

Special Town Meeting – Monday, April 6, 2015

Meeting Called to Order. Town Moderator Mary-Jo Avellar convened the Special Town Meeting at 6:00 p.m. on Monday, April 6, 2015 in the Town Hall Auditorium.

Preliminary Motions:

Tom Donegan moved that the Town vote to waive the reading of the warrant.

Motion Passed.

Tom Donegan moved that the Town vote to grant permission to speak at the April 6, 2015 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown: Michele Randazzo, Esq., John Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Candice Collins-Boden, *Executive Director, Provincetown Chamber of Commerce*; Steven Fossella, *Representative from the Provincetown Part-Time Resident Taxpayer Association*; Paul Kelly, *Partner, Manitou Architects*; Russell Titmuss, *Vice President, Bourne Consulting Engineering*; Constance Boulos, *Treasurer*; Austin Brandt, *Energy Manager/Conservation Agent*; Matthew Clark, *Acting Library Director*; Morgan Clark, *Health and Environment Manager*; Scott Fahle, *Principal Assessor*; James Golden, *Acting Chief of Police*; Aaron Hobart, *Licensing Agent*; Beau Jackett, *Director of Management Information Systems*; Michelle Jarusiewicz, *Acting Asst. Town Manager/Housing Specialist/Grant Admin.*; Eric Larsen, *Deputy Director of the Public Works*; Geoffrey Larsen, *Building Commissioner*; Rex McKinsey, *Pier Manager/Harbor Master*; Brandon Motta, *Recreation Director*; Kim Pike, *District Principal*; Domenic Rosati, *Parking Administrator*; Cody Salisbury, *Water Superintendent*; Beth Singer, *Superintendent of Schools*; Richard Waldo, *Director of Public Works*; Stephen Wisbauer, *Shellfish Constable*.

Motion Passed.

Tom Donegan moved that on all matters to come before the April 6, 2015 Special Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

Motion Passed.

Town Moderator Mary-Jo Avellar grouped April 6, 2015 Special Town Meeting articles 1 and 2 to be moved by consent agenda, (Note: The consent agenda is a meeting practice which groups routine and other non-controversial articles not necessarily requiring discussion or independent vote as separate articles. Using a consent agenda can save precious time by allowing Town Meeting to approve this 'package' of articles together in one motion. Articles under the consent agenda can only be grouped together if the Town Meeting body agrees. If a voter selects a specific article for discussion, it must be removed and placed on the regular agenda for discussion and separate vote by the Town Meeting body), and requested that any voter wishing to remove an article from the consent agenda do so by stating "hold" after she announced the Article number. Hearing no objections, April 6, 2015 Special Town Meeting articles 1 and 2 to be moved by consent agenda.

Erik Yingling moved without objection to approve articles 1 and 2 as printed in the warrant by unanimous consent.

Motion Passed Unanimously.

Article 1. Home Rule Petition/Charter Amendment/Additional Alternate on Board of Health. To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

The Charter of the Town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by changing Chapter 6, Section 8-1, to add a second alternate member to the Board of Health, for a total of five regular members and two alternate members, to read as follows:

6-8-1. There shall be a board of health as provided by G.L. c. 111, consisting of five regular members, one of whom shall be a professional health practitioner, and ~~one~~ two alternate members appointed by the board of selectmen for three-year overlapping terms so arranged that the term of at least one regular member shall expire each year; or to take any other action relative thereto.

[Requested by the Board of Health]

Board of Selectmen Recommends: 5-0-0

Board of Health Recommends: 3-0-0

Charter Enforcement Commission Recommends: 4-0-0

Erik Yingling moved to approve article 1 as printed in the warrant under the consent agenda.

Motion Passed Unanimously.

Article 2. Home Rule Petition/Charter Amendment/Additional Alternate on Planning Board. To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

The Charter of the Town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is

hereby amended by changing Chapter 6, Section 12-1, to add a second alternate member to the Planning Board, for a total of five regular members and two alternate members, to read as follows:

6-12-1. There shall be a planning board as provided by Section eighty-one A of Chapter forty-one of the General Laws consisting of five regular members and ~~one~~ two alternate members appointed by the board of selectmen for three-year overlapping terms so arranged that the term of at least one regular member shall expire each year; or to take any other action relative thereto.

