered opinion of the Chamber that:

- 1) A decision to agree-to-disagree as to the ownership or control of this parcel would open a path for the Town and the Chamber to unite in a common sense solution whereby ownership of the parcel under its building could be granted to the Chamber through a political process culminating in Town Meeting legislation and State ratification.
- 2) The Town could legitimately levy property tax upon the parcel beneath the Chamber building as it has been since 1984, securing and maintaining a reliable source of income to the Town.

Since 1984 the Chamber has paid some \$203,463.00 in real estate taxes levied on the *entire* parcel based on Town Assessors Tax Map 11-3 which clearly shows the Chamber in possession of the entire parcel. If the Town's claim to ownership of half that parcel is true, then the Assessor's Office has collected approximately \$101,731.00 in taxation of the Town's own property at the Chamber's expense.

- 3) For the Town to continue to enjoy the public benefits of the work the Chamber does as the town's primary welcome and information center a resolution of the title dispute is needed now. The Chamber is at some risk to pursue its mission indefinitely out of a building which eventually will either be beyond repair or unsafe.

# Historical Context of Governmental Decision-making in the Early Nineteen Sixties

## Economic Development in Provincetown in the 1960's

Page | 1

Three massive public works projects converged in Provincetown in 1961: the enormous land fill project creating the Municipal Parking Lot on the downtown waterfront; an ambitious plan to dredge an outsized marina in the State-owned Province Lands salt marsh meadow known as the Moors, and the most momentous, the hand-over of nearly three-quarters of the land amassing Provincetown to the U.S. National Park system.

Any one of these projects had the potential to dramatically alter the economic future of this small fishing port and each came with intended and unintended consequences quite unimaginable. Taken together in 1961 they represented an unprecedented series of historic choices for Provincetown's government, its citizens and Provincetown's future.

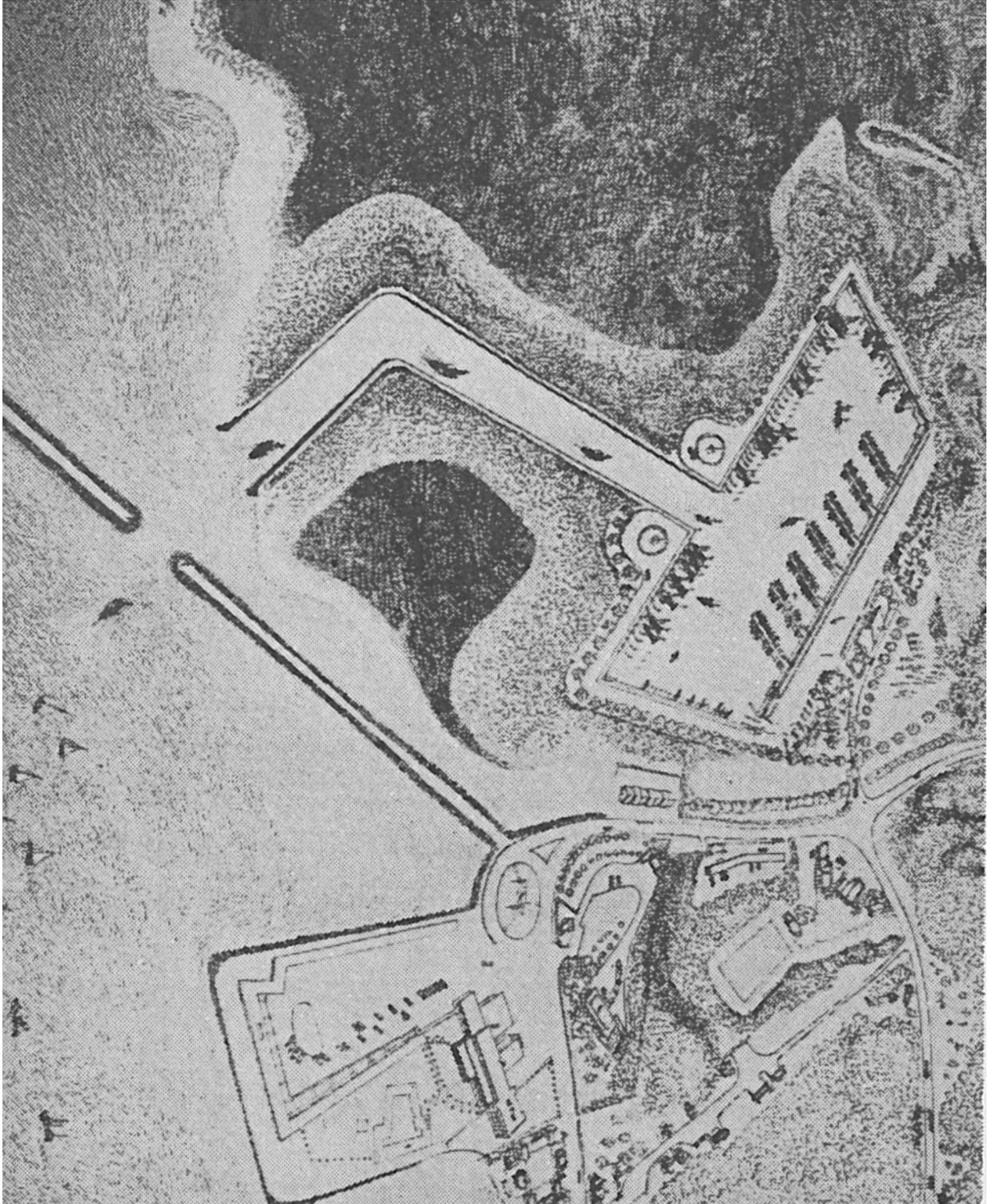
## Cape Cod Seashore Park Boundaries and Proposed Moors Wetlands Marina

In 1961 the six outermost towns of Cape Cod, from Provincetown to Chatham, were in the final stages of negotiations with the federal government to determine how much private and public land within their respective towns would be relinquished to the management and control of the National Park system.

Negotiations to include Provincetown in the new National Park were relatively uncomplicated since vast unspoiled areas remaining in their natural state were already conserved as a Massachusetts State Park. According to the Provincetown Advocate however the salt marshes known as the Moors bordering the West End of town were in contention because against their perpetual conservation there was a competing proposal, promoted by the Massachusetts Department of Waterways and Department of Public Works, to build a very large marina and harbor of refuge there instead.

Caught in the middle, Provincetown was encouraged by the Commonwealth to acquire 394 acres of these wetlands through state legislation so these wetlands would be controlled by the Town of Provincetown rather than the state park system. To confuse matters more the U.S. Interior Department, apparently as a concession to the Town of Provincetown and the Commonwealth, announced it was amenable to the exclusion of the Moors within the boundaries of the national park, concerned as they were that the rest of the Province Lands would be in jeopardy if the Park Service remained inflexible.

The State had gotten so far in this project as to have the U.S. Corps of Army Engineers draw up plans and visuals of the marina. The conceptual drawing shows a channel dredged through West End tidal flats deep enough to accommodate an 80-foot dragger. The federal break wall or 'dike' would be breached to grant entrance to the wetlands on the other side which in turn would be extensively dredged to create a new inner harbor.



Artist's conception of the marina and harbor of refuge for fishing vessels proposed by the Commonwealth in the area known as the Moors today.

Some 150 local commercial fishermen traveled to the State House to voice their approval of the new Harbor of Refuge at a public hearing on the proposal.

However when it came to a vote of the March 1961 Annual Town Meeting, the filing of enabling legislation in the General Assembly was rejected by a two-to-one margin; and seemingly to guarantee an end to the matter, a subsequent article recommending the inclusion of the Moors wetlands within the Cape Cod National Seashore Park was approved 147 to five. *(At a Special Town Meeting later in June the Town Meeting reversed itself and passed an article by 80 to 35 requesting that the Moors wetlands be excluded from the National Seashore thereby remaining in Commonwealth hands for development of the controversial marina. Apparently this local effort to revive the project came too late and was not taken seriously.)*

### **Municipal Parking Lot Land Fill Project**

In stark contrast, public discourse surrounding the Commonwealth's project to create the Municipal Parking Lot (MPL) appears minimal to nonexistent at public meetings of the Board of Selectmen (BOS), according to the Advocate.

The agendas for the BOS meetings in 1961 include very few items reserved for discussion of the topic nor are there public hearings listed. (Unfortunately the official minutes of the BOS meetings during 1961 are missing from the Town's archives but the agendas for those meetings are extant.)

From what can be gleaned from the agendas and news articles, almost all of the discussion which might have occurred between Selectmen on this topic was referred to executive sessions. Minutes of those sessions are missing as well.

Reading Advocate articles gives the impression that Town Manager Walter E. Lawrence had near to absolute authority to make decisions and negotiate on behalf of the Selectmen, especially when it came to dealing with State officials. Supporting this impression is the fact that votes recommending or approving actions taken by the Town Manager are not mentioned in the Advocate during this period. If such authorizations were approved or disapproved by the Selectmen they were likely discussed in executive session and consequently would not have been reported out to the press or general public.

There are no specifics reported in the Advocate during 1961 relating to the planning or construction of the MPL, essentially a Commonwealth economic development project; nor are there reports of the involvement of local public officials. From Advocate reports it appears the state Department of Waterways and Department of Public Works proceeded under their own authority because submerged land up to the historic high water mark was considered the sole province of the State and was in fact owned by them and not just managed by them. The Town appears to become involved only when the project is completed and the Commonwealth transfers the 'deed' to the reclaimed land to the Selectmen in consideration of one dollar.

