

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN  
REGULAR MEETING MINUTES  
MONDAY, June 23, 2014 6:20 PM  
TOWN HALL – JUDGE WELSH ROOM**

Chairman Donegan convened the meeting at 6:18 PM, noting the following:

Board of Selectmen attending: Tom Donegan, Erik Yingling, Robert Anthony, Cheryl Andrews and Raphael Richter.

Other attendees: Acting Town Manager David Gardner

Recorder: Mary Timmons

Tom Donegan chairs the meeting.

MOVE that the Board of Selectmen vote to approve items listed on the consent agenda as submitted except the Charles W. Morgan proclamation.

Motion by: Erik Yingling Seconded By: Raphael Richter Yea 5 Nay 0

**Approved without objection**

1. **MOVE that the Board of Selectmen vote to authorize and execute the Ambulance Service Agreement contract renewal July 1, 2014 through June 30, 2017 between the Town of Provincetown and Lower Cape Ambulance Association, Inc., 2 Race Point Road, PO Box 1721, Provincetown, MA 02657.**
2. **Move that the Board of Selectmen vote to reappoint the current board members listed below who are eligible for reappointment for an additional three-year term to expire on June 30, 2017.**

<b>Town Board</b>	<b>Name</b>	<b>Position</b>
Animal Welfare Committee	Sherry Brec	Regular
Animal Welfare Committee	Carol MacDonald	Regular
Community Housing Council	Brenda Haywood	Regular
Harbor Committee	Susan Avellar	Regular
Harbor Committee	Francis J. Santos	Regular
Human Services Committee	Jean Knee	Regular
Visitor Services Board (PBG Rep.)	Richard Murray	Regular
Visitor Services Board (At Large)	Rita Schwartz	Regular

3. **MOVE that the Board of Selectmen vote to approve the Parade Application Permit submitted by Joe Carleo, 9698 Bradford Street, Provincetown, MA on behalf of the AIDS Support group of Cape Cod to be held Sunday, July 20, 2014, starting at 8:00 am to 10:00 am**

4. **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 \$798.00 from the Disability Commission's Gift Fund to pay for ABA/ADA Compliance Wheel Chairs**

**1A. PUBLIC HEARINGS – AMENDMENT TO HARBOR REGULATIONS**

Tom Donegan waives the reading of all regulations only the public hearing announcement. Erik Yingling read the Hearing Notice. Selectman Donegan then asked for public comment.

Selectman Donegan asked if anyone was taping the meeting. Marnie Crawford Samuelson stated she was filming for an independent documentary. Mr. Donegan asked for the proponent.

Jerry Irmer Chair of the Harbor Committee, Rex McKinsey, Laura Ludwig, and Christopher Brooke, appeared before the Board regarding Amendments to Harbor Regulations. Mr. Irmer read five short statements and recommendations that he explained to the Board of Selectmen.

The Board of Selectmen then asked for public statements.

Ed Ritter: Boats have always been on the beaches. The beach is open to the public 24/7 12 months a year and people want to utilize the beach. He wants to be sure this we will continue to be able to store boats and kayaks. The Town should accommodate boats not ban them. He wants the selectmen to hold off on any votes about boats. He doesn't know why we have to ban kayaks; there are many things we can do regarding kayaks.

Rick Murray. Lives in the West end and views every day an issue that has not been solved. There is minimal beach access when it is high tide because of the number of kayaks. He asks can we build multiple storage areas for kayaks from the east to the west end it would be good. He talked about many places kayaks could be stored. The number of them and the congestion they cause is out of control.

Alex Brown. He does not want to see the kayaks. He is also getting sick of nickel and diming and the way he is treated. He is getting charged a toll to go out to his mooring. He only uses the moorings a half a day, maybe he should only get charged half price.

Carlos Verde – The beach sticker rate boat sticker was a free program so when boats were abandoned or left behind it was a way for the harbor master to fine. Now it's a \$20 sticker. The Harbor Master can't comb the beach every day to increase rate will add more kayaks and boats.

Mr. Adams – Mr. Verde is correct. Much of our staff time is tied up issuing stickers. It is a lot of work but the Harbor Master does check. The program does work. \$10 is

not cost prohibitive it is a way for us to track boats

Chairman Donegan took comments from the Harbor Committee.

Christopher Brooke. If people don't put stickers on we don't know whose they are and for him it is not pleasant seeing kayaks without a sticker

Jerry Irmer. It was never the intent of the Harbor Committee to penalize fishermen. The problem that exists is there is almost no beach at high tide what little is left is occupied by kayaks. Kayak racks take up room and there would be nothing left. We issued 250 stickers last year and most were for kayaks. That is a lot. To make racks for all of those is costly.