[Requested by the Planning Board]

Board of Selectmen Recommends: 5-0-0

Planning Board Recommends: 0-0-0

Charter Enforcement Commission Recommends: 4-0-0

Erik Yingling moved to approve article 2 as printed in the warrant under the consent agenda.

Motion Passed Unanimously.

Article 3. FY 2015 Budget Adjustments. To see what amendments the Town will vote to make to the Fiscal Year 2015 operating budgets established under Article 2 of the April 2014 Annual Town Meeting and what sums the Town will vote to raise and appropriate or transfer from available funds therefor; or to take any other action relative thereto.

[Requested by the Town Manager]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 6-0-0

Raphael Richter moved that the Town vote the following budget adjustments: Transfer from the following departments: \$6,000 from 543 Veteran's Services; \$35,000 from 120 Town Manager A Budget; \$80,000 from 910 Employee benefits and Other Insurance, to the following departments: \$35,000 to department 136, Management Information Systems B Budget; \$6,000 to department 136, Management Information Systems B Budget; and \$80,000 to department 423, Snow and Ice.

Motion Passed.

Article 4. Prior Year Bills. To see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of paying prior year unpaid bills; or to take any other action relative thereto.

[Requested by the Town Manager]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 6-0-0

9/10th's Vote Required

Tom Donegan moved that the town vote to transfer \$2,516.42 from 2012 Special Town Meeting article 7, high school building repairs to pay the following invoices: Venmill Industries \$2,299.00, and Chatham Ford \$217.42.

Motion Passed Unanimously.

Article 5. Transfer of Funds from Previous Article to Fund Contaminated Waste Removal from the Johnson Street Parking Lot. To see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of paying the additional costs related to the removal of contaminated waste from the Johnson Street parking lot; or to take any other action relative thereto.

[Requested by the Town Manager]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 6-0-0

Board of Health Recommends: 3-0-0

Tom Donegan moved that the Town vote to transfer \$53,906.20 from 2012 Special Town Meeting article 6, VMCC Heating, 35,615.70 from 2014 Special Town Meeting article 4, VMCC Cooling and \$4,226.93 from 2012 Special Town Meeting article 7, high school building repairs for a total of \$93,748.83 to pay the additional costs related to the removal of contaminated waste from the Johnson Street parking lot.

Motion Passed.

Article 6. Home Rule Petition/Charter Amendment/Residency Requirement.

To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

The Charter of the Town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by changing Chapter 7, Article 1, Section 7-1-2:

Section 1: Qualifications

7-1-2. The Town Manager shall be a resident of Provincetown or Truro or shall become a resident of Provincetown or Truro within six months following his or her appointment; or to take any other action relative thereto.

[Requested by the Board of Selectmen]

Board of Selectmen Recommends: 4-0-1

Finance Committee Recommends: 4-2-0

Board of Health Recommends: 3-0-0

Charter Enforcement Commission Recommends: 3-1-0

Cheryl Andrews moved to approve article 6 as printed in the warrant.
Motion Does Not Pass.

Article 7. Home Rule Petition/Charter Amendment/Residency Requirement.

To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

The Charter of the Town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by changing Chapter 8, Article 1, Section 8-1-1 to read as follows:

Section 1: Residency Requirements

8-1-1. The Director of the Department of Public Works, the Police Chief and the Fire Chief shall be residents of Provincetown or Truro or shall become residents of Provincetown or Truro within ~~three~~ six months of assuming office; or to take any other action relative thereto.

[Requested by the Board of Selectmen]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 4-2-0

Board of Health Recommends: 3-0-0

Charter Enforcement Commission Recommends: 4-0-0

Cheryl Andrews moved to approve article 7 as printed in the warrant.

