

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING – MONDAY, JUNE 28, 2004

### JUDGE WELSH HEARING ROOM

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

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

Excused Absence: Cheryl Andrews

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

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

#### **1      PUBLIC HEARING**

Adoption of Town-wide Policy Goals for FY 2005

Acting Chairman Mary-Jo Avellar read the Public Hearing Notice and discussed each goal in sequence on the notice.

##### Public Comments (Pros & Cons)

##### 1.    Organizational and Staff Support

Philip Gaudiano (Conant Street) - Third year in row with late tax bills - what's going on with staff - why are we allowing this to happen? No consideration given to the taxpayers. Seaplane business - is it allowed?

##### 2.    Fiscal Management - No comments

##### 3.    Cape End Manor Care Campus

Mark Baker - (Somerset Road) - Will timetable be in time for special town meeting in the fall? Answer: Keith Bergman - More than likely, yes, but it has not been discussed with the Board of Selectmen yet.

##### 4.    Affordable Housing - No comments

##### 5.    MacMillan Pier/PPPC/Profish

Mark Baker - is there a timetable in that goal? Mary-Jo Avellar - two years ago. Mr. Baker - It would be my request to include a timetable in this goal so that the power-to-be can complete this long process.

##### 6.    Water Management Permit - No Comments

##### 7.    Wastewater

Philip Gaudiano - Why is the town getting involved in the Laundromat. Why not let the private operations handle their own permit applications, etc. If the town is going to get involved then it is going to cost the taxpayer's money - let the individuals handle it themselves.

Mark Baker - Would encourage to include the town meeting mandated study of accepting septage at the Treatment Plant.

##### 8.    Use & Reuse of Town Facilities - No comments.

##### **Selectmen's Comments**

Keith Bergman - explained to Mr. Gaudiano how the town has become involved with Laundromats. The town will not be investing money in Laundromats.

Sarah Peake - re Mr. Gaudiano's comments regarding tax bills. Couldn't agree with you more - if we can't get them out on a quarterly basis then we need to go back to twice a year. If we do go back to twice a year it creates another set of problems. I think it is possible to get our ducks in order and the board is mindful of that

and will keep this at the forefront.

***MOTION: Move that the Board of Selectmen vote to discuss as a 9<sup>th</sup> goal “Economic Development” at our July 12, 2004 meeting.***

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

Would like to see Peer Review included in #1. Organizational and Staff Support.

***MOTION: Move that the Board of Selectmen vote, pursuant to Charter §4-2-1, to adopt as Town-wide Policy Goals for Fiscal Year 2005 those goals contained in the public hearing notice [with the following amendments: (specify)].***

***Motion by: Sarah Peake                      .....                      Seconded by: Michele Couture                      Yea 4    Nay 0***

## **2. PUBLIC STATEMENTS**

Celine Gandolfo - Read statement into record re: Town Policy Goal for 2005. (See attachment #1)

Mick Rudd - (224 Bradford Street) - Chamber of Commerce - Requesting a meeting with the Board of Selectmen re: Schooner Regatta and the “Provincia”. Read statement into records. (See attachment #2).

Ken Weiss - Encourage Board of Selectmen to sign Agenda Item #5A - Affordable Housing for 58 Harry Kemp Way.

Philip Gaudiano - Reading local paper that indicated there was appropriation made at town meeting that was approved that was not legal - re: VSB. Where is our legal counsel? We get so mixed up with the Department of Revenue that we can never get anything done. Maybe we should appoint someone as a liaison to work with the DOR so we know what they expect of us. Somewhere along the line they have to be right and we have to be wrong - let's admit it.

Celine Gandolfo - Community Development positions are coming to an end this Wednesday. Concerned about breaking contracts with town employees. Not ethical and not setting good example for our town.

## **3. SELECTMEN STATEMENTS**

### **Sarah Peake**

In response to Mr. Gaudiano's comments - this time you can't blame the lawyers - blame the auditor - the accountants. Your point is well taken and we will be spending the VSB funds in accordance with the way the DOR says to spend it.

Ceremony at Airport - celebrating the new shuttle service to Race Point Road, the Airport and Race Point Beach - was well attended.

