



# Minutes

The Provincetown Licensing Board Public Meeting of **Tuesday, October 22, 2019** at 5:15 pm in the Judge Welsh Room at Town Hall, 260 Commercial Street.

Members Present: Frank Thompson (FT), Chair; Shawn Byrne (SB), Vice-Chair; Carol D. Santos (CS); Bernice Steisel (BS); Donald R. German (DG), Alternate.

Excused Absence: Robert F. Cameron.

Staff: Aaron Hobart (AH), Out-going Licensing Agent; Linda Fiorella, In-coming Licensing Agent.

## Meeting Agenda

### ***Public Hearings***

#### Public Workshop on Art Gallery/Retail Regulations

*To hear from all relevant parties regarding possible future changes to the Licensing Board Regulations as they relate to art galleries and the sale of art.*

DG recused himself as half-owner of an art gallery.

FT stated today's hearing as a forum for gathering information where no votes would be taken and which, as such, was not initiated by the Licensing Board but at the imposition of local gallery owner, Ray Wiggs.

AH referenced the proposed outline on the back of the Agenda as a 6-step format including: Opening Board statements; Presentation by Mr. Wiggs (5 minutes); Opening of Public Discussion; Open Discussion by Point of Interest at (3) minutes each and to be timed and to feature Art Gallery Owners, Other Businesses, Local Artists, Anyone else; Close of Public Discussion; Board Member comments/discussion.

Ray Wiggs opened his presentation by acknowledging that there has been what he referred as a huge amount of disinformation regarding the lack of regulation or license structure within the art gallery system; stressed the importance and responsibilities of art galleries to elevate the quality of art within Provincetown and stated that the lack of regulation of license structure as having a detrimental effect upon galleries which continues at a steady pace.

In refuting what he claimed was misunderstanding of the situation and proposal as presented, Mr. Wiggs outlined four facts of clarification: 1., That he is, in fact, not a stand-alone complainant but rather a representative of a good number of gallery owners frustrated by the current situation but reluctant to voice their objection based on previous backlash and who have, as a result, requested anonymity; 2., Many local artists who complain about the lack of gallery opportunities for representation have a long laundry list of avenues in which to achieve exposure and suggested there are those who would rather exhibit in competing spaces such as bars, restaurants or inns, more likely than not with no license to sell their work and paying no taxes, unencumbered by the high expenses art galleries operate under; 3., The complaint that any sort of licensure goes against 100 years of established tradition when, in fact, the art scene is not same as it was 100, 50, 30 or even 10 years ago and that if it is vital to protect the local art scene itself then this is incumbent on protecting the health of the gallery scene; 4., Majority of those criticizing the art gallery stance as presented are not gallery owners and have no investment in, or insight or knowledge into, the dynamics of what it takes to run a successful gallery in Town in 2019.

Mr. Wiggs concluded his fact-accounting by making a case for art galleries to be able to operate on an even level playing field with, for example, a pizza place that hosts an opening and posts 150 flyers up and down Commercial Street which say, "Don't buy from expensive art galleries, come purchase direct from the artist tonight."

The following are the (6) proposed art gallery license definitions by Mr. Wiggs which he requested be included in today's meeting minutes and which he said are open for public discussion:

#### *Proposed Gallery License Qualifications*

*(1) An art gallery license must adhere to the exhibition and sale of fine art as defined within the license itself. Purpose: Without some definition of what "fine art" is over any commodity such as the applied arts and crafts, literally anything could be labeled "fine art", and a fine art gallery would not have merit. Despite some people's misunderstanding... You can define "fine art". Every museum in the world, along with every writer, or critic of art knows the difference between fine art and the applied arts and crafts. I have supplied this committee with a definition from the "Philadelphia Museum of Fine Art," as well as "The Metropolitan Museum of Fine Art". Both of these definitions are parallel and run in agreement with our current definition of a gallery found in the Provincetown Zoning code.*

*(2) The primary focus and revenue derived from the license holder should be the sale of fine art, with a clear portion of their inventory to be comprised of fine art. Purpose: This protects the integrity of the gallery system. A florist, for example should not be classified as a fine art gallery simply because it has 3 or 4 paintings on its walls.*

*(3) The revenue from the sale of fine art should not serve as an accessory source of income to another existing principle income outside of general retail. Purpose: This creates an even level playing field in that it prevents a business which is not primarily retail from utilizing art as a source of income without the large overhead that galleries are encumbered with. An example of this would be an inn which can easily hang art on their walls for sale, and has absolutely no overhead.*