Ngina Lythcott moved to split the vote into two sections, one motion dealing with requiring residency and one motion extending the length of time to establish residency.
Motion to Divide the Question Passed.

Rob Tosner moved to consider each of the three positions separately.
Motion to Consider Each Position Separately Passed.

Mary-Jo Avellar moved that the Director of the Department of Public Works shall be a resident of Provincetown or Truro.

Motion Passed.

Mary-Jo Avellar moved that the Police Chief shall be a resident of Provincetown or Truro.

Motion Passed. (For: 191 Against: 111)

Mary-Jo Avellar moved that the Fire Chief shall be a resident of Provincetown or Truro.
Motion Does Not Pass.

Mary-Jo Avellar moved that the Director of the Department of Public Works, and the Police Chief shall be residents of Provincetown or Truro or shall become residents of Provincetown or Truro within six months of assuming office.
Motion Passed.

Mary-Jo Avellar moved that the Fire Chief shall be a resident of Provincetown or shall become a resident of Provincetown within six months of assuming office.
Motion Passed.

David Gardner moved to take article 8 and 9 in reverse order.
Motion Passed.

Article 8. Community Preservation Grant. To see if the Town will vote to appropriate \$300,000 in Community Preservation funds for the purpose of contributing to the acquisition of property for community housing purposes, which property is located at 48 Winslow Street, identified by the Assessors as Parcel 8-2-19-0, and referenced in article 9 as recommended by the Community Preservation Committee; or to take any other action relative thereto.

[Requested by the Community Preservation Committee]

Board of Selectmen Recommends: 5-0-0
Finance Committee Recommends: 6-0-0
Community Preservation Committee Recommends: 3-2-2
Community Housing Council Does Not Recommend: 3-0-0
Provincetown Housing Authority Recommends: 3-1-0
School Committee Recommends: 3-0-0

Brandon Quesnell moved that the town vote to appropriate \$300,000 from Community Housing Reserves in the Community Preservation Fund for the purpose of purchasing the parcel of land with the improvements thereon located at 48 Winslow Street, identified by the Assessors as Parcel 8-2-19-0 said expenditure subject to the approval of special town meeting article 9 and the execution of a purchase and sale agreement.

Tom Donegan moved to indefinitely postpone article 8.
Motion Passed.

Article 9. Acquisition of Winslow Street Property. To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, on such terms and conditions as the Board of Selectmen deems appropriate, all or portions of the parcel of land with the improvements thereon located at 48 Winslow Street, identified by the Assessors as Parcel 8-2-19-0, containing 32,861 square feet, more or less, and shown as Lot 48 on a Land Court Plan No. 28781-S and described in Certificate of Title No. 201186 filed with the Barnstable County Registry District of the

Land Court, for general municipal purposes, including, without limitation, for access and/or community housing purposes, and for the purpose of conveyance or lease; to raise and appropriate, transfer from available funds, and/or borrow, which may include funds under the Community Preservation Act, the sum of \$1,750,000, more or less, for the foregoing acquisition and costs related thereto; and, further, to authorize the Board of Selectmen to convey, or lease for a term of no more than 99 years, for affordable housing purposes, such portion or portions of the foregoing property that the Board of Selectmen determines is to be used for affordable housing purposes, if any, and to grant and/or reserve access and/or utility easements in, on and under the same, on such terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate, and, further, authorize the Board of Selectmen to accept such restrictions, including, without limitation, affordable housing restrictions, as the Board deems advisable; or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 5-2-0