***MOTION: Move that the Board of Selectmen vote to invite the School Committee to have a joint meeting with the Board of Selectmen on Monday, July 12, 2004 to discuss the use of the Annex and in the interim the School Committee may, if they wish, issue the RFP and we will discuss any amendments or addendums to it at our July 12<sup>th</sup> meeting.***

***Motion by: Sarah Peake                      .....                      Seconded by: Richard Olson                      Yea 4    Nay 0***

Loud vent pipe connected to our sewer system on Anthony Street. Sandy Turner has been very responsive to that. Sandy - next week we are going to lower it.

***MOTION: Move that the Board of Selectmen vote to invite the Alliance to Protect Nantucket Sound to one of our meetings for a brief presentation to the Board.***

***Motion by: Sarah Peake                      .....                      Seconded by: Richard Olson  
Yea 3    Nay 1 (Mary-Jo Avellar)***

## **Michele Couture**

Email response re: odor at CVS station. Answer: Carbon should be replaced on Tuesday @ 2:00 AM.

Seaplane in harbor - Would like a report on this!

To Keith Bergman - can you set up a meeting and work something out with regulatory, marine personnel re: Provincia .

To Keith Bergman - We need to have a shredder. So what do we do on this? Keith Bergman - We get a new budget on Thursday - so, we'll be dipping into the Selectmen's account. Mary-Jo Avellar - How much do they cost? Answer: ~ \$1300.00. Mary-Jo Avellar - Considering all the confidential memos we get - there is no other way to dispose of them. Even if Vernon just had one to dispose of our confidential memos I would be happy - because the rest of the stuff gets recycled. Keith Bergman - Why don't you vote for it.

***MOTION: Move that the Board of Selectmen vote to purchase a shredder.***

**Motion by: Michele Couture ..... Seconded by: Sarah Peake Yea 4 Nay 0**

***MOTION: Move that the Board of Selectmen send a letter of condolence to former Chief Meads on the passing of his wife Brenda.***

**Motion by: Michele Couture ..... Seconded by: Sarah Peake Yea 4 Nay 0**

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

Received correspondence - joint memo - from the Town of Provincetown and Public Pier Corporation - from the Marine Superintendent and MacMillan Manager. Re: Harbor Services. I think we need to have an agenda item on this. There are a lot of steps that I don't agree with in the memo. I think we need to wait on this. Keith Bergman - it is a draft only. Michele - I'm happy with our harbor master services as they stand. We can discuss this sometime in the future.

Mary-Jo Avellar returned.

***MOTION: Move that the Board of Selectmen vote to ask Representative Gomes to support securing more lottery funds for FY 2005 for the Town of Provincetown.***

**Motion by: Michele Couture ..... Seconded by: Sarah Peake Yea 4 Nay 0**

Storm water Operations & Maintenance - excellent report from Sandy Turner. Would like to have this as a future agenda item. Need to talk about options for the town and what directions we want to go at.

Drainage issue - for chapter 90 Funds - re: subdivision at Telegraph Hill - all drains are blocked. How do we regulate subdivisions? Keith - will get back to Board on this.

Letter from DEP written to Conservation Commission re: aerial photography that shows significant acreage of Freshwater Wetlands have been filled or altered in the areas studied - which included our region.

## **Richard Olson**

Attended the opening of the Provincetown Theatre - and the proclamation was well received and appreciated.

Portuguese Festival and Blessing of the Fleet were wonderful events. Admire our Police Department and how professionally and how much poise they used in handled these events, sometimes under stressful circumstances.

Inauguration of shuttle at the Airport today - reminds me that government never does anything that doesn't hurt somebody. My taxi driver coming down from the west end today pointed this out.

## **MARY-JO AVELLAR**

Portuguese Festival - what a wonderful festival it was. Really terrific!

Motorcycles - noise problem this weekend was horrible. Chief Meyer - spoke to several of them and explained the rules and regulations.

Questions Ms. Gandolfo asked about us not having Open Space as one of our goals. Could that follow under town facilities & planning? Keith Bergman - Certainly the maintenance. It's ongoing.