Whatever the case, absent local participation in the political decisions leading up to the landfill project, Provincetown townspeople and their elected officials are reported as preoccupied and divided in their lesser role of supplying the infrastructure for the new municipal parking lot. Articles in the 1961 March Annual Town Meeting are taken up which would give the Selectmen authority to appropriate some \$3,000 to float government bonds to finance \$70,000 for parking lot lights, fencing, drainage, grading, sidewalks and bituminous concrete surfacing.

By the time of the March Annual Town Meeting however, the 'deed' for the parking lot property had not been transferred to the Town. (That occurred October 10, 1961.) There was consternation among voters that providing funding for these amenities might be unwise because there was a possibility that the State might not transfer ownership of the MPL to the Town. Also, aside from its chairman, Nathan Malchman, the Finance Committee did not recommend the article because easements from abutters of the parking lot had not been obtained either.

The Advocate reports that earlier in March Town Manager Lawrence had sent a listing of property owners abutting the new parking lot to the Selectmen. According to the Advocate: *"He urged that some legal agreement or release be obtained from each of these property owners by the Town's legal counsel so that the parking lot boundaries can be clearly established. [Contacting property owner] should be done before any further construction [infrastructure] is contemplated."*

The Finance Committee is reported in agreement with the Town Manager. Unfortunately this proposal was referred to executive session by the Selectmen and its outcome, if there was any, was not recorded nor made public.

After a discussion led by Selectman McKellar questioning property lines once again, the article authorizing the infrastructure bonds passed the Town Meeting 166 to 55.

### **Conclusions:**

That the title to the entire land parcel under the Chamber building remains unclear after more than 100 years of occupation is very much less a fact of due process than it is an unintended consequence of a murky real estate deal between the Town and the Commonwealth in 1961.

In the aftermath of the creation of an entirely new downtown waterfront pleas from the Town Manager and the Finance Committee for establishment of clear private property lines apparently went unheeded by the Selectmen. Again, this seems less an intentional snub and more likely the inevitable outcome of a local governmental process which was not transparent by today's standard, where momentous decisions were made out of public view.

Typically, in a boundary dispute of this magnitude and consequence, original documents including land surveys, construction site plans, building permits and ultimately deeds, would be the definitive primary sources for a credible resolution of that dispute. Typically it would be expected that these documents would be sufficiently detailed to delineate to a fact certain any discrepancies in any other surviving documentation..

Realistically, however, in this instance it appears impossible to locate most of these documents and after a half century a tolerance for what amounts to a legal quagmire has become the status quo.

In its refusal to settle the dispute in Land Court in 2005 Provincetown's Town Counsel averred that the Town possessed title transferred from the Commonwealth to include the disputed parcel by 'fee simple' and quoted book and page number in the Barnstable Registry of Deeds: Book 1637, Page 404 for the recording of this deed.

However recently the Provincetown's Assessor's Office was unable to find this deed at the Registry online in the book and on the page cited by Town Counsel; and without the correct book and page number no one would be able to locate that document either, according to the Assessor's office. The Town does not keep a copy of this crucial deed in Town Hall since the Registry of Deeds is the appropriate record keeper, according to the Town Clerk's office.

From the Chamber's point of view the Town should not attempt to thwart the obvious solutions to a problem created 54 years ago by an inexact process which would be completely intolerable by today's standards. Rather, wouldn't it

make sense to resolve the problem *using* today's standards rather than defending a deeply flawed process completely out of touch with today's realities?



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

6B

## PROVINCETOWN 2020 STEERING COMMITTEE

### Consideration of Organizational Structure

Requested by: Selectman Cheryl Andrews

Action Sought: Discussion

#### Proposed Motion(s)

*Discussion Dependent*

#### Additional Information

#### Board Action

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

6C

## FIREWORKS

### New Year's 2016

Requested by: Board of Selectmen

Action Sought: Discussion

#### Proposed Motion(s)

*Discussion Dependent*

#### Additional Information

See attached memo from Finance Director Dan Hoot

#### Board Action

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |



# Memo

**To:** Provincetown Board of Selectmen  
David Gardner, Acting Town Manager

**From:** Dan Hoort, Finance Director

**Date:** February 17, 2015

**Re:** New Years Fireworks

---

The costs for the fireworks for the July 4<sup>th</sup> 2014 holiday weekend were as follows:

\$19,500 Fireworks

\$7,500 Barge

\$19,716 Auxiliary costs to the town (fire detail, additional police officers, portable restrooms, etc)

\$46,716 Total

The fireworks and barge (\$27,000) are paid out of the fireworks gift fund, the majority of which comes from a tourism grant. The \$19,716 in auxiliary costs was paid for through taxes.

It is difficult to determine what the total costs might be for New Year's fireworks. Cathy Nagorski, chair of the VSB received a preliminary quote of \$12,000 to \$18,000 for a twelve minute show.

"I spoke with the VP of a company out of New Hampshire called Atlas Fireworks and he provided me with some preliminary information. He said a 12 minute show can be done for \$12K-\$18K. This cost includes the barge which the company owns. They handle all the permitting with the fire department, harbor master and coast guard but we would need to contact them in advance in order to calculate our additional costs. As far as weather, they would need to postpone the event if winds are greater than 20mph. Luckily the 31st falls on a Thursday so we have the weekend days of Friday and Saturday to fall back on. There is still lots of work and information gathering needed. Let me know if you need additional information for the agenda item."

The difficult part may be to determine the Town's auxiliary costs. Until we have determined a number of variables they can't tell what they might need. We can probably expect that the auxiliary costs will be less than those for the July 4<sup>th</sup> celebration, but how much less is not known. Certain costs will be higher because we don't have the staff in place that we would have in July. This includes restroom attendants and police staff.

Variables include:

- Is this a fireworks show only?
- Is this a 'first night' type of event?  
(will visitors be walking from one venue to another?)
- At what time will the fireworks show occur?  
(Chatham does an early and late fireworks show)

- If this is more than fireworks who is planning the event?
- What attendance is expected for the fireworks/event?  
(policing needs will depend on the size of the crowd)
- How many people will drive here for the fireworks?  
(will we need officers for traffic directing?)

As mentioned previously once staff knows more of what is planned we will be able to provide you with a better estimate of the auxiliary costs.



## ZONING BYLAW AMENDMENTS REFERRAL

Requested by: Town Planner, 2/23/15

Action Sought: Procedural

### Proposed Motion(s)

*Move that the Board of Selectmen vote, pursuant to Massachusetts General Law Chapter 40A Section 5, to submit the attached proposed Zoning Bylaw amendments to the Planning Board for review and public hearing on Thursday, March 12, 2015 in order to be placed on the April 6, 2015 Annual Town Meeting Warrant.*

### Additional Information

Pursuant to the Town Clerk's memo dated August 27, 2007, the Planning Board submits proposed Zoning Bylaw amendments to the Board of Selectmen for referral to public hearing prior to Town Meeting. Attached are three draft proposed Zoning Bylaw amendments. Two have been prepared by the Town Planner and are in the process of being vetted by the Planning Board. The Inclusionary Bylaw was prepared by the Town Planner at the request of the Board of Selectmen, and is being included without the support of the Planning Board because the short timeframe did not allow for adequate community outreach. The Planning Board will hold a work session on Thursday, February 26, 2015, to consider and approve language to be placed on the April 6, 2015 Annual Town Meeting Warrant. The legally required Planning Board public hearing on the actual warrant language is scheduled for Thursday, March 12, 2015.

### Board Action

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
|               |               |                 |                |                    |

## Section 4810 Inclusionary Housing By-Law

### 1. Purpose and Intent

The primary purpose of this bylaw is to:

1. Encourage the creation of a range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year round community and a viable and healthy local workforce and to prevent the displacement of Provincetown residents;
2. Mitigate the impact of commercial and residential development on the availability and cost of housing;
3. Provide a mechanism by which commercial and residential development can contribute in a direct way to increasing the supply of affordable and middle income housing in exchange for a greater density or intensity of development than is otherwise permitted as a matter of right;
4. Support the goals of Provincetown's December 2006 Affordable/Community Housing Action Plan and its January 2014 Update.

A secondary purpose is to create dwelling units eligible for inclusion in the Town's Subsidized Housing Inventory.

### 2. Applicability

This inclusionary by-law shall apply in all zoning districts to the following uses:

- (a) *Except as identified under Section 2(c) below, any development that results in an increase in the number of dwelling units, whether by new construction or alteration, expansion, reconstruction, or change of existing residential or non-residential space; and*
- (b) Any subdivision of land resulting in at least one additional lot.
- (c) Any life care facility development that includes 6 or more assisted living units and accompanying services
- (d) *Changes of use as identified in Section 4170 Change of Use/Non-Residential to Residential Use Conversions, 2(a)-(c) are subject to and shall comply with the requirements of Section 4170.*
- (e) Commercial Development of greater than 10,000 square feet

### 3. Special Permit

The development of any project as identified in Section 2(a)-(c) above shall require the granting of a special permit from the Planning Board. The application

procedure for the special permit shall be as defined in Section 5300 of the zoning bylaw.

**4. Mandatory Provision of Affordable Units for all Development**

As a condition of approval for a special permit, the applicant shall contribute to the local stock of affordable and community housing in accordance with the following requirements:

(a) For projects consisting of a total of 5 dwelling units or more, at least 20% of the units created shall be established as affordable housing units in any one or combination of methods provided for below. For the purpose of calculating the 20% affordable housing contribution, all numbers shall be rounded to the nearest whole number.

