

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, APRIL 26, 2004

JUDGE WELSH HEARING ROOM

Chairman Mary-Jo Avellar opened the meeting at 6:00 PM noting the following attendees:

Board of Selectmen members: Mary-Jo Avellar, Cheryl Andrews, Michele Couture, Sarah Peake, Richard Olson

Other attendees: Town Manager Keith Bergman, Acting Assistant Town Manager Michelle Jarusiewicz

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

1A **PUBLIC HEARING: HOUSING DEVELOPMENT SUPPORT PROGRAM GRANT**

Housing Development Support Program - 40A Nelson Avenue

MOTION: *Move that the Board of Selectmen vote to receive comments in a public hearing held in accordance with grant requirements under the Housing Development Support Program, for the acquisition of 40A Nelson Avenue to be developed into six affordable rental housing units.*

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

Chairman Avellar read the Public Hearing Notice.

Comment in Favor

Michael Bunn (Community Housing Resource Inc.). Closed four loans. All work is in progress and should be completed soon. All six residents have been selected. We received 179 requests for applications and 67 were received by the deadline. Four of the six households have been certified with the remaining two expect to happen next week. Five of the six households currently live in Provincetown and the sixth household previously live here - then moved to Truro but works in Provincetown. Age range: 18 to 63. Three residents are Provincetown natives; one resident has live here over twenty years; one resident works at the Provincetown School System and another works for the Recreation Department;

Comments in Opposition

Orin Barbara Dunigan - Feels that this project is a horrible blight on the community and feels that this project is not the answer to Affordable Housing. Project did not require a development impact statement; no back-up leaching field; any variances for setbacks. No water pressure at Nelson Avenue. Congested area with no parking. None of our zoning laws or building codes were used. Every tree was destroyed.

Richard Cappotto - Invite anyone to come to his house and take a look from his back yard.

Bob Henrique - Has had problems with this project since it started.

Martha Henrique - Utility pole needs to be removed. Hopes that the place will be cleaned up as soon as possible. Where are people going to be able to park? Agrees with previous speaker.

Jonathan Sinaiko - Water & Sewer Board has received complaints of low water pressure in that area. How is this going to be addressed.

Peter Sousa - If you have friends and political clout you get what you want. Example of where you live. 40A Nelson Ave. is criminal and destroys residential neighborhood.

David Atkinson - Point of Order - Believe that 40B is part of this grant.

Harriet Fitz - 38 Nelson Avenue - There are three buildings in this space - and there should only be one. All the trees were taken down; traffic problems; sand dune at bottom of Nelson Ave. It's a hazard. Truck block driveway. Does not have safe access; backup Title V; parking.

Board of Selectmen & Mr. Malone & Mr. Bunn Comments

We required relieve on frontage only. Parking is under the residents building - room for one car. There is a space for a Title V reserve behind the area. . As far as drainage - we'll address it if it is caused by our work and we will work with the DPW on this..

Michele Couture - thanked Mr. Malone for projects such as this - it is extremely well done.. People are attacking Affordable Housing complexes as if they were some sort of housing project. It is either affordable housing or housing at market rates and I would prefer to have affordable housing.

Richard Olson - Asked if the selection process was done by lottery. Mr. Bunn to explained the intensive selection process.

Sarah Peake - Asked about the square footage & parking. Answer: 5,000 sq ft of living space and 1500 sq ft of garage/basement underneath. Technically there are a story and a half (dormer story). We have a Maintenance Coordinator and checks each property daily. If there is a problem, they get a warning then they get towed. And the neighbor will monitor one another and if there is a problem it will be dealt with immediately. Sand dunes next to the Meads property has been there longer than intended to be and it will be removed as soon as possible. Road repairs - is there a bond posted. Answer - No. I will look at it closely and if there is any damage that the Town is certain was caused by us, we will take care of it. Michael - Please know that anytime any neighbor has called us we have taken care of their concern within the hour and that is a promise I make to you tonight. Sarah - Neighborhood issues aside, if you can address those and continue to stay on top of them - these six units are important for us to have. Discussion around 40B is an interesting. I think it would be appropriate for this Board to revisit and have discussions and see what remedies are available and continue to have input from the public on it.