Public comments were then closed

Erik Yingling asked for clarification as to how the permits worked. Mr. McKinsey stated all permits expire December 31. Then you have to wait until April to get a new permit. Our concern is if boats are left on the beach, natural processes cannot happen. Given these are recreational boats; owners should take them home at the end of the season. Selectman Yingling stated he did not see a lot of boats on the beach and does not see them as obstructing. Mr. McKinsey addressed different areas of Provincetown and the natural grass that creates dunes. He said the boats are a problem.

Cheryl Andrews asked what part of the amendments apply to Ed Ritter. What part changes his life. Harbormaster McKinsey stated that these changes proposed don't affect Mr. Ritter. Selectman Andrews does not understand how the new regulations solve the problem. She believes we may need to look at a new idea. Maybe racks in parking lots adjacent to landings which people pay for. She suggests putting them on landings as close to the beach as possible.

There was some discussion regarding residency and Mr. McKinsey explained that over the course of the last year the part time residents association requested an explanation of the definition of resident as it was not clear. For the most part it has to do with someone that is not a taxpayer. The definition of occupant does not have a segregated use.

Discussion continued mostly about boats on the beach and what to do with them. Jerry Irmer and Rex McKinsey continued to speak to the Board of Selectmen about possible solutions. Mr. McKinsey told the Board out of the 250 stickers issued, 200 were kayaks.

Selectman Donegan stated we need to investigate these issues further. He suggested it may be a good idea to have the Parking Department issue the stickers. He stated there are problems in town with kayaks during the winter and we need to clean this up. How we manage the beach inventory is our contention. How do we sort out cleaning up the beaches so kayaks are off the beach and then parse the

beaches. He suggested postponing this and reconsidering after this is refined.

Tom Donegan then read the thank you letter to Jerry Irmer for all the hard work he has done.

## **2A. PUBLIC STATEMENTS –**

Jim King – Asked about considering buying a permit with a certain number, building racks to accommodate kayaks, and limiting the number of kayaks and kayak permits. He said the Harbor Master should be in charge of that, not the parking department or the Board of Selectmen.

Alex brown – Why don't we negotiate with the national seashore to put kayaks there. We are always talking about negotiating so let's negotiate.

Julie Knapp – Is not against the farmers market but this is the wrong people doing it and selling wrong things in the wrong location. If the Board of Selectmen could address traffic issues she would be satisfied.

Mike Elucia – Stated the products in farmers market are not regulated, not documented for quality, and vendors don't have to purchase a license to sell. He wants the market stopped immediately in that location. Foods should be fruits and vegetables only.

Desiree Duda– stated there is a twofold problem one with location and one with policing and regulating what goes on. She is concerned about the traffic.

Doug Mackindoo. Sells the meat at farmers market and he is regulated. It is frozen and vacuum packed. He has never had a problem. It is safe and natural

Yvonne Cabral—parks vehicles in the vicinity of farmers market. She is concerned about parking.

Veronica Worthington –Comes from West Dennis to sell at the market. She does not need to drive this far but loves Provincetown. She is hurt that they think the market sellers don't care about the people. They are regulated. She hopes people appreciate what Andy Pollock has done over the years

Mario Mariani – Participates at farmers market. It is important to establish what a farmers market is. Arguably markets are much broader resources for food. He participates in nine of them. These are places for people to meet and talk.

Dave Henshie –He is surprised we think there are no local foods at the market because there is. He is happy to answer any questions the Board of Selectmen may have.

Public comments were then closed

### 3A. SELECTMENS STATEMENTS

**Erik Yingling** – Appreciates what everyone is saying. He thinks those that commented should stay to hear the update on the farmers market which is later on the agenda. The bigger picture is if you went through every step and were given a commitment then we did not honor the commitment; this is wrong. We cannot have arbitrary decision making.

**Cheryl Andrews** – Asked that the Morgan proclamation be pulled from the consent agenda. She had not researched the Morgan earlier once Mr. Santos made a statement she paid more attention to it and learned so much that she knew his story to be valid. She provided some history of the Morgan and where this can be found. She then read the proclamation she drafted.

**Move that the Board of Selectmen vote to proclaim Friday, July 11, 2014 as Charles W. Morgan Day and accept the proclamation as re-written.**

**Motion by: Cheryl Andrews Seconded By: Erik Yingling Yea 5 Nay 0**

**Bobby Anthony** – He is not against the farmers market, location is the problem. Public safety means a lot to him. There may be an alternative. Bas Relief could be an alternative when it is not in use.