Community Housing Council Does Not Recommend: 3-0-0

Provincetown Housing Authority Recommends: 4-0-1

School Committee Recommends: 3-0-0

2/3rd's Vote Required

Erik Yingling moved that the Town vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, on such terms and conditions as the Board of Selectmen deems appropriate, all or portions of the parcel of land with the improvements thereon located at 48 Winslow Street, identified by the Assessors as Parcel 8-2-19-0, containing 32,861 square feet, more or less, and shown as Lot 48 on a Land Court Plan No. 28781-S and described in Certificate of Title No. 201186 filed with the Barnstable Registry District of the Land Court, for general municipal purposes, including, without limitation, for access and/or community housing purposes, and for the purpose of conveyance or lease; to transfer \$709,850 from the receipts from the sale of property fund and to transfer \$740,150 from free cash, for a total of \$1,450,000, together with the sum of \$300,000 appropriated from Community Housing Reserves in the Community Preservation Fund under the previous Article 8, representing a total of \$1,750,000 for the foregoing acquisition and costs related thereto; and, further, to authorize the Board of Selectmen to convey or lease, for a term of no more than 99 years, such portion or portions of the foregoing property that the Board of Selectmen determines is to be used for affordable housing purposes, if any, on such terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate.

Motion Does Not Pass – 2/3rd's Vote Required. (For: 178 Against: 133)

**A petition was received signed by 10 voters of the Town to Reconsider Article 9.
Motion to Reconsider Article 9 Passed.**

Tom Donegan moved to lower the purchase price to \$1,050,000, and not offer to buy the existing house, removing the price of the house that is already built (\$750,000).

Tom Donegan Withdrew Motion.

Tom Donegan moved to amend the motion to now read: that the Town vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, on such terms and conditions as the Board of Selectmen deems appropriate, all or portions of the parcel of land with the improvements thereon located at 48 Winslow Street, identified by the Assessors as Parcel 8-2-19-0, containing 32,861 square feet, more or less, and shown as Lot 48 on a Land Court Plan No. 28781-S and described in Certificate of Title No. 201186 filed with the Barnstable Registry District of the Land Court, for general municipal purposes, including, without limitation, for access and/or community housing purposes, and for the purpose of conveyance or lease; to transfer \$709,850 from the receipts from the sale of property fund and to transfer \$740,150 from free cash, for a total of \$1,450,000, together with the sum of \$300,000 appropriated from Community Housing Reserves in the Community Preservation Fund under the previous Article 8, representing a total of \$1,750,000 for the foregoing acquisition and costs related thereto; and, further, to authorize the Board of Selectmen to convey or lease, for a term of no more than 99 years, such portion or portions of the foregoing property that the Board of Selectmen determines is to be used for affordable housing purposes, if any, on such terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate.

Motion Does Not Pass – 2/3rd's Vote Required. (For: 135 Against: 96)

9:46 p.m. Michael Canizales moved to adjourn Annual Town Meeting until tomorrow, April 7, 2015 at 6 p.m.

Motion Passed.

Town Moderator Mary-Jo Avellar called the meeting to order at 6:00 p.m. on Tuesday, April 7, 2015.

Town Moderator Mary-Jo Avellar explained that the reconsideration of Article 9 had a procedural error in that the last vote on article 9 was a vote on the amendment, which only required a majority vote, which passed, but there was then no final vote on the motion as amended.

Tom Donegan moved to indefinitely postpone article 9.

Motion to Indefinitely Postpone Passed.

Article 10. Wastewater Optimization and Expansion – Borrowing Authorization.

To see if the Town will vote to appropriate and borrow the sum of \$3,000,000 to be expended under the direction of the Town Manager and the Board of Selectmen, for the development of plans and specifications and for construction, optimization and expansion of the Town's sewer system including the expansion of the treatment capacity of the wastewater treatment plant and further extensions of the Town's sewer

system, including without limitation all costs defined under Chapter 29C, Section 1 of the General Laws and all other costs incidental and related thereto; and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum of money under and pursuant to Chapter 44, Section 7(1) and/or Chapter 29C of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and that to the extent that any State, Federal or other funds are or become available for the purposes set forth above, the Board of Selectmen is authorized to apply for and accept such funds; and, further, the Town votes to authorize the Water and Sewer Board to assess one hundred percent of the project cost to the Town upon those who benefit from the project, such assessments to be made by the Uniform Unit method as provided by General Laws Chapter 83, Section 15; or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Board of Selectmen Recommends: 4-1-0