*(4) An art gallery must be situated in a "local brick and mortar" commercial property which pays taxes to the town of Provincetown. Purpose: This would prevent situations such as a gallery from outside of town setting up shop in a restaurant without the overhead, and therefore competing with local galleries unfairly. It would also prevent such situations as people operating out of a van on the street side.*

*(5) A licensed gallery has the right to call itself a gallery and market itself as such. This protects the integrity of the Provincetown gallery system.*

*(6) A licensed gallery has the right to host openings. Purpose: Gallery openings are a marketing tool which galleries depend upon. The Provincetown gallery system has worked hard for years to build up the Friday night gallery stroll. When that is so watered down with non-galleries piggy-backing off of this with openings, then the efforts of the galleries are watered down as well.*

Following the recitation of his proposed art gallery license talking points, Mr. Wiggs concluded his presentation by emphasizing the need for an articulated art gallery license definition and prevailed upon the LB to use its agency to take measures to protect the livelihood of art galleries as a means of supporting a thriving local art scene, noting that art which had in the past been hung on exterior fence posts was legislated out of fairness for the protection of both the artist and gallery owners.

Nearing the end of his speech, FT called for Mr. Wiggs' time to be up, but Mr. Wiggs said he had been allocated (15) minutes and not the (5) minutes posted on the Agenda, and continued to the end. Included in Mr. Wiggs' materials on record are two letters from reps of Metropolitan Museum of Art and Philadelphia Museum of Art Library and Archives pertaining to fine art definitions.

Jay Gurewitsch spoke from the public as a point of order to announce that it was up to the chair to determine the length of time each speaker would be allocated, advocating for more time at the mic. AH replied that the (3) minute time limit had been determined and stated by the Chair.

#### Art Gallery Owners

Shirl Roccapiore, owner of Oils by the Sea Gallery for the past eight years, spoke against the proposal, citing artists having opportunities to show against a wall, in a bar or restaurant as an imperative.

Cid Bolduc, owner of Cid Bolduc Gallery and Cape Art Tiles who is also a working artist and was director of the Fall Arts Festival in the early 2000s noted the aspects of a resort town with a small window for businesses and said sometimes more rules and restrictions is not the solution.

Danielle Niedzielski, owner of The Captain's Daughters who currently holds (4) licenses, said fine art sales amount to 30% of her revenue and is equally as important as her retail and that they compliment each other; said she represents about (50) emerging and mid-career artists, does online sales, and stated the Town was richer to have fine art shown in pizza joints and other spaces, concluding that more is more.

FT called for more art gallery owners to speak out. None came forward and AH announced that other local businesses would now be invited to address the proposal.

#### Other Businesses

Jay Gurewitsch, founder/owner of Arcadia, submitted a two and half page statement for the record; spoke of many art products he sells over a wide variety of medium; said that in order to enforce gallery licensure as proposed, businesses would be required to open their accounting books to the code enforcement agent to substantiate sales, examine inventory and allocation of revenues and to issue violations where appropriate, asked if there might be a demand on an owner's tax returns.

Mr. Gurewitsch asked how a code enforcement agent could be tasked with enforcement in this manner; spoke briefly of protections already in place before his time was cut short due to the imposed limit.

AH spoke of two points of order: The ABCC leaves the policing of unlicensed art openings to the local licensing authorities; and, clarification of the claim that Mr. Wiggs was proposing the opening of gallery owners' books for inspection, which Mr. Wiggs denied, adding that it was only a question of inspection of allocated wall space. AH added that if the proposed amendment should pass, a manner of enforcement would have to be introduced, including allocations of utilized wall space.

### Local Artists

Jerome Greene said he'd been based in Town for 13 years, on the Cape for 35, former owner of a gallery in Dennis for 3 years; has shown his work in perhaps five different venues that helped establish himself as an artist, including a home décor store and a coffee shop; said he also buys art from both galleries and non-galleries alike and felt the whole proposal is anti-art and ridiculous.

Marian Roth submitted her statement, spoke as an artist who's lived in Town for 37 years; first show in 1984 at Sea Fox Restaurant and since then shown in restaurants for years which eventually led to showings in many galleries; claimed this as the life of an artist in Provincetown - to place their art wherever someone will have it; freedom of creation and enterprise is Provincetown; stressed that it is the artist who brings gallery visitors to Provincetown and questioned where local artists would show if limited only to galleries; stated proposal would bring great harm.

Peter Hocking: Co-gallerist at 411 Gallery and a local represented artist; President of the Board of Directors at Provincetown Commons and a professor of art in the MFA program at Goddard College said Provincetown is an interwoven tapestry of many ways in which creative people present their work; cited a recent challenge to name local artists under (35) who are repped by local galleries and no one could get over (14); said more needs to be done to allow artists to show their work in informal spaces through incentives given to the gallerists to cultivate young artists despite their overhead.