**Raphael Richter** – Wanted to acknowledge the launch of the Istar, it was amazing. It is a beautiful vessel this was a proud moment. It was a time to be celebrated. He then spoke of the unsafe intersection at Snail road and Route 6. A few times he witnessed people confused they take the left and don't know what to do. There is no wrong way sign. There is no light there either. He then asked for a motion for the Town Manager to work with the DPW to investigate the issue.

**Move that the Board of Selectmen have the Acting Town Manager work with DPW to investigate and recommend ways the intersection at Snail Road and Route 6 could be improved for public safety..**

**Motion by: Raphael Richter Seconded By: Erik Yingling Yea 5 Nay 0**

**Tom Donegan** – Apologized that someone was treated poorly at the last meeting. He then congratulated everyone involved with the film festival. He is aware the town hall chairs do not function and are uncomfortable. He chatted with historic commission and broached the idea of getting new chairs as the film festival people were not pleased with our chairs. He likes idea of kayak racks, perhaps putting them far away; a lot of things that were said about the kayaks make sense. He also reiterated meth, heroin, and oxy are a problem and we need to support our police department in these matters. We have progress on meth last fall; there have been two heroin overdoses in last six months. We need to get back to the important things. Best wishes for Portuguese festival which will be on Ryder Street next week

**Move that the Board of Selectmen address 4B “Joint meeting with the**

**Provincetown Public Pier Corp” and move item 4A “Joint Meeting with the Finance Committee” to the Board of Selectmen meeting Thursday, June 26, 2014.**

**Approved without objection Yae 5 Nay 0**

**4B. JOINT MEETINGS – PROVINCETOWN PUBLIC PIER CORP**

Carlos Verde, Kerry Adams and Ginny Bender from the PPPC and Rex McKinsey, Harbor Master talked about the amended agreement for MacMillan Pier Marine Management Services. Selectman Donegan stated he was expecting a renewal of the current agreement and it is not time to renegotiate. This contract varies from the renewal. Mr. McKinsey provided a summary of what was in the contract explaining the amendments were a product of Town Counsel. The contract sets the amount of compensation for harbor master services. Another aspect is what we pay to the town as rent. Mr. McKinsey stated if we leave the contract as it was it exacerbates problems. Damages to floating docks from blizzards were not unexpected. We were lucky this was declared a disaster by FEMA. FEMA is looking at their proposal for replacing floating docks. They have had engineers come in and give them a grade on the pier.

One issue with the non-amended contract was budgets set at the time were set to please grant makers. We thought we were getting a wave attenuator and we did not get it as people objected. The political climate was acrimonious. People believed we did not have to rebuild the pier. We have been operating for ten years and we know what we are doing and can anticipate structural needs.

Carlos we spent \$219,000 to repair damages and it would nice to recuperate that money so we have backup money. We take care of the pier for the town. He stated the reality is the money we make we spend in upkeep. This appended contract buys us a year.

Finance Director Dan Hoort stated he understands the PPPC’s viewpoint but from a financial standpoint of the Town he cannot endorse this. It would be better if this were addressed at a special town meeting or a town meeting. We cannot recommend giving that money in estimated local receipts.

Selectman Donegan says renegotiating does not solve the problem. He thought we were just extending the contract not renegotiating. He is frustrated that this is renegotiating and not just an extension.

Selectmen comments

Selectman Andrews -- stated she has always been a cheerleader for the PPPC. She is convinced they need help so we can get all the answers about the numbers. What’s going on at pier is astounding. What we had as a vision is out of date as things continue to change. How do we get into the next fiscal year. In 2009 someone brought the lease

relationship into the Harbor Masters agreement, she does not understand this. We need to take the correct amount of money from the town to run the harbor master contract. She asked what the correct amount is. When she reviewed the amended contract she rewrote the agreement to take out exhibit c and to do away with anything to do with the lease.

Selectman Richter – is comfortable letting the PPPC do business but he does not want to adjust the fiscal end of it tonight.

Selectman Yingling – is worried about the consequence of waiving a fee and pulling \$120,000. He wants PPPC to continue to manage the pier but to take the budget part out of it.

Selectman Anthony -- agrees with the other selectmen and asked about the audit process.

Mr. McKinsey stated the audit is in draft form because the PPPC and town cash balances don't agree. At some point when we get our auditors together they have to decide how they want the PPPC to be audited and balance the books across the two entities. They are on an accrual basis and the town is on a cash basis.

Selectman Donegan met with the Town's former auditor and the PPPC auditor and that's when he decided we needed a new auditor. He stated the Board of Selectmen can't tell the PPPC what to do but suggests we get this sorted out in due course. We have an adverse audit report because PPPC can't get their audit done in time. We have to get the draft issue taken care of.