- (1) The affordable housing units shall be constructed or rehabilitated on the locus subject to the special permit (see Section 5); or
- (2) The affordable housing units shall be constructed or rehabilitated on a locus other than the one subject to the special permit (see Section 6); or
- (3) In lieu of providing such units as specified above, an applicant may provide a payment of equivalent value to the Housing Trust Fund (see Section 8).

(b) For projects consisting of between 1 and 4 dwelling units, a payment in-lieu of creating a partial unit shall be made to the Housing Trust Fund in accordance with the following:

|         |                                                                                                                                                                                                                                                                                                                                           |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 unit  | 20%                                                                                                                                                                                                                                                                                                                                       |
| 2 units | 40%                                                                                                                                                                                                                                                                                                                                       |
| 3 units | 60%                                                                                                                                                                                                                                                                                                                                       |
| 4 units | 80% of the average cost of a 2BR unit in Provincetown in the calendar year prior to the date the first building permit is pulled, the average cost to be determined on an annual basis in January by the Provincetown Assessor based on the average sale price of all 2 BR dwelling units that sold in Provincetown in the previous year. |

(c) For projects creating an additional 10,000 square feet or more of commercial space, the developer shall either make a Housing Contribution to the Housing Trust Fund of (\$\$\$\$ per sf of gross floor area) or shall create housing at a rate of (unit per sf of gross floor area).

The amount of the Housing Contribution shall be subject to review and recalculation three (3) years after the effective date of this bylaw and every three (3) years thereafter by the Provincetown Board of Selectmen, based on a consideration of current economic trends including but not limited to development activity, commercial rents per square foot, employment growth, and housing trends measured in terms of, but not limited to, vacancy rates,

production statistics, and prices for dwelling units. The BOS may also adjust the amount annually based on CPI or a similar standard to reflect changes in inflation rates.

## **5. Provisions Applicable to Affordable Housing Units On Site**

- (a) Siting of affordable units: All affordable units constructed under this by-law shall be situated within the development so as not to be in less desirable locations than market rate units in the development and shall, on average, be no less accessible to public amenities as the market-rate units.
- (b) Minimum design and construction for affordable units: Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in exterior design, appearance, construction and quality of materials with other units. Where feasible, interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in the Local Initiative Guidelines by the Department of Housing and Community Development (DHCD) November 2006, or as amended. There shall be a similar proportion of affordable and market rate units in developments with a mix of unit/bedroom sizes.
- (c) Timing of construction or provision of affordable units or lots: The development of on-site and off-site affordable housing units shall take place at the same rate and timeframe as the development of market rate units.
  - 1. Building permits for any phase shall be issued at a ratio of 4 (four) market rate units to 1 (one) affordable unit. Building permits for subsequent phases will not be issued unless all the required affordable units in the preceding phase are constructed and the affordable housing restrictions recorded. The last unit permitted and constructed shall be a market rate unit.
  - 2. The project may also be constructed in its entirety with all permits issued at once provided that the occupancy permits are issued at a ratio of 4 (four) market rate units to 1 (one) affordable unit. The last occupancy permit to be issued shall be for a market rate unit and shall not be issued unless all affordable units are occupied and the affordable housing restrictions recorded.
  - 3. The Building Commissioner may grant a modification to the rate and timeframe requirements so long as the last unit permitted and constructed is a market rate unit.

## **6. Provision of Affordable Housing Units Off-Site**

In lieu of providing such units on site, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 4 off-site. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In

addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the special permit review and approval process. The off-site units shall be comparable to the on-site units in terms of proximity and access to amenities. Providing affordable units off-site does not allow an applicant to increase the number of market rate units on site.

### **7. Distribution**

Distribution of affordability for rental or ownership units as Low Income Community Housing or Moderate Income Community Housing shall be set as determined by the Planning Board in consultation with the Provincetown Community Housing Council.

### **8. Payment-in-Lieu of Affordable Housing Unit Provision**

In lieu of providing such units or lots within the development, an applicant may provide a cash contribution to the Housing Trust Fund of equivalent value. The method and timing of the payment(s) shall be secured as a condition of special permit approval. Providing a payment-in-lieu of providing affordable units on site does not allow an applicant to increase the number of market rate units on site.

Equivalent value will be determined through one of the following methods: a) for ownership projects, the difference between the affordable sales price(s) and the appraised market sales price(s) of similar bedroom units within the project; and b) for rental projects, the difference in appraised value between the value of the project with and without the affordable units. The appraiser will be selected by the Community Housing Council and paid for by the applicant.

Or as in Section 4(b) – average cost of a 2BR unit?

### **9. Maximum Incomes and Selling Price; Affordable Housing Inventory**

Maximum incomes and sales prices and rents are set forth in Article 1 Definitions. It is intended that the affordable housing units created under this by-law be considered as Local Initiative Units or Local Action Units in compliance with DHCD requirements.

### **10 Preservation of Affordability; Use Restrictions**

(a) Affordable housing units created in accordance with this by-law shall use affordable housing restrictions that are recorded at the Barnstable County Registry of Deeds and that require the units to remain affordable in perpetuity. Such affordable housing restriction shall grant, among other things, the Town's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

(b) The Planning Board shall require, as a condition for special permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the affordable housing restriction noted in Section 10(a) above.

**11. Segmentation**

Developments may not be phased or segmented to avoid compliance with conditions or provisions of this by-law.

**12. Conflict with Other Bylaws**

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

**13. Severability**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Provincetown's zoning bylaw.

DRAFT

**DRAFT ZONING BYLAW AMENDMENTS  
2015 ANNUAL TOWN MEETING**

**Definitions Section Article:**

**Article \_\_\_\_\_:** To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 1, Definitions, as follows:

**Building Height** the vertical distance between the highest point of the roof and the natural mean grade as measured from the natural grade at the four (4) furthest corners of the structure to the height of the highest point of the roof, and dividing the aggregate number of these heights by four (4). For buildings which existed prior to April 6, 2015, and located in the FEMA established A and V zones, building height shall be measured from the higher of Average Natural Grade or Base Flood Elevation. Height limitations shall not apply to chimneys, TV antennae with poles of ten (10) feet or less, or spires, cupolas and widow walks that do not enclose more than thirty-five (35) square feet of floor space or exceed ten (10) feet in height or occupy more than five (5) percent of the roof area.

And to amend the Provincetown Zoning Bylaws, Article 3, General Requirements, Section 3110, Change, Extensions and Alterations, by adding a paragraph as follows:

**3110 Change, Extensions or Alterations** As provided in Sec. 6, Ch. 40A, G.L., Pre-existing nonconforming structures may be altered, reconstructed, extended or changed if in so doing the nonconformancy is not increased. The following types of alterations do not result in an increase in nonconformancy:

1. Alteration to a nonconforming structure where the alteration will comply with all applicable sections of the Zoning By-law in effect at the time of application.
  
2. Alteration to a nonconforming structure on a lot containing at least the minimum square footage required, prior to any lot dimensional increases within the zoning district in which the lot is located, where the alteration will comply with all applicable sections of the Zoning By-law, in effect at the time of application, including but not limited to yard setback, lot coverage and height requirements.

Otherwise, pre-existing nonconforming structures may be extended, altered or changed along the nonconforming dimension or dimensions without intruding further into existing setback area if the Board of Appeals after a Public Hearing finds that such extension, alteration, or change will not be substantially more detrimental than the existing nonconformancy to the neighborhood.

Pre-existing nonconforming uses may be extended or altered if the Board of Appeals after a Public Hearing finds that such extension or alteration will not be substantially more detrimental than the existing nonconformancy to the neighborhood.

Pre-existing nonconforming uses may be changed upon the granting of a Special Permit by the Board of Zoning Appeals as specified in Section 5300.

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Nonconforming structures may be extended, altered or changed so as to make a conforming dimension nonconforming only upon the granting of a dimensional variance by the Board of Appeals, except that for those buildings which existed prior to April 6, 2015 and are required by the Building Commissioner to be elevated in accordance with FEMA Regulations, new setback non-conformities and intrusions further into an existing non-conforming setback area created by exterior access/egress stairs which are increased in length due to the building being elevated may be approved by Special Permit from the Zoning Board of Appeals.

Once changed to conformancy, no structure or use shall be permitted to revert to nonconformancy. Any extension of a nonconforming structure must have a continuous foundation and floor plan with said structure.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

**Use Regulations Article:**

**Article \_\_\_\_\_:** To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, as follows:

Add a footnote to Principal Use, A1a2, Single Family Dwelling, two per lot, as follows:

|     |                                                                     |       |       |       |     |    |    |   |
|-----|---------------------------------------------------------------------|-------|-------|-------|-----|----|----|---|
| A1a | Single Family Dwelling                                              | Res 1 | Res 2 | Res 3 | TCC | GC | S  | M |
| 2.  | two per lot (each separate structure) <del>NOPB</del> <sup>20</sup> | BA    | YES   | YES   | YES | NO | NO |   |

20. One accessory dwelling unit may be allowed in the Res1 Zoning District only if the following criteria are met: it is affordable in perpetuity; it is for year-round rental only; it is limited in size to 600 square feet if it is a free-standing dwelling unit or 40% of the gross floor area if it is located within the principal residence; the owner(s) of the residence in which the accessory unit is created must continue to occupy at least one of the dwelling units as their primary residence; it otherwise meets the "Requirements and Standards" and "Procedures" sub-sections of Section 4800 of this Zoning Bylaw.