Cheryl Andrews - To everyone in the neighborhood - contrary to what you may have heard - you are politically well connected as long as I live in this town. Please give me a call, I'd be happy to come out and take a look and hear your concerns.

Mary-Jo Avellar - One of my issues is that these complaints are coming to us after the project is completed. I wish we were made aware of the neighbors concerns at the beginning of this process because it might have helped us when we had to make our decision. Sand blowing around - put a tarp over it until you can get Pinky there to remove it. Parking for company? - There are two additional spots that are use for short term. This is monitored by neighbors as well and we have stickers to identify our residents. People cannot park there for a big party, etc. Utility Pole that Mrs. Henrique complained about. -It is a temporary service for construction and NSTAR should remove it by June 1st. Policy on duty during project - This was only if the road was to be blocked. Trucks blocking driveway and unable to get mail. Our trucks should certainly not be blocking mail delivery. Neighbors have our phone numbers and have called it and our Construction Supervisor speaks to a number of them regularly. We are definitely in communication with them. Sometimes there are disruptions - unfortunately this is a reality - and we do our best to make it progress smoothly. Nelson Ave - is it a private road? Answer: No - it is a town road.

1B COMMUNITY DEVELOPMENT STAFFING

Meeting with Affected Boards re: Facilitated Process

Open discussion. No motions made. Facilitator John Goodridge will be here on Thursday, April 29, 2004 at 5 pm.

1C SHUTTLE EXPANSION - MINI-MODAL TRANSIT CENTER

Presentation by CCC Transportation Plan Clay Schofield

MOTION: *Move that the Board of Selectmen vote, that with drafting help from Cape Cod Commission Transportation Planner Mr. Clay Schofield, that we send a letter of support to the Secretary of Transportation and to Senator O'Leary's office requesting their assistance in obtain funding for this project.*

2. PUBLIC STATEMENTS

Jonathan Sinaiko - Here that funding is not going to happen for a Septic study for Wastewater Plant and is not happy about this.

Mary-Jo Avellar left room due to conflict. Her husband is Asst. Harbormaster.

Bernard Noons - Unhappy with skiff dock fees - as Truro is no longer considered the same domicile as Provincetown. Would like a meeting with Board of Selectmen so this can be straightened out.

Mary-Jo Avellar returned.

Bob Henrique - Re: Nelson Ave. Project - reserve area is inaccessible. Stop the units being build at the Meadows - have an impact study done. Temporary electrical box dangling.

Judith Oset - Re: Community Development Staffing - experience really counts. Moral problems need to be looked at - don't just ignore that. Also, a lot boards decisions have legal implications and your Committees/Boards needs staff support to help and advise them, guide them and get the answers for them if they don't know the answers. With strong staff support it is easier to solicit volunteers for boards. Offer a challenge to the Selectmen - take an existing building plan that is down there now and pretend you're the customer and go through the building process.

Rick Murray - Look at position. Need a stronger leader with support for Staff. Suggest that there be someone in DRM that would be in charge of the 'oversight' of everything.

Peter Sousa - Object to hunting in the Cape Cod National Seashore.

David Atkinson - When we ask government to solve our problems - it creates other problems.

Rex McKenzie - Wants to clear up misconceptions about the Pier Corp. They do have a plan; there are three definitions for Provincetown Commercial Fisherman; Pier Corp needs direction as to what the Board of Selectmen want on the Pier.

Steve Melamed - Disagree with Mr. Sinako; advise Pier Corp that Saturday meetings don't work. Thanks to Pier Corp for asking us back.

3. SELECTMEN'S STATEMENTS

Sarah Peake

MOTION: Move that the Board of Selectmen send a letter to the Cape Cod National Seashore Advisory Committee expressing our strong concern and displeasure over the process by which the ORV Permits were handed out this year and encourage the reconvening the ORV Committee to study on how to avoid such a problem in future years.