#### 4. APPOINTMENTS

Provincetown Public Pier Corporation Board of Directors

**MOTION:** *Move that the Board of Selectmen vote to reschedule this agenda item to July 12, 2004.*

**Motion by:** Michele Couture ..... **Seconded by:** Sarah Peake Yea 4 Nay 0

#### 4B BOARD OF SELECTMEN APPOINTMENTS

*Move that the Board of Selectmen vote to appoint Dan Brown as a Regular Member of the Board of Health with an expiration date of December 31, 2006.*

**Motion by:** Michele Couture ..... **Seconded by:** Sarah Peake Yea 4 Nay 0

*Move that the Board of Selectmen vote to appoint Florence Corea Alexander as a Regular Member of the Council on Aging with an expiration date of December 31, 2005.*

**Motion by:** Michele Couture ..... **Seconded by:** Sarah Peake Yea 4 Nay 0

*Move that the Board of Selectmen vote to appoint Carol Neal as Provincetown Museum & Pilgrim Monument Representative on the Historic District Commission with an expiration date of September 9, 2007.*

**Motion by:** Michele Couture ..... **Seconded by:** Sarah Peake Yea 4 Nay 0

*Move that the Board of Selectmen vote to appoint Tom Boland as an Alternate Member of the Historic District Commission with an expiration date of September 22, 2006.*

**Motion by:** Michele Couture ..... **Seconded by:** Sarah Peake Yea 4 Nay 0

#### 5A AFFORDABLE HOUSING DEED RESTRICTION

Lower Cape Cod Community Development Corp - 58 Harry Kemp Way

**MOTION:** *Move that the Board of Selectmen vote to accept and execute an Affordable Housing Deed Restriction with the Lower Cape Cod Community Development Corporation for four affordable housing units (rental) at 58 Harry Kemp Way, as approved by the Provincetown Housing Partnership and approved as to form by Town Counsel.*

**Motion by:** Michele Couture ..... **Seconded by:** Sarah Peake Yea 4 Nay 0

#### 5B TRAFFIC HEARING FOLLOW-UP

Howland/Bradford Intersection: Meeting with Owners of Teddy Sea's

Open discussion ensued. No motions made.

#### 5C CCNS GMP IAC - Hunting EIS

Table until July 12, 2004 meeting.

**MOTION:** *Move that the Board of Selectmen vote to reschedule this agenda item to July 12, 2004.*

**Motion by:** Richard Olson

**Seconded by:** Michele Couture

**Yea 4 Nay 0**

**5D** **PROCLAMATION - GLAD DAY**

Gay and Lesbian Advocates and Defenders Day

**MOTION:** *Move that the Board of Selectmen vote to approve the request of Cheryl L. Andrews of Provincetown, MA to proclaim Saturday, July 31, 2004 as Gay and Lesbian Advocates and Defenders Day in the Town of Provincetown.*

**Motion by:** Michele Couture

**Seconded by:** Sarah Peake

**Yea 4 Nay 0**

Richard Olson left the room.

**5E** **GABRIEL'S GUESTHOUSE**

License Agreement to Cure Bas Relief Encroachment

**MOTION:** *Move that the Board of Selectmen vote to issue a license relative to a retaining wall located behind Gabriel's Guesthouse which encroaches onto the abutting Town-owned Bas Relief property, said license as drafted and approved as to form by Town Counsel.*

**Motion by:** Sarah Peake

**Seconded by:** Michele Couture

**Yea 3 Nay 0**

Richard Olson returned.

**5F1** **PARADE PERMIT: FAMILY PRIDE COALITION**

Annual Parade to Coast Guard Station, August 1, 2004

**MOTION:** *Move that the Board of Selectmen vote to [approve/not approve] the Parade Permit Application submitted by Chris Fahrenhold of Family Pride Coalition, P.O. Box 65327, Washington, DC to hold their annual "Family Pride Parade" to be held on Sunday, August 1, 2004 from 3:00 pm to 4:00 pm.*

**Motion by:** Sarah Peake

**Seconded by:** Michele Couture

**Yea 4 Nay 0**

**5F2** **PARADE PERMIT: YANKEE LAMBDA CAR CLUB**

Annual Parade and Antique Car Display

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade application submitted by Hector Ramiro, 4 Tiger Row, Georgetown, MA on behalf of the Yankee Lambda Car Club for a Public Showing of Residential Motorcade & Classic Cars on Saturday, September 11, 2004 starting at 2:00 PM and ending by 2:45 PM.*

**Motion by:** Sarah Peake

**Seconded by:** Michele Couture

**Yea 4 Nay 0**

**MOTION:** *Move that the Board of Selectmen vote to [approve/not approve] the request of Hector Ramiro, 4 Tiger Row, Georgetown, MA on behalf of the Yankee Lambda Car Club to use the Jerome Smith Parking Lot to hold their annual antique car show, which is open to the public at no charge.*

**Motion by:** Sarah Peake

**Seconded by:** Michele Couture

**Yea 4 Nay 0**

**6A** **CAPE END MANOR CARE CAMPUS UPDATE**

Plan "C" - Proposed Land Exchange with Bishop of Fall River

Discussion ensued - with special thanks to Dennis Anderson, the CEM Board of Directors and to Town Manager Keith Bergman. No motions made.