And to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2430, Symbols, by adding a new symbol for Special Permit from the Planning Board (PB) as follows:

**2430 Symbols** In the following Use Regulation Schedule symbols shall mean the following: YES, a permitted use; NO, an excluded or prohibited use; BA, a use authorized under Special Permit from the Board of Appeals as provided for in Section 5300 Special Permits; PB, a use authorized by Special Permit from the Planning Board.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

7B

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## DISCUSS ARTICLES FOR WARRANT

Requested by: Acting Town Manager David Gardner

Action Sought: Procedural

Proposed Motion(s)

Discussion Dependent.

### Additional Information

Draft of warrant articles will be provided when available prior to the meeting.

### Board Action

| <i>Motion</i> | <i>Second</i> | <i>In favor</i> | <i>Opposed</i> | <i>Disposition</i> |
|---------------|---------------|-----------------|----------------|--------------------|
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## ***Town Meeting – Monday, April 6, 2015***

### **SPECIAL TOWN MEETING**

- Article 1 FY 2015 Budget Adjustments
- Article 2 Prior Year Bills
- Article 3 Transfer of funds from previous article to cover contaminated waste removal from the Johnson Street parking
- Article 4 Home Rule Petition/Charter Amendment/Residency Requirement – Town Manager
- Article 5 Home Rule Petition/Charter Amendment/Residency Requirement – DPW Director, Police Chief, Fire Chief
- Article 6 Home Rule Petition/Charter Amendment-Add alternate member to Board of Health
- Article 7 Home Rule Petition/Charter Amendment-Add alternate member to Planning Board
- Article 8 Acquisition of Winslow Street Property.
- Article 9 Wastewater Optimization and Expansion – Borrowing Authorization.
- Article 10 Create Historical Commission Gift Fund and Designate Receipts from Building Provincetown book

### **ANNUAL TOWN MEETING**

- Article 1. To Hear Town Reports.
- Article 2. FY 2016 Operating Budget
- Article 3. FY 2016 Enterprise Funds
- Article 4. FY 2016 Revolving Accounts
- Article 5. Creation of CORI Background Check Revolving Account
- Article 6. Cape Cod Greenhead Fly Control District Assessment
- Article 7. Elimination of current Community Preservation Act
- Article 8. Adoption of Modified Community Preservation Act.
- Article 9. Community Preservation Budget for FY 2016
- Article 10. FY 2016 Capital Improvements Program
- Article 11. Amendments to Personnel By-law/Classification & Compensation Plan
- Article 12. Expenditures from the Tourism Fund
- Article 13. FY 2016 Human Services Grant Program
- Article 14. July 4<sup>th</sup> Celebration Fireworks
- Article 15. New Year's Eve Fireworks
- Article 16. Cemetery Commission.
- Article 17. Fund Food for Emergency Shelter
- Article 18. Rescind the prior adoption of MGL C.59, §2A (a) to Add New Growth Properties to Tax Base Six Months Earlier.
- Article 19. Room Occupancy Tax- A Home Rule
- Article 20. 0.5% Real Estate Transfer Fee - A Home Rule Petition
- Article 21. Disposition of property – 311 Bradford Street
- Article 22. Disposition of property – 305-307 Commercial Street
- Article 23. General By-law Amendment: Non-Criminal Disposition of Pier Corporation Regulations
- Article 24. General By-law Amendment: Automatic-dialing devices
- Article 25. General By-law – Sidewalk snow removal
- Article 26. Zoning By-law Amendment: Accessory Dwelling
- Article 27. Zoning By-law Amendment: Inclusionary Housing
- Article 28. Zoning By-law Amendment: Building height
- Article 29. Zoning By-law Amendment: Growth Management
- Other Allow residential exemption to be used when property is rented year-round
- Other Creation of new property tax classification – Seasonal usage



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
Monday, February 23, 2015

7C

## OTHER

Requested by: Acting Town Manager David Gardner

Action Sought: Discussion

Proposed Motion(s)

**Discussion Dependent – votes may be taken.**

Additional Information

Board Action

| <i>Motion</i> | <i>Second</i> | <i>Yea</i> | <i>Nay</i> | <i>Abstain</i> | <i>Disposition</i> |
|---------------|---------------|------------|------------|----------------|--------------------|
|               |               |            |            |                |                    |



Provincetown Board of Selectmen

**AGENDA ACTION REQUEST**

Monday, February 23, 2015

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## MINUTES OF BOARD OF SELECTMEN'S MEETINGS

Requested by: BOS Secretary

Action Sought: Approval

### Proposed Motion(s)

***Move that the Board of Selectmen approve the minutes of:***

- August 12, 2013 (Special) [ ] as printed [ ] with changes so noted***
- September 30, 2013 (Special) [ ] as printed [ ] with changes so noted***
- January 10, 2014 (Housing Summit) [ ] as printed [ ] with changes so noted***
- April 8, 2014 (Town Meeting) [ ] as printed [ ] with changes so noted***
- April 9, 2014 (Town Meeting) [ ] as printed [ ] with changes so noted***
- October 23, 2014 (Executive-Open) [ ] as printed [ ] with changes so noted***
- November 10, 2014 (Executive-Open) [ ] as printed [ ] with changes so noted***

### Additional Information

See attached minutes

### Board Action

| <i>Motion</i> | <i>Second</i> | <i>Yea</i> | <i>Nay</i> | <i>Abstain</i> | <i>Disposition</i> |
|---------------|---------------|------------|------------|----------------|--------------------|
|               |               |            |            |                |                    |



**TOWN OF PROVINCETOWN – BOARD OF SELECTMEN  
SPECIAL MEETING – AUGUST 12, 2013 at 4:30 PM  
TOWN HALL – JUDGE WELSH ROOM**

Chairman Austin Knight called the meeting to order at 4:35 pm. Board of Selectmen: Chairman Austin Knight, Vice Chairman Elaine Anderson, David McChesney, Eric Yingling, Tom Donegan.

Other Attendees: Darin Klein, Atty.; John Giorgio, Kopelman & Paige; Sharon Lynn, TM; David Gardner, Assistant Town Manager; Beth Singer, Superintendent; Kerry Adams, Chair, School Com.; Tony Brackett, School Com.; Cass Benson, School Com

Recorder: Vernon Porter

The Board then voted to enter into executive session as follows:

**MOTION to go into Executive Session** to consider Clauses 3, 6, and 1 Tom Donegan 2<sup>nd</sup> Elaine Anderson

1. **Clause 3** – Discuss strategy with respect to threatening litigation. The Chair has determined that if an open meeting may have a detrimental effect on the litigation position of the Town. Joint meeting with the School Committee regarding the Provincetown High School Exterior Restoration Repair Project. Votes may be taken.
2. **Clause 6** - To consider the purchase, exchange, lease or value of real estate. The chair has determined that an open meeting may have a detrimental effect on the negotiating position of the Town. Continued discussion regarding the steps to convey Town-Owned Property: Grace Gouveia Building (26 Alden St.);
3. **Clause 6** - To consider the purchase, exchange, lease or value of real estate. The chair has determined that an open meeting may have a detrimental effect on the negotiating position of the Town. Discuss/consider acquisition land in Truro adjacent to South Hollow Well Field. Votes may be taken.
4. **Clause 1** – To consider the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual. Votes may be taken.

**and not to convene in open session thereafter.**

**(Roll Call Vote)**

**Austin Knight – Yea  
David McChesney - Yea**

**Tom Donegan – Yea  
Elaine Anderson - Yea**

**Motion by: Elaine Anderson**

**Seconded by: David McChesney    Yea 4    Nay 0**



**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN**  
**SPECIAL MEETING – MONDAY– SEPTEMBER 30, 2013 5 PM**

**TOWN HALL – JUDGE WELSH ROOM**

Chairman Austin Knight convened the meeting at 5:00 PM noting the following:

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

Other attendees: Town Manager Sharon Lynn and Assistant Town Manager David Gardner

Recorder: David Gardner

The following are meeting minutes, in brief:

**1. REVIEW AND INTERVIEW OF PROPOSALS – POLICE STAFFING ANALYSIS**

Vincent Talucci, Director, Programs and Research Activities, and Tracy Phillips, Senior Projects Specialist, International Association of Chiefs of Police interviewed over the phone.

Mark Morse, President, MMA Consulting Group Inc. was present.

**MOTION: Move that the Board of Selectmen vote, to enter into a contract agreement with MMA Consulting Group Inc, in the amount of \$9,450 for the purposes of conducting a staffing analysis of the Provincetown Police Department.**

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

**MOTION: Move that the Board of Selectmen vote, to request the Finance Committee fund the Police Staffing report in the amount of \$9,450.**

**Motion by: Austin Knight    Seconded By: Tom Donegan                    Yea 5    Nay 0**

**2. OTHER – None.**

Motion to adjourn by Elaine Anderson at 5:58 PM.

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN  
HOUSING SUMMIT MEETING MINUTES  
FRIDAY, JANUARY 10, 2014 9:00 AM  
VETERAN'S MEMORIAL COMMUNITY CENTER**

Elaine Anderson called the Board of Selectmen to order at 9:00am, noting the following:  
Board of Selectmen attending: Elaine Anderson, Erik Yingling, Tom Donegan, and David McChesney.

**Community Housing Council Members Present:** Kristin Hatch, Ann Maguire, Susan Cook and Donna Szeker.

The Housing Summit was called to order at 9:00 A.M.