Jackie Kelly said that when she first moved to Town she was told every house could sell two things: art and fish; spoke in favor of visitors gaining inspiration when experiencing art outside of art galleries and of local artists she knows who have had a hard if not impossible time gaining gallery representation; encouraged galleries to work with local businesses to promote opportunities for art.

### Gallery Owners

Scot Presley, Co-owner of On Center Gallery spoke from a long-career of 20-plus years, and three in Town; said he has found many of the artists he represents in alternative venues.

Francesca Cerutti, co-owner of Cid Bolduc Gallery, Cape Art Tiles shop, as well as a restaurant in Town, relishes art in every nook and cranny in Town to carry on the tradition of Provincetown as the oldest continuous art colony in the country; questioned Mr. Wiggs' assertion that he was speaking for other gallery owners whereas none have appeared, with the majority present against the proposal.

Chris McCarthy spoke as CEO of the Provincetown Art Association and Museum; said PAAM currently has about 900 member artists who identify as full-time artists from 28 states and 8 nations; said one of the greatest things about Town is the ability to collect and suggested neither the LB nor PAAM is qualified to define what constitutes fine art, but that this should never put off an artist from showing in non-conventional spaces by placing limitations on their opportunities for public display.

Romelo Del Dio, artist and teacher, native of Provincetown, son and grandson of artists; said the ability to have access to exhibition is an existential issue to the Town; that there is no greater freedom of expression than art because art is a language everyone understands; said he'd been with Berta Walker Gallery for about 25 years and that they see no threat there from anyone who wants to show and that Town should be behind these contentions without issue.

### Art Week Proposal

Mr. Gurewitsch again took the mic, now sharing his intention to launch an Art Week in Town; said he inspired by viewing the tape of the June 25, 2019 LB meeting whereby he was informed of the measure in the past; said he would be holding a meeting at the Visitors Service Bureau in the coming weeks to plan an Art Week, Open Studio Week and Appearances in the fall of 2020, inviting all artists present to contact him by e-mal or phone for more information.

### **Public Statements**

#### Letters

CS read a letter in support of the need to strengthen the rules and guidelines governing galleries in Town by Bob Daniels.

FT read a letter from Steve Bowersock who stated his premise that galleries need to be on a level playing field with regard to what a gallery is and what it does in an atmosphere where there is much more competition; stated his solution as charging alternative businesses the same Gallery Licensing Fee and to hold them to the same policies as determined by the LB.

SB read a letter from James Balla, co-owner of the Albert Merola Gallery who followed his post of the art gallery definition as outlined in the Licensing Regulations with an assertion that, along with husband Albert Merola, he supports the right of local artists to show in local establishments; determined that the real issues affecting serious galleries in Town do not originate from local artists but rather can be dealt with through existing regulations; concluded with the Licensing reg., 8-2 as pertains to Notification of intent to commence business, asked how Pop-Up locations fit this definition.

*AH addressed Mr. Balla's claim by stating that Pop Up businesses are not allowed in Town in unlicensed spaces and anyone aware of such an enterprise should contact the local police; said his office is repeatedly uninformed of such businesses by the public in spite of outcry after the fact.*

BS read a letter from Karen Cappotto who wrote that limiting or curtailing artists to exhibit their work outside of the gallery system is taking a step in the wrong direction.

CS read a letter from artist Valerie Isaacs, with the Julie Heller Gallery, who opened by encouraging non-gallery spaces to sell art whether in restaurants, cafes or offices and stated that the creative spirit needs freedom to flourish.

SB read a letter from Tom Shirk, owner and curator of the White Porch Inn Art Hotel, representing over 50 artists between this inn and another in Miami Wynwood, FI, who claimed that it never has and never should be up to one business to tell another what they can or cannot sell, display or share with their guests or clients.

FT read a letter from John E. Ciluzzi, President of Premier Commercial, who said he has no problem with the sale of art in any venue, and that the Town doesn't need to dictate supply and demand.

BS read a letter from local restaurateur, Michela Carew-Murphy, resident of 99 Commercial St. who said that while she understands the precarious positions galleries are in to make a living in a Town with a limited window, the artists themselves have it even worse; opined the benefit of artists to sell their own work in restaurants where they may also be the waiter or bartender on hand.

CS read a letter against the proposal and regulations of any kind from radio personality Lady Di, who said that many art galleries were started by small business artists in the first place.