Motion by: Sarah Peake

..... Seconded by: Michele Couture

Yea 5 Nay 0

MOTION: Move that the Board of Selectmen vote to have a future agenda item within the next thirty days "Wind Energy" - and what we need to do to move the process forward from here now that we have the study in hand.

Motion by: Sarah Peake

..... Seconded by: Michele Couture

Yea 5 Nay 0

Provincetown Police Federation letter - While there is still negotiations going on over the Labor Contract, I'm not sure it is appropriate to meet with them but it think it would be appropriate to answer this letter and advise them as to why we are not meeting. i.e., Referred to Town Manager

MOTION: *Move that the Board of Selectmen vote to send a letter to the Provincetown Police Labor Federation a letter indicating that we have referred this matter to the Town Manager for handling and thanking them for their correspondence to us and indicate that we are not adverse to meeting with them but while labor negotiations are ongoing it is not appropriate time.*

Motion by: Sarah Peake **Seconded by:** Richard Olson Yea 5 Nay 0

Patriots Day Weekend - noticed that the town's trash barrels were overflowing. When will the third barrel pick-up begin? David Guertin - will look at funding for this.

To the gentleman who brought up the Septic Study and funding for it - I have not heard anything or made any decisions or have seen it as an agenda item for this board to discuss whether the septic study is getting funded or not - I would hate for somebody to be under the misconception that it is not going to get funded. It was an Article that was voted at town meeting. If we can do it for free - that would be great but the article that passed did have an amount that was appropriated associated with it. (\$20K)

MOTION: *Move that the Board of Selectmen vote to set as an agenda item for our next meeting on May 10, 2004 the Septic Study and funding and invite the Water and Sewer Board and Staff join us.*

Motion by: Sarah Peake **Seconded by:** Cheryl Andrews Yea 5 Nay 0

Cheryl Andrews

MOTION: *Move that the Board of Selectmen vote place the letter from the Town Moderator Betty Steele-Jeffers to Gary Delius and Doug Johnstone in their personnel folders.*

Motion by: Cheryl Andrews **Seconded by:** Michele Couture Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote schedule an agenda item to meeting with the Town Clerk after his training meeting on Gay Marriages at our regular meeting on May 10, 2004.*

Motion by: Cheryl Andrews **Seconded by:** Michele Couture Yea 5 Nay 0

Re: 40B - has created a lot of angst for me personally.

MOTION: *Move that the Board of Selectmen vote to have as an agenda item "the application process for a waiver to 40B.*

Motion by: Sarah Peake **Seconded by:** Sarah Peake
Yea 4 Nay 1 (Michele Couture)

MOTION: *Move that the Board of Selectmen vote to request an outline report from the DPW Director as to basic fact finding and timeline regarding the issue of perceived lower water pressure on Nelson Avenue area.*

Motion by: Cheryl Andrews **Seconded by:** Michele Couture Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to have as an agenda item within the next two to three weeks specifically inviting the Conservation Commission to meet with us to discuss plans for provisions of professional services.*

Motion by: Cheryl Andrews **Seconded by:** Richard Olson Yea 5 Nay 0

Definition of a Provincetown resident? - Can we have a short report explaining how many definitions we have and whether we are going to be recommending changes to that.

Comments from former Staff member re: DRM - I'm aware of what's going on.

Graffiti on barrels outside town hall - can we have them cleaned up? (DPW will look into this.)

Michele Couture

MOTION: *Move that the Board of Selectmen vote ask our State Representatives to support Haynes Kulik*

amendment to strike Section 5 and insert the MMA five-year plan to end the Lottery diversion.

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

Notice of Non-Compliance (Oil Spill) - DPW said it was done - no ground contamination.

Letter (4/21/04) from Michele Frechette - DET - we really need this service.

MOTION: *Move that the Board of Selectmen vote to send a letter to Division of Career Services (DET) in support of the services needed here in Provincetown. Cc: State Representatives.*

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

Last year's Traffic Hearing - owners of Teddy Seas's said they would work with the town to resolve the issues in that area. Real public safety issue. Schedule this as an agenda item.