Elaine Anderson welcomed the participants. She thanked the COA, Michelle and the Housing Council for putting together the event. Michelle said that she is hoping to come up with new strategies and new energies from participants and people in the community in order to deal with the housing issues in Town.

Ann Maguire, Chair of the Community Housing Council, said that the BOS had requested that a housing summit be held. The last summit was held in 2006 and facilitated by John Ryan. As he is familiar with Provincetown, he was invited again to facilitate. In the morning session, he will talk about what the Town has done, what has changed since 2006 and where the Town stands today. She explained how the summit would work. The participants will split up into various smaller groups to discuss different topics after lunch. Ann, Gloria McPherson, Michelle, and the other members of the Housing Council will be joining groups to help facilitate the discussions. After the small groups, everyone will meet together to discuss what was talked about in the smaller groups, for questions and answers and to help devise concrete plans for the next steps. CHC has asked for CPA money to fund two initiatives to help seniors, disabled people and veterans keep their housing, which includes members of the community tackling home improvement jobs, for rental assistance to small income households for up to three years and to provide on-going financial counseling to help people become more self-sufficient.

John Ryan gave some opening remarks. He is no longer in housing, but he couldn't resist returning to Provincetown. It is a landmark for our culture and he doesn't want it to slip away. When he looks at the issue of housing over the last 6 years, he senses the vulnerability of Town to losing its sense of community over time. The issue has to be approached in a thoughtful, pragmatic way. He wants people to think of what the vision of the Town is for the next 20-30 years and step aside from where the Town is at now. He is hoping at the end of the summit there will be enough energy generated for moving some ideas forward.

He wants to commit to doing something today. The first part of the conversation is what has been going on in Town in order to address the issues of community housing. The

Town has done more than almost any other community that he has worked with in Massachusetts and Vermont. 60 or 65 new community year-round rental units have been created. That is a significant increase in what was available and the Town has the highest percentage of homes that are considered affordable. There needs to be more incentives in the Town By-laws for folks to make their homes available to renters affordably and give them tax breaks that provide opportunities for supplemental units and accessory apartments. All the efforts made are laudable and he applauds the Town. The community clearly does care, and has made that very obvious, and has committed people who care about housing and making affordable housing available. The nature of the housing problem is not indifference. The housing issue is ever present and will be in this Town because of the attractiveness of living here and the ability of people to pay ever higher prices for housing and real estate. It has been increasingly more difficult to sustain as a year-round place. There is no easy answer to how to resolve that. Long past when the Town no longer provides the services or community that attracts people, its reputation will still draw people here. People will continue to come even when it is just a shell of itself. And the Town should try and avoid that.

He assessed what the needs were in Town back in 2006. He looked at a whole range of things and recognized that there was a need in a variety of areas. He went back and looked at that information and wants to relate what he found, but would like to ask participants to give him an idea of where the Town is at right now in terms of the state of housing and what they see as the nature of the problem and what might be done about it.

Maggie spoke of her concern about the lack of housing for year-round seasonal employees.

Mary-Jo Avellar raised the issue of the Town being surrounded on three sides by water, the ownership of 75% of land by the Cape Cod National Seashore, the scrutiny of Truro regarding our water use, the Growth Management By-Law, our limited physical resources and the popularity of second homes. Where is the housing going to be built in this difficult situation with the strictures the Town puts upon itself?

John reiterated that the infrastructure issue and the availability of land is inhibiting.

Mary-Jo reiterated the difficulty of dealing with the Town of Truro wanting the water that goes to Provincetown to stay in Truro for their own growth and development needs.

Duane Steele said that the water issue has severely restricted growth in Town. The housing situation has always been a problem in Town; it's just more severe now. The population has changed. Why were so many people against condominium development? There is a problem with zoning restrictions, including the Growth Management By-Law, that have been passed which prevent accessory apartments from being established.

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Reverend Brenda Haywood suggested that the building of high-priced private homes on previously undeveloped land has been an issue. Many houses get sold and then go into condominium conversion. People leave Town because they cannot afford to live here. She suggested that a partnership with Habitat for Humanity could be established to build affordable homes. Only one duplex has been built here by Habitat.

Someone asked about John's plan of attack. He replied that he is facilitating this meeting and is hoping to channel energy of participants and the community and their commitment to diversity, justice, action and accountability in regard to housing.

Jennifer Cabral commented on the critique of the Growth Management By-Law by a previous speaker. She doesn't agree and sees only a growth in density due to condominium development. 70% of homes are owned by second home owners and it is appalling to walk around Town in need of housing and see empty houses. They used to be empty due to seasonality of Town, now they are year-round residences that the owners do not want to rent. The Town has been over-developed. Sub-standard places that were rented by Town's people in the past were at least affordable.

John says that everyone is not going to agree. But there is an agreement that development of condominiums has not resulted in affordable rental housing.

Cass Benson is concerned about families leaving Town because of the non-affordability of housing. There is still a school in Town. Parents and families are an important part of the community. This issue needs to be addressed.

In regard to household size, there are a lot of single-person households. There are different sets of solutions to different sets of problems.

Char Priolo said that a major problem is that people are attracted to living here and come in with lots of money and build trophy homes, in essence, changing the Town. There is a conflict in this. Housing is scarce for many people, including kids that go away to college and come back and cannot afford to live in Town. Large families cannot find rental housing. She agrees with the restrictions because there is only so much land available on this peninsula.

John said that he would like to have as a running theme today the relationship of the year-round people to the people who only use their property seasonally. If those two worlds go in opposite directions and differ on what the needs of the community are and will be, that creates a problem. The Town needs to have a dialogue with the second homeowners in regard to becoming more a part of the community and to deal with the differences between the groups. They have to be allies and an aspect of the way to move forward.

Erik Yingling said that his generation is becoming scarce in Town and on Cape Cod because of a lack of access to housing and jobs. There is more access up Cape. He is in favor of a multi-pronged, aggressive approach, including revising by-laws and

inclusionary housing by-laws. The Town should be allied with developers interested in providing community housing. Developers should be partners with the Town. He wants all ideas on the table.

John said that the Town has to be clear about the issues and what it wants and then willing to work to make things happen. Housing is only one prong of the problem. Low wages are also a part of the problem. These issues are intertwined. Low wages create a very different set of opportunities. There has to be as much work on raising wages as on creating affordable housing. If you don't have a stable base of housing, there is no continuity or opportunity to allow people to come to Town to grow a business that is year-round.

Catherine Russo said that a lot of people spent time developing the Local Comprehensive Plan that has not been implemented. BOS should make sure regulatory Boards follow the LCP. People know their neighborhoods and should have more of a say in what happens in them when issues come before the Zoning Board of Appeals or Historic District Commission. Why have an LCP if the Town is not going to follow it?

Dian Hamilton suggested being more inclusive with all segments of the community, such as the Jamaican, Latino and Eastern European workers, in regard to these meetings. All segments of the community should be part of this discussion. We need to create a trusted avenue for grievances by seasonal workers so that they feel comfortable in coming forward. Are there any ideas on how to address those unjust, potentially racist practices and how to deal with them?

Robert said that he has rented his house and it was not a good experience. His house was heavily damaged by his tenants. Massachusetts is a tenant-friendly state. As a homeowner, he is against how affordable housing has been handled in Town. He worked hard to be able to live in Town and went without a lot of things. This is an expensive Town to buy in and live in, it is a resort Town. His mortgage payments are high and he has high costs as a homeowner. He thinks that people who live in affordable housing should not complain about their living costs and have no concept of what homeowner's pay for expenses. Affordable housing needs to be looked at from a different perspective.

John said that they should look at where to move forward from here. Opportunities are different. What has been said gives him a sense of where folks are at in the room. He reviewed his two-page housing update. Data supports the conclusion that things are better than they were in 2006, however it is like filling a bucket with a hole in it. It takes a lot of work to develop and build affordable housing. In that same period, 350 residential units of multi-family housing have been converted to condominiums. Most of those condominiums are not available on a year-round basis anymore. Stock of year-round housing is being converted to seasonal housing. A lot of that stock is where rental housing existed. There are enormous financial reasons why that is happening. The number of units being converted each year has dwindled. There are only a few year-round 2, 3 or 4-family houses left in Town. These are vulnerable to condominium

conversion. Other troubling issues are that in the last seven years the number of jobs has stayed the same while the number of residential workers who live in Town has dropped by 15%.

44% of renters were paying more than 35% of their gross income for rent. In 2010, it was 50%, which is probably the highest in the state. Provincetown has the highest unemployment in the state and the highest wintertime unemployment in the state. And those numbers continue to go up. Between 2000 and 2010, the elderly population did not expand.

There was a question as to the Town's ability to provide services for an aging population moving forward. Average wages paid went up in faster in Provincetown even though the number of people working in low wages jobs has increased. In order to get people into low-paying positions, you have to pay people more because they are coming from out of Town. The jobs are low-paying, but people are getting paid a little more because of the cost of living here. That is going to be a burden on businesses to continue to meet their payroll. This is more obvious over a long period of time. When it comes to owning a home, it makes meeting the down payment impossible if you are at a low-paying job and out of the range of most people. There are fewer opportunities to address that than the affordable rental housing issue. These trends won't be easy to turn around.

In a town that has a very high percentage of seasonal housing, there are often more houses than people looking for housing. According to the American Community Survey, there are 2700 homes that are seasonal or part time. Is there an accurate count of homes that are vacant year-round?