Selectman Donegan then suggested the PPPC to prepare a one year renewal agreement and which he can sign it on behalf of the Board of Selectmen. After the extension we work would with Scott and the teams to make the renegotiations make sense.

Selectman Andrews suggests we extend the contract as it for one year, keep talking and make something work. Let's meet in the summer or the fall and see what we can come up with.

**Move that the Board of Selectmen Vote to renew the Agreement for MacMillan Pier Marine Management Services for FY2015 for a period of one year through June 30, 2015**

**Motion by: Raphael Richter Seconded By: Cheryl Andrews Yea 5 Nay 0**

**5A. BOARD OF SELECTMEN APPOINTMENTS – Constable**

**Move that the Board of Selectmen vote to appoint Ruth Anne Cowing as a Town of Provincetown Constable with a term to expire on June 30, 2017**

**Motion by: Raphael Richter Seconded By: Robert Anthony Yea 5 Nay 0**

**Move that the Board of Selectmen vote to appoint Thomas Steele as a Town of Provincetown Constable with a term to expire on June 30, 2017**

**Motion by: Erik Yingling Seconded By: Raphael Richter Yea 5 Nay 0**

**Move that the Board of Selectmen vote to appoint John David Sirlom as a Town of Provincetown Constable with a term to expire on June 30, 2017**

**Motion by: Erik Yingling Seconded By: Raphael Richter Yea 5 Nay 0**

**5B. BOARD OF SELECTMEN APPOINTMENTS – Historic District Commission**

Selectman Donegan stated it is important that we know Mr. Biggert's view on alternative energy. Mr. Biggert stated he has proposed solar fields. It might be more efficient if people paid into a solar field. Selectman Donegan and Mr. Biggert discussed the advantages of solar energy and what would fall under the Historic Commission's purview.

**Move that the Board of Selectmen vote to appoint Thomas Biggert to the Historic District Commission with a term to expire on June 30, 2016**

**Motion by: Raphael Richter Seconded By: Erik Yingling Yea 4 Nay 0 Abstain 1 (TD)**

**5C. BOARD OF SELECTMEN APPOINTMENTS – Historic District Commission**

Mr. Dusek, originally scheduled to appear before the Board of Selectmen, withdrew his application.

**Move that the Board of Selectmen move item 5D "Appointment of Mark Juairé to the Charter Review Ad Hoc Committee" to the Board of Selectmen meeting Thursday, June 26, 2014.**

**Approved without objection Yae 5 Nay 0**

**6A. FARMERS MARKET DISCUSSION**

Andy Pollack came before the Board of Selectmen. Mr. Pollack said market started seven years ago and was opened to the Cape and adjacent markets. All markets were sent a letter inviting them and no farm has been turned away. He stated, we are paying \$2,000 to the town. He did take the time to dispel myths regarding the quality of what is sold, it is regulated. They pay insurance to be there, people pay fees to be at the market and they follow all town and state regulations.

Selectman Richter stated the issue for him is the location that they ended up in. He asked if there were a yearly process to engage new farmers over last 7 years. Mr. Pollock stated they do but there is limited space. If a space opens he tries to find local farmers to fill it.

Selectman Richter stated with the road blocked there is a problem for members of the community. He felt the other location was great and is saddened it was moved. He is not a fan of changing mid-stream and his colleagues have said we need to honor the contract. He asked Mr. Pollack if the Board of Selectmen asked through a public hearing to move the farmers market back to the past location would that work or is he committed to the current location. Mr. Pollack stated the market could transition but they have painfully gone through that before. He wants whatever is best for the town.

Discussion then ensued among the selectmen as to whether a public hearing was required or if it could be done with a motion by the Selectmen. Discussion also continued as to where the location could or should actually be moved.

Selectman Donegan stated that we have spent a lot of time and we had a lot of comments from people regarding the market. He also watched traffic and said the reality is we are treating symptoms not problems. We have a major traffic problem. He said if we move back to the parking lot he wants all the people to have a chance to voice their opinion. The Selectmen decided on a public hearing.