97 Bradford Street - Has the system been removed? If not why" - Cheryl Andrews - They have until the end of the year to do it.

Letter from Shirley Fisher of Centerville, Ma. re: 465 Commercial Street.

MOTION: *Move that the Board of Selectmen vote to schedule an agenda item re: 465 Commercial Street and invite an update from staff as to what our options are and what avenues we can pursue. Also advise homeowner that agenda item is going to take place.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews Yea 5 Nay 0

Reminder - report from DPW due re: What Vortex Stormwater Drainage Systems have been installed, where, what maintenance they have received, etc.

- **Richard Olson**

Concerned that a couple of people in different contexts said they felt intimidated somewhat by Town Administration. Yet they don't sound like people easily to be intimidated and no one should need to form that impression.

Pier Corp. - Have been told by one member of the Pier Corp. that they are going to work around the problem of Saturday meetings and not have them on Saturday's so that it will be more convenient for the fishermen.

MOTION: *Move that the Board of Selectmen vote have staff address the issues concerning the Skateboard Park and sewer project staging at Jerome Smith Parking Lot brought forth in a letter received on April 26, 2004 to the Board of Selectmen by Brenda Silva of 5 Jerome Smith Road.*

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

MOTION: *Move that the Board of Selectmen vote to meet with the Cape Cod Pilgrim Memorial Association re: Expansion of summer Shuttle Service to the Monument.*

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

Cheryl Andrews left the room

MOTION: *Move that the Board of Selectmen vote to adopt a Proclamation congratulating Provincetown Art Association & Museum on its dedication of Hargood House in honor of Robert Harrison and Harold Goodstein.*

Motion by: Richard Olson **Seconded by:** Michele Couture
Yea 3 Nay 1 (Sarah Peake)

Cheryl Andrews returned.

Mary-Jo Avellar

Re: Mr. Sousa comments on hunting at the Cape Cod National Seashore. I will never let CCNS take our rights away.

Dangling electrical box - Nelson Ave. - needs to be taken care of.

Pier Corporation - 1997 Marketing Plan should have been implemented.

MOTION: *Move that the Board of Selectmen vote to take Agenda Items #5A,B,C; 6A,B,C and 8 & 8A out of order.*

Motion by: Sarah Peake **Seconded by:** Cheryl Andrews Yea 5 Nay 0

5A PARADE PERMIT REQUEST

Over The Line Productions

MOTION: *Move that the Board of Selectmen vote to approve Parade application submitted by Joseph McStowe, on behalf of Over the Line Productions, 85 Bettencourt Rd., Plymouth, MA. for the purpose of holding their annual "The Cavalcade of Music" in celebration of the beginning of the summer season to be held on Saturday, May 22, 2004 from 12 Noon to 2:00 pm with no rain date scheduled.*

Motion by: Sarah Peake **Seconded by:** Richard Olson
Yea 4 Nay 1 (Michele Couture)

5B PARADE PERMIT REQUEST

Provincetown Business Guild Annual Carnival Parade

MOTION: *Move that the Board of Selectmen vote to approve the Parade Application Permit submitted by Donna Vaillancourt on behalf of the Provincetown Business Guild for the purpose of holding their Annual Carnival Parade to be held on Thursday, August 19, 2004 from 3:00 pm to 7:00 pm with a rain date of August 20, 2004.*

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

5C CO-SPONSOR GAY PRIDE ROCKLAND 2004

Village of Nyack, New York

MOTION: *Move that the Board of Selectmen vote to approve the to approve the request submitted by Mayor John Shields of Village of Nyack, 9 North Broadway, Nyack, New York for the Town of Provincetown to be a co-sponsor of their Gay-Pride Rockland 2004 event to be held on Sunday, June 13, 2004 from 11:30 AM to 5:00 PM.*