Mark Weinress stated that even though Provincetown is a town, it functions as an urban environment when it comes to housing issues. We are a seasonal town with an urban housing problem.

John agreed that the Town functions like an urban center. The unique characteristic is the comparison of wages and housing costs.

Candace Collins Boden said that in her opinion, the Town is becoming more seasonal. The length of seasonal jobs is becoming shorter. Affordability is related to jobs.

It is a tough situation. The economy is dependent upon the people who visit Town or who own second homes. The key is the changes in how that population utilizes their stay in Town. Now that there are more second homeowners in Town and fewer guesthouses, those people require less of what the Town depends upon for its viability.

Elaine mentioned an idea about a possible partnership between the Town and the business community for worker housing. The idea would be for unused town buildings to be converted into efficiency apartments and rented to employees. This is a potential solution to summer housing.

John said be wary of thinking there is one solution to this problem. There has to be a myriad of things that have to happen in order for real change to take place. Don't waste energy on figuring out what the most important problem is, seasonal or year-round housing. Put energy into ideas you really believe in.

Michelle G. stated that she had hoped to get some ideas about how to engage second homeowners in this issue and how to get them to care. Now they don't seem to have a concern about the community. How do you get them to put money into solutions? They potentially could bring talents and skills that could address this issue.

John said that to not tap into that pool of skills would be a missed opportunity.

Mary-Jo mentioned that there is a second homeowners' organization that has been formed to have a greater voice in what happens in Town because they pay a significant amount of taxes.

John suggested that the idea be reframed to be that they want to become more engaged because they care about the community as opposed to because they pay a lot of taxes and that they want to be engaged in the vision of the community. The two groups, residents and non-resident property owners, should work together and not at odds with each other.

Mary-Jo mentioned that the Growth Management By-Law only allows the creation of 28 new bedrooms a year and that is a restriction. Even if there was developable land or multi-family house that could be converted into affordable housing. There are real issues with some of the zoning by-laws.

John suggested revising the by-laws to encourage the kind of housing that would be sustainable over the long haul. What he finds challenging in inclusionary by-laws in communities is that they allow a higher percentage of market rate units to be built as compared to affordable units and that creates a situation where a town will never catch up, especially Provincetown.

There was a question about how much optimism should the Town have in terms of solving this problem? Are there solutions that have worked for other towns and has he witnessed real change in communities that have addressed this issue?

John said that it's always a struggle. Special places, like Provincetown, have been sold to the highest bidder. In this economy, more people are able to live where they want and be the highest bidder. You have to try to carve out opportunities for a segment of the community that doesn't operate in that sphere. He gave the example of Martha's Vineyard where businesses got involved and private money was donated to create affordable housing. Creative solutions came out of leadership and commitment. There seems to be an on-going commitment to community housing more than in the past. But it takes an enormous amount of work to develop community housing and the communities that understand this are the most successful.

You would have to raise money close to \$6000-\$8000 per household to subsidize housing. There is no way to get that through HUD's Section 8 or other programs. Where is that money going to come from? Province Lands doesn't meet the needs of everyone, but provides opportunity for those who it did help.

People are being evicted from places that were going to be converted. There are tiers of need for housing in Town.

An audience member said that language is confusing, 'affordable housing' is not 'low-income housing'.

John said that it is now being called 'community housing'. Most homeowners in Town could not afford to buy their houses today. The question is: Are you going to take that value away or leave it for generations to come. Are you going to take that money away? For most people it is their nest egg. Is all of it yours? Or is it because you made that money because you were lucky enough to have lived here long enough?

Duane: There are 3 levels of housing needs; the elderly, the Province Lands tenants and others who are not eligible for affordable housing. Even market rate rentals are hard to find.

How do you turn existing housing into affordable housing?

Tom Donegan stated that they should think about housing on a micro-level and not trying to solve the whole problem all at once. The Town should think about tax incentives as well.

John said treat it like one or two units at a time. How do you do that? It takes money and time.

Jennifer sees an inherent PR issue. In the broader population, there are a lot of people are opposed to the idea of government subsidizing housing with tax money. What do you say to those people to help persuade them?

Everyone is an individual and each of those people has had experiences that brought them to that opinion. You should listen carefully to them and try to understand them before you tell them what they are not understanding correctly. This community has common values, but there are people that you will never convince. Don't let that stop you. You can't convince everyone. You have to keep moving forward.

There should be tax exemptions for affordable housing and figure out how to get those to work better? There is not much movement in private affordable housing. John wants to figure out what can be done.

How do you balance affordable ownership with affordable rental? John asked how much effort should be focused on each? He encourages focusing more on home ownership rather than rentals. It contributes to continuity in a community. There have been projects that have developed units for ownership, but a lot of subsidies are no longer available for that kind of development. The need for affordable ownership is still there, but the energy is not there because the opportunity is not there now, so the priority now falls more on the rental side. The ownership issue remains an important one.

With respect to new construction, how do you begin to identify micro and larger projects? What is the process going forward? How do you identify where the money is to purchase the land.

Elaine mentioned that the Town now has two buildings on the market now. That is existing space. And the Town has 80 developable lots left in Town. That is the existing inventory.

John said that there is a lot of money available for conservation land on the Vineyard. In the last few years there are partnerships that link the purchase of conservation land to an affordable housing component and it helps make the financing work.

Catherine mentioned co-housing, a system where people who are going to live in the housing develop the housing. It is non-profit endeavor and the value is retained by the residents. It is where people develop a community within a community.

How should the Town best use its existing housing stock?

Someone mentioned some examples from Vermont that were successful. Co-housing was one of the successes. Another idea is that if someone sells a home, the equity would be given back to a community trust. This is a good idea for young families. In addition to those ideas, all summer homeowners were contacted by the Governor of Vermont after Hurricane Irene and those homeowners decided to let people come and live in their home until they got help. It was very successful.

John stated that the reality is that folks are afraid to rent their homes because of potential damage is real. Given that reality, what would it look like to overcome that? How do you make it attractive?

How do you dis-incentivize condominium conversion to preserve rental stock? You have to try and make it harder to convert housing stock in condominiums.

Elaine said that at the previous summit, an idea about using space above commercial buildings for rental housing was suggested, however it hasn't been very successful. Another idea involved using commercial storage space for housing space.

Ted Malone said that the accessory housing by-law did not get implemented from the 2006 summit. It has been underutilized and that has to do with its long-term deed

restriction requirement. Perhaps the deed restriction of 20 years might be reexamined. Other towns have been more successful with affordable accessory apartments with no restrictions. A lot of people have more house than they need.

A lot of laws and incentives on books meant to promote affordable housing are not being utilized properly. How do you utilize those differently?

In Vermont they have a home share idea for elderly people who open their homes to people for a reasonable or no rate because they want to stay in their homes and out of assisted living. It is about trust and safety to share your home.

There will be a group today that will look at senior and disabled issues in the community. How so you deal with this segment of the population? And if they be able to stay in their houses is an increasingly important issue.

The projection of the number of the 65+ individuals was 1000 and in actuality it was 600 in 2010. This was lower than projected. The issues of care needed for that change in population is a driving force in the economy in future and how it intersects with housing will say a lot about whether that segment gets to stay in Town as they age. It is about trust and safety. It is the same issue of trust and vulnerability as second homeowners renting their houses. The community has to find a way to help take the burden off the homeowner and protect those homeowners and indemnify them.

How was this done in past? People with personal connections to the homeowner were used. The approach has to be at the personal level. John doesn't think a bureaucracy can do that. It has to be networking amongst the community. We need younger people to think about when they are older and help to create the infrastructure for these ideas now.

Disabled and senior residents demand different kinds of solutions than working people. How can we help that segment of the community? 60-80 senior folks would qualify for affordable housing if it were available.

Duane said that the Housing Authority has been moribund for a while. We have to be able to expand Maushope and develop similar housing. We should encourage seniors in affordable housing to move into that kind of housing, similar to Maushope, leaving their units to be rented by someone in need of affordable housing. There have been things happening, but how to do that and utilize land?

Kristin Hatch said that the main problem is money. The federal and state income sources are not giving away money for housing for seniors or anyone else. The money now is predominantly for family housing. The Town had to get special dispensation to get 1-bedroom units at Province Landing. It is the question of family v. senior housing. Senior housing used to be a priority, but its heyday ended 30 years ago. Because fewer funds are available, the decision at the state and federal level is for families.

There has to be a change in how funding happens. Kristin said it is not lack of will, but it is always the money. How do you begin to raise the money?

John said that the money is a big number, bigger than you would want to know. Tom said that if you bought all the property in Provincetown at market value, you would spend \$3 billion. John said that 15 years ago, that would have been \$1 billion. A lot of it is big mortgages. Where are you going to raise money?

Duane suggested the Town offer older residents life estates in their properties and acquire their property after they die. Should the Town figure out how to buy a person's property at the lowest price you can, condo it and sell at a higher price to a seasonal person? How do you do that as a Town? How can you learn from developers and realtors? Are there any realtors who would be willing to help in this effort?

How do you change the attitude in Town about developing housing? You could try and convince people that we are all in this together. John doesn't know if he can help with that issue. People in the room today could go talk to someone about what happened at the summit today and have a conversation with others about how to solve the issue and try to change attitudes. How do you empower people and not be called a socialist?

Sarah Bailey said that another way to change attitudes is if everyone in room could donate an hour of their time to help with this effort, such as grant writing or fundraising. And then talk to their friends and ask if they could donate an hour of their time and on and on.