Finance Committee Recommends: 6-0-0

Board of Health Recommends: 3-0-0

Water & Sewer Board Recommends: 4-0-0

2/3rd's Vote Required

Tom Donegan moved to appropriate the sum of \$3,000,000 to be expended under the direction of the Town Manager and the Board of Selectmen, for the development of plans and specifications and for construction, optimization and expansion of the Town's sewer system including the expansion of the treatment capacity of the wastewater treatment plant and further extensions of the Town's sewer system, including without limitation all costs defined under Chapter 29C, Section 1 of the General Laws and all other costs incidental and related thereto; and to meet said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of \$3,000,000 under and pursuant to Chapter 44, Section 7(1) and/or Chapter 29C of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and that to the extent that any State, Federal or other funds are or become available for the purposes set forth above, the Board of Selectmen is authorized to apply for and accept such funds; and, further, the Town votes to authorize the Water and Sewer Board to assess one hundred percent of the project cost to the Town upon those who benefit from the project, such assessments to be made by the Uniform Unit method as provided by General Laws Chapter 83, Section 15.

Motion Passed. (2/3rd's Vote Declared)

Article 11. Create Historical Commission Gift Fund and Designate Receipts.

To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 44, Section 53A, to establish a special gift fund account to receive donations and other revenue for the Historical Commission, the proceeds of which shall be used without further appropriation under the supervision of the Town Manager and the Board of Selectmen. And further to designate that all receipts from the 'Building Provincetown'

book be deposited into the Historic Preservation Gift Fund; or to take any other action relative thereto.

[Requested by the Board of Selectmen]

Board of Selectmen Recommends: 5-0-0

Historical Commission Recommends: 5-0-0

Erik Yingling moved that the Town vote, pursuant to M.G.L. Chapter 44, section 53A, to establish a special gift fund account to receive donations and other revenue for the Historical Commission, the proceeds of which shall be used without further appropriation under the supervision of the Town Manager and the Board of Selectmen. And further to designate that all receipts from the 'Building Provincetown' book be deposited into the Historic Preservation Gift Fund; or take any other action relative thereto.

Motion Passed.

Article 12. Designation of Recycling and Renewable Energy Committee

Receipts. To see if the Town will vote to designate that all receipts from the RREC cotton bags with logo be deposited into the RREC gift fund; or to take any other action relative thereto.

[Requested by the Recycling and Renewable Energy Committee]

Board of Selectmen Recommends: 5-0-0

Board of Health Recommends: 3-0-0

Erik Yingling moved that the Town will vote to designate that all receipts from the RREC cotton bags with logo be deposited into the RREC gift fund.

Motion Passed.

Article 13. Capital Improvement – Police Fleet Upgrade. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$43,300 to be expended under the direction of the Town Manager and the Chief of Police for the purchase of one police vehicle, and costs related thereto; or to take any other action relative thereto.

[Requested by the Town Manager]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 6-0-0

Erik Yingling moved to transfer the sum of \$43,300 from free cash to be expended under the direction of the Town Manager and the Chief of Police for the purchase of one police vehicle.

Motion Passed.

Article 14. Capital Improvement – Veterans Memorial Community Center Roof Replacement. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$100,000 to be expended under the direction of the Town Manager and the Director of Public Works for Phase II of the VMCC roof replacement, and costs related thereto; or to take any other action relative thereto.

[Requested by the Town Manager]

Board of Selectmen Recommends: 5-0-0

Finance Committee Recommends: 6-0-0

Board of Health Recommends: 3-0-0

Recreation Commission Recommends: 4-0-0

Council on Aging Board Recommends: 4-0-0

School Committee Recommends: 3-0-0

Erik Yingling moved to transfer the sum of \$100,000 from free cash to be expended under the direction of the Town Manager and the Director of Public Works for Phase II of the VMCC roof replacement, and costs related thereto.

Motion Passed.

Tom Donegan moved to dissolve the April 6, 2015 Special Town Meeting.

Motion Passed.

Special Town Meeting dissolved at 6:36 p.m. on April 6, 2015.