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

6A COUNCIL ON AGING

Submit Executive Office of Elders Affairs FY 2005 Formula Grant

MOTION: *Move that the Board of Selectmen vote to submit a grant application for \$3,727 to the Executive Office of Elder Affairs for a FY 2005 Formula Grant for staff education and training, and outreach services.*

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

6B AWARD CONTRACT: DPW RECYCLING CHASSIS

Liberty Chevrolet: \$28,996

MOTION: *Move that the Board of Selectmen vote to award a contract to low bidder Liberty Chevrolet of Wakefield, MA in the amount of \$28,996 for the purchase of a chassis for a DPW recycling vehicle.*

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

6C1 DPW SERVICE CONTRACTS FOR FY 2005

Paving with Bituminous Concrete: P.J. Keating Co.

MOTION: *Move that the Board of Selectmen vote to execute a contract with low bidder P.J. Keating Co. of Cranston, Rhode Island for the provision of bituminous concrete to the Town of Provincetown for Fiscal Year 2005 at a cost of: \$54.65 per ton delivered in place and for berms to be laid in place; \$8.00 per lineal foot for bituminous concrete curb to be laid in place; and \$100.00 per ton for handwork (sidewalks and driveway approaches).*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 3 Nay 2

Mary-Jo Avellar left the room.

6C2 DPW SERVICE CONTRACTS FOR FY 2005

Septage Removal: James J. Roderick

MOTION: *Move that the Board of Selectmen vote to execute a contract with low bidder James J. Roderick of Provincetown for provision of septage removal services to the Town of Provincetown for Fiscal Year 2005 at a rate of 9.5¢ per gallon exclusive of the Tri-Town tipping charge.*

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

6C3 DPW SERVICE CONTRACTS FOR FY 2005

Removal of Recyclables: J & L Enterprise

MOTION: *Move that the Board of Selectmen vote to execute a contract with sole bidder J&L Enterprises of Truro, MA, for the provision of recycling services to the Town of Provincetown for Fiscal Year 2005 at the rate of \$1.64 per mile for mixed paper, corrugated cardboard, glass, metal cans, and HDPE plastic, and with scrap metal removed at \$25 per ton.*

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

Mary-Jo Avellar returned.

6C4 DPW SERVICE CONTRACTS FOR FY 2005

Municipal Solid Waster Hauling Services: J & L Enterprises

MOTION: *Move that the Board of Selectmen vote to execute a contract with low bidder J & L Enterprises, Inc. of Truro for the provision of municipal solid waste hauling services for Fiscal Year 2005 from the Provincetown Transfer Station to the SEMASS facility in Rochester, MA, including provision of one yard truck, keeping trailers on a maintenance schedule, changing flat tires, and providing an additional trailer during the summer, for the contract price of \$315 per round trip.*

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

8. BOARD OF SELECTMEN APPOINTMENTS

MOTION: *Move that the Board of Selectmen vote appoint Ann Colbourn as a Regular Member of the Harbor Committee for a term expiring December 30, 2005.*

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

8A TOWN BOARD APPOINTMENTS

Selectmen's Approval of town Manager Appointments

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.40, §8J, to approve the Town Manager's reappointment of Elizabeth Villari as a regular member of the Disability Commission, for a term expiring December 31, 2006; and the appointment of Laurie deSousa as regular member for a term expiring December 31, 2005.*

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

MOTION: *Move that the Board of Selectmen vote, pursuant to Charter §6-9-1, to approve the Town*

MacMILLAN PIER: PROFISH SUB-LEASE

Litigation Strategy [MGL C.39,§23B, cl.6]

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, section 23B, clause 6, to go into executive session to consider the purchase, exchange, lease or value of real property; and not to convene in open session thereafter. [Roll Call]*

Sarah Peake - Yea

Cheryl Andrews - Yea

Michele Couture - Yea

Richard Olson - Yea

Motion by: Michele Couture

.....

Seconded by: Richard Olson**Yea 4 Nay 0**

Board went into executive session at 11:25 PM.

Minutes transcribed by: Vernon Porter, Secretary
May 4, 2004