John's frustration is that the people making decisions about housing are rarely the people that need it. The people who need it should lead. At the last summit, there was a lot of energy and Town Hall was packed. However, no renters went to Town Meeting and a lot of the proposals got voted down. The renters didn't care enough to show up at Town Meeting to support the ideas. Needing housing is not a stigma. That's just the way it is.

Mary-Jo said that the press is not here to cover the summit. There is no reliable, responsible press to support and promote these ideas. John said that there is an opportunity.

Stephen Milkewicz noted that the biggest landowner in Town was not present, the National Seashore. How come they are not more involved in the Town? We should be getting revenue from beach parking. There was someone from Congressman Keating's office, Andrew Nelson. John said that he needed to keep the pressure on Mr. Keating. Mr. Nelson is going to write a memo to his office and let his office know what happened at the summit and keep the Congressman apprised of what is happening. John said that the value of the memo will be in how many people call Keating's office and reinforce what the memo said.

The land behind Maushope was discussed. Steve said that it is now conservation land.

LUNCH.

### **Group Reports:**

Jennifer said that some of the ideas they came up with are to develop tax breaks or rebates for those who are land rich and cash poor. Figure out how to give help to the average guy without too much financial pain. In addition, the idea of acquiring micro-dwellings and making cottage colonies. There are small pre-fab dwellings available. Perhaps hold a contest for local architects to design micro-dwellings. How could you take all the houses in Town and convince property owners to become interested in becoming landlords. She suggested creating a liaison to help property owners and answer their questions. There is a Cape Cod landlords' association that can help with questions and offer seminars on how to vet tenants. In addition, find a way to offer insurance for homeowners for their property, like a renter's insurance. Subsidize a program like that and have tenants contribute to that instead of putting down a security deposit. The insurance could cover lost rent and damages. The Town could subsidize the insurance. We need to change the perception of what an affordable tenant is and dispel all of the negative stereotypes. A database of places to rent that are available could be created and people in need of housing could be coordinated with those places, like a Match.com. Other suggestions discussed included SROs (single room occupancy) for people who are just need a place to live and work, cottage colonies and houseboat communities.

Out of the Box Group: Kristin reported that they talked about a lot of things, but narrowed it down to three. One was water living and bringing back the Provincia, or something similar. Another idea is to match up someone with an elderly person who would open his or her home to a tenant. Someone in the group was going to contact the Vermont people who work with this model and find out how it worked. Also find out how that program would that be set up and administered? Keeping a senior or disabled person in his or her home in addition to providing housing for someone is a win-win situation. The third idea was to work with second homeowners in Town. In addition they discussed having the Town or other organization buy properties in need or renovation, creating rental units in them and renting them out. Another idea mentioned is for realtor's to give a percentage of their commissions on sales to affordable housing.

Seasonal Housing Group: Many people and students coming from other countries and there are employment tiers in Town, including the largest employer or tier, which is Stop-n-Shop. The medium tier, a business with 20-30 employees, are taking the initiative and buying up properties to house employees. The smallest tier, which is the largest group usually have to house 2-3 people. All of these sectors needed to be looked at. Dormitory style housing has to be looked at. Stop-n-Shop is already looking at that idea. The Town could learn from them. Grace Gouveia and the old Recreation Center would be potential candidates for this type of housing. There are groups in up Cape towns who have a J-1 non-profit, church-driven program, to help students find housing. The Town should look at forming a similar non-profit program. The accessory

housing by-law is not being used. The deed restriction should be lowered. In order to help seasonal and year-round housing, they talked about using trailers and small houses. They need a location and have to find out the cost of the units. Maybe unused FEMA trailers could be utilized. There is space at the old VFW property. Perhaps the Town could get the support of a company who makes small houses to subsidize the cost. The seasonal workforce will still need housing and will continue to come back year after year.

Senior/Disabled Group: Patrick Manning said they discussed the potential expansion of Maushope in 6 or 7 years. There are one or two lots available abutting Maushope. Also discussed was reaching out to the second homeowners' association for housing opportunities. They need to create an alliance. He said that they would look to set up a meeting with that group. Can they financially help support creating senior housing? Another idea discussed was matching seniors who have housing with caregivers or companions who need housing. There would be a consortium of groups in Town that could implement this.

Raising the Money Group: One simple idea is to put a voluntary check box on property tax bills to earmark money for affordable housing. Town Counsel would have to be consulted about this idea. Or enable tax payers to make a tax-deductible contribution to a non-profit affordable housing group. Also discussed was the idea of betterment forgiveness, in that a development would be forgiven sewer betterments if affordable units were built. CPA money could be reapportioned and more money could be devoted to affordable housing. In addition, an idea called adopt-a-project/outreach, which encompasses tapping into second homeowners association, was discussed. A lot of those people in that association are looking to give back to the community. Many come throughout the year, not just a couple of weeks a year. Also discussed was forming a non-profit dedicated to affordable housing by second homeowners' association. The final idea was to look at a specific individual's housing situation. By putting a face to the problem, people would be more likely to donate money to the cause of getting that individual housing. That makes a difference for fundraising.

John said that this process should not stop here. He asked group scribes to write down their notes and send them to Michelle. He encouraged everyone to not lose momentum and use these ideas for a framework to move forward. Was there anything that anybody mentioned that could be put on the warrant for Town Meeting? Several ideas were mentioned, including a Zoning By-law that prohibits single-family houses from having rentals and changing the nature of the accessory dwelling by-law change to ease restrictions. The Housing Council will get proposal language in front of Planning Board. The Town Planner will look at regulatory fixes. Should the BOS look at selling of the two Town buildings and should they be used for affordable housing? Does that have to go to Town Meeting? Tom suggested that someone come up with a plan on how to convert those buildings. Sealed bids have already been submitted to the BOS for those buildings. Some entity needs to make a strong enough case to convince the BOS to wait on opening the bids. Elaine said that the BOS might get a proposal to include affordable housing in those bids. The alternative should be proposed soon. Time is

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running out to have a positive impact. The CPA funding change in percentages needs to be put on the warrant. Ann Maguire said there is a proposal for that pending.

For John the key is taking the energy from today and focusing it into actions. There is another session scheduled for February 28<sup>th</sup>. The most effective way to use that day is to take the ideas from today and put them into a logical form and understand the timelines, the priorities and what gets moved forward. A document needs to be in hand at the end of the session on how to address and who needs to be involved. Someone suggested that the minutes from each group be e-mailed to people who signed in. He hopes that this conversation will continue in the interim until February 28<sup>th</sup>.

Ann Maguire suggested putting the ideas into a doable plan of action. Has something not been discussed?

Raffie mentioned jobs and incentives for businesses to stay open in the winter. Economic development and job creation aspect is important. The season should be extended to make it possible for people to work longer. Is it possible to connect with people on Martha's Vineyard?

Fill out evaluation forms. John needs someone to scribe those.

Respectfully submitted,

Ellen C. Battaglini

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN**

**TOWN MEETING - TUESDAY - APRIL 8, 2014**

**TOWN HALL AUDITORIUM**

Chairman Austin Knight opened the meeting at 5:55 PM noting the following attendees: Board of Selectmen members: Austin Knight, Elaine Anderson, David McChesney, Tom Donegan and Erik Yingling.

Recorder: Mary Timmons

The following are pre-town meeting minutes, in brief.

**1. TOWN MEETING MATTERS**

No action taken. No motions made.

Town meeting started at 6:00 PM

Motion to adjourn until Wednesday - April 9, 2014 at 6:00 PM was called for by the Town Moderator and unanimously approved at 9:18 PM.

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN**

**TOWN MEETING - WEDNESDAY - APRIL 9, 2014**

**TOWN HALL AUDITORIUM**

Chairman Austin Knight opened the meeting at 5:55 PM noting the following attendees: Board of Selectmen members: Austin Knight, Elaine Anderson, David McChesney, Tom Donegan and Erik Yingling.

Recorder: Mary Timmons

The following are pre-town meeting minutes, in brief.

**1. TOWN MEETING MATTERS**

No action taken. No motions made.

Town meeting started at 6:00 PM

Motion to adjourn was called for by the Town Moderator and unanimously approved at 10:02PM.

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**TOWN OF PROVINCETOWN – BOARD OF SELECTMEN  
MEETING MINUTES  
MONDAY, OCTOBER 23, 2014  
EXECUTIVE SESSION – OPEN  
TOWN HALL – JUDGE WELSH ROOM**

Chairman Tom Donegan called the meeting to order at 5:34 PM noting the following Board of Selectmen members: Tom Donegan, Erik Yingling, Cheryl Andrews, Robert Anthony, and Raphael Richter

Other Attendees: Acting Town Manager David Gardner

Recorder: Loretta Dougherty

The Board motioned to enter into executive session at approximately 5:34 pm and then voted as follows:

**MOVE that the Board of Selectmen vote to go into Executive Session pursuant to MGL c30A Section 21 (a) Clause 7 and 6 for the purpose of:**

**Clause 7 - To consider release of information protected by the attorney/client privilege MGL c214 Section 1B and/or MGL c4 Section 7 Clause 267.**

**Clause 6 - To consider the purchase, exchange, lease or value of real estate, if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body,**

and not to convene in open session thereafter.