SB read a letter from Anna Avellar against the proposal who stated that the maneuver was an attempt to license those who sell art in order to add more money to the Town's budget, amounting to a plan to take from the poor and give to the rich.

*AH countered this claim, adding that at \$110 per license this is not a viable point of contention. :*

FT read a note from Jane D. Benjamin of 325 Commercial Street who described the proposal as ridiculous, stupid and ill-conceived.

BS read a letter artist Curtis Speer of Cusp Gallery who wrote in favor of the freedom of local artist to sell their work at a place of their choosing; quoted a Boston Globe headline of August 27, 1916 which announced: "Biggest Art Colony in the World at Provincetown."

CS read a letter from year round resident and property owner, Michael Coffin of 774 Commercial Street who wrote to give voice in opposition to the art gallery licensing proposal and in favor of artists getting exposure in non-gallery spaces.

FT read a letter from artist Anne Packard of the Packard Gallery who expressed that there are countless arguments to maintain the freedom to sell art anywhere in Town and that the Town 's artistic history can be traced to what has hung on the walls of restaurants and bars and perhaps one day galleries for the select few.

SB read a letter in disagreement from artist Tracy Kachtick-Anders who is in her second season of a pop-up/temporary retail shop in Town called The Joy Project, and who argued that some artists avoid the art gallery scene by choice, espousing the view that encouraging people to be creative is more important than someone becoming a famous artist.

*AH added that Ms. Kachtick-Anders' pop/up store is a licensed venue, but not an art gallery.*

Mr. Wiggs addressed the Board to state what he felt is a huge misunderstanding about the issue in that the proposal is not against people selling art where they wish, but that it should not be done in a way that is detrimental to the art galleries and that the LB is there to protect gallery owners by creating a level playing field and proposing a solution to that end.

FT concluded the art gallery discussion; said notification would come probably after the new year.

### ***Other Business***

None.

### ***Amend/Transfer License New License***

None.

## ***Renew License***

### **Parking**

1. Mussel Beach Health Club, Inc., Richard Murray, mgr., d.b.a. ***Mussel Beach Health Club***, 35 Bradford St., Provincetown, MA 02657

**SB made a motion to approve as presented. CS seconded the motion and it passed, 5-0-0; SB, CS, FT, BS, DG.**

## ***Correspondence***

AH said the taxi letter is on hand but that it could wait to the first meeting in November, and that there is a letter from the driver, as well. FT concurred and AH said he would put copies in the Board's folders.

## ***Minutes***

CS said that, per the Oct. 8<sup>th</sup> minutes at hand, she hadn't directly indicated that the noise complaint stemmed from a wedding reception. Jody O'Neil, recording secretary, said he would amend the minutes to relate that correction. AH said that while he wasn't at that meeting, he researched the case and found it was a wedding reception and that the complaint had come in at 11:40pm, in which case the Pilgrim Monument would be fined; reported that the police did not make a call to the property which they could have done as there was not a noise bylaw waiver filed; said he has informed Ms. Fiorella, his replacement, that changes regarding compliance would be necessary as there was no longer a police presence at LB meetings. AH said he would send a note to the Pilgrim Monument to attend a meeting on the matter since, per FT, a formal invitation wasn't necessary

**BS made a motion to accept the meeting minutes as amended for October 8, 2019. DG seconded the motion and it passed, 5-0-0; BS, DG, FT, SB, CS.**

AH requested Mr. O'Neil send amended minutes to his attention so he can distribute them to the Board for its approval.

## ***Code Compliance***

None.

## ***Old business***

None.

## ***New Business***

None.

## ***Licensing Board Statements***

FT said his term is up at the end of December and needed to clarify if he must be turned out for two years, after which he would be over 80 and said he felt he would then be done. AH said it would be good to learn FT's fate by November 12<sup>th</sup>.

***Licensing Agent Statements***

AH formally introduced incoming Licensing Agent, Linda Fiorella; said the working document created as a referral for Ms. Fiorella is 13 pages long and growing and that he would be with LB for the next few meetings, as needed, but that Ms. Fiorella should be ready to lead the first meeting in December.

Mr. O'Neil asked if the public may view documents that are submitted to the record during meetings in full, but in another context rather than appearing in complete form in the meeting minutes. AH said all documents are kept on file and can be viewed by the public during Town Hall staff hours at the records' desk in the basement, but that no one in seven years has ever made such a request on his watch.

**SB made a motion to adjourn the meeting at 6:55pm. DG seconded the motion and it passed, 5-0-0; SB, DG, FT, CS, BS.**

Respectfully Submitted,  
Jody O'Neil