**Move that the Board of Selectmen convene a public hearing regarding the Farmers Market, Thursday, July 17, 2014 at 5:00 pm**

***Motion by: Tom Donegan Secoded By: Robert Anthony Yea 4 Nay 1 (EY)***

**Move that the Board of Selectmen address 6C "Charter Review Ad Hoc Committee Update" and move item 6B "Police Department Workplace Climate Follow-up" to the Board of Selectmen meeting Thursday, June 26, 2014.**

**Approved without objection Yae 5 Nay 0**

#### **6C. CHARTER REVIEW AD HOC COMMITTEE - Update**

Julia Perry appeared before the Board providing an update as to what the committee has been doing. The Committee has been meeting since September of last year and has gone through entire charter identifying issues that need to be addressed. They want to include the town. The committee cannot change charter on own, changes have to be approved by the Board of Selectmen and then put on a warrant. They are hoping to have a draft charter for fall meeting so full town discussion can take place. The final charter would have to go to the Town for a vote in the spring of 2015. Then it has to go to state's attorney then to legislature for approval. The charter changes can be one by ballot, or through town meeting and legislature. The decision not to go to ballot was jointly by the Board of Selectmen and charter enforcement. With the ballot process if changes get voted down the process begins again. There will be a public forum held Wednesday June 25, 2014 at 6 pm to get the Town's input on changes. The Committee has met with the non-resident tax payer association who is eager to get involved. The Committee is looking at the residency requirement perhaps a waiver provision.

Ms. Perry wanted to come before the Board because after the charter is rewritten it has to be approved by the Board of Selectmen. She would like to propose a workshop between

the committee and the board.

One issue mentioned by Ms. Perry was changing the role of the finance committee. Selectman Donegan stated we have to be careful about changing the role of the finance committee.

The Board of Selectmen agreed to have a workshop towards the end of July for 2 hours. A date was not chosen. The committee was asked for materials beforehand.

**Move that the Board of Selectmen address 6D “Town Manager Search Committee Update” and move item 6B “Police Department Workplace Climate Follow-up” to the Board of Selectmen meeting Thursday, June 26, 2014.  
Approved without objection Yae 5 Nay 0**

**6D. TOWN MANAGER SEARCH COMMITTEE -- Update**

Louise Venden, Chair of the Committee explained that the committee is about a month behind in their search process but does not foresee a problem. She spoke of Mark Morse's role and his cooperation with the committee saying they have received fourteen resumes from Mr. Morse. She is concerned about the residency requirement which may inhibit their finding someone. Ms. Venden also reminded the Board of Selectmen that Provincetown is remote. For those with other family members who may want a job this has been an issue as well as salary. Changing the residency requirement would help us find someone. We have 11 members and we are hoping to get as many as we can to interviews. It is July and we won't get everyone to the interviews. We will tape the interviews so all can view the interviews.

She proposes the Board agree with the committee to reduce the original proposed 13 members to 11 members. We will need a quorum for the interviews so we'd like to propose 11 members so six is our quorum requirement rather than seven.

Selectman Donegan told Ms. Venden that the Board will be getting a series of white papers from Town Council in case the conversation takes a wrong path. The white paper will help with sensitive questions. Mr. Donegan spoke of the two processes recruiting and vetting to produce finalists. If the recruiting process goes poorly we may need to reopen the job request. If we are not getting the applications we want we need to have a plan B. It was suggested the Board of Selectmen have an executive session after the July 4, 2014, to meet with Mark Morse.

In regard to Ms. Venden's request to reduce committee members, the Board of Selectmen believes the Town Manager Search Committee remain at thirteen people. They also suggested replacing the two members that left. Ms. Venden told them we made a unanimous vote to keep the committee at eleven members. Selectman Andrews believes this is very important and is concerned we might have five or more people missing an interview. Ms. Venden stated the meetings never have less than eight people for a meeting. She believes we will have nine members at each interview.

**Move that the Board of Selectmen reduce the Town Manager Search Committee Members from thirteen to eleven.**

**Motion by: Robert Anthony Seconded By: Tom Donegan Yea 2 Nay 3 (CA, RR, EY)**

**Motion Fails**

Selectman Andrews raised the issue of the ad that the Town placed to advertise the position of Town Manager and the residency requirement. She stated that Mark Morse suggested that we discuss publicly our position regarding this requirement. After discussion regarding this requirement, Selectman Donegan made the following motion.

**Move that the Board of Selectmen set up a process to amend the charter to amend the residency requirement to a specific mileage from Provincetown and to hold a Public Hearing to get Public Comment on this issue**

**Motion by: Tom Donegan Seconded By: Cheryl Andrews Yea 4 Nay 1 (EY)**

Chairman Donegan stated that it was 11pm and we should adjourn and repost the remainder of this meeting for Thursday Night, June 26, 2014

Selectman Andrews then made a motion to suspend the rules to hear 6B which was seconded by Selectman Richter. No vote was taken

**Motion to adjourn by unanimous consent at 11:15 pm.**

Minutes transcribed by: Mary Timmons 7/1/2014