**Motion by: Tom Donegan**

**Seconded by: Raphael Richter**

**Roll Call Vote:**

**Cheryl Andrews: yes**

**Robert Anthony: yes**

**Raphael Richter: yes**

**Erik Yingling: yes**

**Tom Donegan: yes**

**Yea: 5    Nay: 0    Motion passed**

**TOWN OF PROVINCETOWN – BOARD OF SELECTMEN  
MEETING MINUTES  
MONDAY, NOVEMBER 10, 2014  
EXECUTIVE SESSION – OPEN  
TOWN HALL – JUDGE WELSH ROOM**

Chairman Tom Donegan called the meeting to order at 5:30 PM noting the following Board of Selectmen members: Tom Donegan, Erik Yingling, Cheryl Andrews, Robert Anthony, and Raphael Richter

Other Attendees: Acting Town Manager David Gardner

Recorder: Loretta Dougherty

The Board motioned to enter into executive session at approximately 5:30 pm and then voted as follows:

**MOVE that the Board of Selectmen vote to go into Executive Session pursuant to MGL c30A Section 21 (a) Clause 6 for the purpose of:**

Clause 6 – To consider the purchase of, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.

**and not to convene in open session thereafter.**

**Motion by: Raphael**

**Seconded by: Robert Anthony**

**Roll Call Vote:**

**Cheryl Andrews: Yes**

**Robert Anthony: Yes**

**Raphael Richter: Yes**

**Erik Yingling: Yes**

**Tom Donegan: Yes**

**Yea: 5 Nay: 0 Motion passed**



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**

Monday, February 23, 2015

9A

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## CLOSING SELECTMENS STATEMENTS

### Administrative Updates

Requested by: Acting Town Manager David Gardner

Action Sought: Discussion

#### Proposed Motion(s)

*Motions may be made and votes may be taken.*

**Robert Anthony**

**Raphael Richter**

**Erik Yingling**

**Cheryl Andrews**

**Tom Donegan**

#### Additional Information

A. *Letter to Commissioner Martin Suuberg, Massachusetts Department of Environmental Protection re: Use of a Hydraulic Dredge in Coastal Resource Areas.*

#### Board Action

| <i>Motion</i> | <i>Second</i> | <i>Yea</i> | <i>Nay</i> | <i>Abstain</i> | <i>Disposition</i> |
|---------------|---------------|------------|------------|----------------|--------------------|
|               |               |            |            |                |                    |

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*Board of Selectmen*  
Town Hall, 260 Commercial Street  
Provincetown, Massachusetts 02657  
Telephone (508) 487-7003  
Facsimile (508) 487-9560

February 18, 2015

Mr. Martin Suuberg, Commissioner  
Massachusetts Department of Environmental Protection  
1 Winter Street  
Boston, MA 02108

Re: Use of a Hydraulic Dredge in Coastal Resource Areas

Dear Mr. Suuberg:

The Town of Provincetown (Town) Board of Selectmen is writing to request your assistance in a matter of great importance to coastal communities of the Commonwealth. Specifically, the Town is seeking an interpretation of the Department of Environmental Protection's (DEP) wetlands regulations concerning the use of a hydraulic dredge in resource areas protected by the Wetlands Protection Act. The activities described herein have caused and are continuing to cause significant damage to the environmental resources of the Town and those undertaking this activity claim that they are exempt from the DEP's and the Town's regulations because the activity is being conducted for the purpose of harvesting clams. We have found no such exemption in the DEP's regulations and we believe that your official interpretation in this matter will further the purposes of the Wetlands Protection Act and provide significant protection of resource areas within the DEP's jurisdiction.

By way of background, the harvesting of clams by hydraulic dredging is a mechanical method of fishing that uses jets of water from a high pressure pump to displace bottom sediments covering the clams. The dredge, a large steel construction, is dragged along the bottom by a boat on the surface. As water is pumped through a manifold on the front of the dredge at 50 to 100 p.s.i., the sand is loosened and the clams are dislodged along with anything else residing or anchored in the substrate. The dislodged clams are collected in a chain mesh bag as the dredge is dragged through the fluidized sediment. The dredge dragged along land under the ocean can weigh up to three thousand pounds and exceed fifteen feet in length. Video showing the hydraulic dredge equipment in use in Provincetown waters of the Commonwealth are enclosed on a flash-drive herewith for your reference.

The adverse impacts of hydraulic dredging are well documented. Dredging disturbs the structure of the substrate, alters the biological community and modifies sediment biochemistry. As the dredge jets dig into the ocean floor, it creates a deep, wide trench, with mounds blasted out the sides of the trench. In this regard, the dredge acts much like a snow plow. Video of the trenches and side scan sonar enclosed herewith

e-mail: [selectmen@provincetown-ma.gov](mailto:selectmen@provincetown-ma.gov) <http://www.provincetown-ma.gov>

illustrates the trenches created and the extent of the operations within the jurisdictional waters of the Town in areas known as Herring Cove, Hatches Harbor and Long Point to Wood End. In both the sonar images and videos, the difference between natural bottom and altered bottom is clear.

The operation of this industrial equipment has detrimental consequences beyond the harvesting of the target species. The fluidized sand does not just resettle. The result is lighter, fluffier sediment that can erode more easily as it takes time for the substrate to re-compact. As much as 360 cubic feet of shell material is removed by the operation of dredging acres of sand by each boat for each day of fishing. Bottom anchored vegetation that was starting to repopulate the area is uprooted (see enclosed Cape Cod National Seashore Biologist Holly Bayley email and aerials regarding the potential for eelgrass habitat). One of the videos shows recent dredge scarring in an area of eelgrass that is delineated on DEP maps just off Long Point.

Additionally, the razor and soft shell clams that had begun to repopulate the area cannot survive being overrun by the dredging. Juvenile surf clams have a high mortality rate caused by sand being packed in their shells by the water jets and damaged shells. This keeps the clams from repositioning within the protection of the substrate leading to predation by moon snails and invasive green crabs.

On or about October 30, 2007, the Town's Conservation Commission (Commission) enacted a regulation prohibiting the use of hydraulic dredging in the jurisdictional waters of the Town without the filing of a Notice of Intent. A copy of the Town's regulation is enclosed herewith for your reference. In several memoranda published shortly thereafter, the Division of Marine Fisheries (DMF) came to the aid of commercial fishermen and opined that its regulations governing clam fishing were sufficiently protective of the Town's resource area and that hydraulic dredging is an acceptable fishing technique for the area. The opinions from DMF have empowered commercial fishermen, who flagrantly disregard the regulations and the Town's enforcement efforts. As a result, on or about January 6, 2015, after two extensive public hearings, the Commission issued enforcement orders to the owners of four commercial fishing vessels. Copies of these orders are enclosed herewith for your reference. Despite the issuance of the orders, the practice continues.

It is the Board of Selectmen's position that the practice of hydraulic dredging in the jurisdictional waters of the Town without an Order of Conditions not only violates the Town's regulations, it also violates the DEP's regulations. In 310 CMR 10.25(2), the jurisdictional boundaries of the Town extend seaward to a point where the land is 40 feet below the level of the ocean at mean low water for Provincetown's land in Cape Cod Bay. This is known as the "nearshore area of land under the ocean". Nearshore areas of land under the ocean are significant to the protection of marine fisheries, including land containing shellfish, storm damage prevention, flood control, and protection of wildlife habitat. As such, when a proposed project involves dredging, removing, filling, or altering of a nearshore area of land under the ocean, the

Commission is required to presume that the area is significant to the interests specified in the DEP's regulations; 310 CMR 10.25(1).

Pursuant to 310 CMR 10.02(2), any activity proposed or undertaken within the nearshore area of land under the ocean, which will remove, fill, dredge, or alter that area, is subject to the DEP's regulations and requires the filing of a Notice of Intent. More specifically, pursuant to 310 CMR 10.25 (5), projects which affect nearshore areas of land under the ocean shall not cause adverse effects by altering the bottom topography so as to increase storm damage or erosion of coastal beaches, coastal banks, coastal dunes, or salt marshes. In light of these significant interests, pursuant to 310 CMR 10.25(6), projects which affect nearshore areas of land under the ocean must meet additional performance standards before being permitted to take place.

The DEP's regulations clearly require the filing of a Notice of Intent before any hydraulic dredging is allowed to take place in nearshore areas of land under the ocean. Despite the position of the fishing industry, this activity is not exempt from regulation merely because it is being conducted to harvest clams. Likewise, the apparent approval of the practice by DMF does not excuse the separate requirements of the DEP's wetlands regulations. Although the general aim of both the DEP and DMF is the promotion of public welfare, each is independent of the other, and a party seeking to engage in a regulated activity must obtain all required approvals. In this regard, while DMF may have overlapping jurisdiction over the subject matter, both have an independent duty to enforce the laws under their jurisdiction, and the approval of one entity does not excuse compliance with the regulations of the other.

Because this is a matter of significant public importance that impacts most, if not all, of the coastal communities in the Commonwealth, the Town of Provincetown respectfully asks that you issue a memorandum taking an official position on the issue.

Thank you for your attention to this matter.

Respectfully for the Board of Selectmen,



Thomas N. Donegan, Chairman  
Provincetown Board of Selectmen

TND:ld

Enclosures:

Enforcement orders

Public Notice of Adopted Regulations

Side Scan sonar presentation

NPS Biologist email and images of potential eelgrass beds

Photo of hydraulic dredge stored on side of F/V Tom Slaughter

Photo of 360 cubic feet of clam shell ready for shipment

Flash-drive containing a) video of hydraulic dredge during haul back with pumps on, b) harbormaster diver video of the bottom scours at Hatches Harbor and Long Point eelgrass beds, c) side scan sonar presentation