**6B** **FY 2004 HUMAN SERVICE GRANT PROGRAM**

Award Grants Authorized by 2004 Annual Town Meeting

**MOTION:** *Move that the Board of Selectmen vote, pursuant to Article 30 of the April 7, 2004 Annual Town Meeting to execute grant agreements totaling \$51,744 under the Town of Provincetown's FY 2004 Human Services Grant Program with the following grantees:*

AIDS Support Group of Cape Cod \$7,000  
Cape Cod Children's Place 3,250  
Consumer Assistance Council.. 250  
Gosnold 13,000  
Helping Our Women 5,500  
Independence House. 3,800  
Interfaith Council for the Homeless 2,344  
Legal Services for Cod Cape & Islands 4,300  
Lower Cape Outreach Council, Inc. 4,000  
Mass Appeal... 400  
Outer Cape Health Services 4,500  
Sight Loss Services, Inc.... 400  
Soup Kitchen in Provincetown 3,000  
*Total \$51,744*

**Motion by:** Michele Couture                      **Seconded by:** Sarah Peake                      Yea 4    Nay 0

**6C                      WATER UPDATE - TRURO**

Further Testing of North Union Field

**MOTION:** *Move that the Board of Selectmen vote to request permission of the Truro Board of Selectmen to undertake a further testing program at North Union Field, at the expense of the ratepayers of the Provincetown Water System; and further authorize execution of an amended memorandum of agreement with the Truro Board of Selectmen in connection therewith; and further to vote to execute an agreement with Environmental Partners Group of Hingham, in the amount of \$86,000 to undertake this scope.*

**Motion by:** Michele Couture                      .....                      **Seconded by:** Sarah Peake                      Yea 4    Nay 0

**6D                      USE OF CHAPTER 90 FUNDS**

Drainage - Bradford Street Extension

**MOTION:** *Move that the Board of Selectmen vote to approve the use of \$86,680 in Chapter 90 Massachusetts Highway Funds for drainage improvements on Bradford Street Extension, as recommended by the Deputy Director of Public Works; and, further, to authorize execution of an engineering services agreement with Stearns & Wheler, LLC in the amount of \$25,000 for a scope of services dated June 21, 2004 in connection therewith.*

**Motion by:** Sarah Peake                      **Seconded by:** Richard Olson                      Yea 4    Nay 0

**6E                      CLEAN VESSEL ACT PUMP-OUT GRANT AGREEMENT**

Approve \$8,500 Contract with Division of Marine Fisheries

**MOTION:** *Move that the Board of Selectmen vote to authorize execution of a grant agreement with the Massachusetts Division of Marine Fisheries in the amount of \$8,500 under the Clean Vessel Act, for the period July 1, 2004 through June 30, 2005.*

**Motion by:** Sarah Peake                      **Seconded by:** Michele Couture                      Yea 4    Nay 0

**6F                      HOUSING DEVELOPMENT SUPPORT PROGRAM**

40A Nelson Ave - Loan, Mortgage, Housing Restriction & Intercreditor Agreement

**MOTION:** *Move that the Board of Selectmen vote to authorize execution of the affordable housing restriction, the intercreditor agreement, the loan, and mortgage documents as required under the Housing Development Support Program grant, for the acquisition of 40A Nelson Avenue to be developed into six*

*affordable rental housing units.*

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

**6G      HOMELAND SECURITY GRANT AWARD**

Approve Grant Application and Acceptance - \$12,820

***MOTION:*** *Move that the Board of Selectmen vote to apply for and accept the \$12,820 grant from the 2004 Homeland Security funds for Local Preparedness for radio and repeater at the airport, permanent wiring of radio base station, and a laptop computer from the Massachusetts Executive Office of Public Safety.*

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

**6H1      WETLANDS MANAGEMENT PLAN - PHASE 1**

Award Contract: Stearns & Wheler, LLC: \$24,900

***MOTION:*** *Move that the Board of Selectmen vote to award a contract to Stearns & Wheler, LLC, in the amount of \$24,900 for the first phase of the Wetlands Management Master Plan.*

Motion by: Sarah Peake      Seconded by: Richard Olson      Yea 4 Nay 0

**6H2      FY 2004 YEAR-END BUDGET TRANSFERS**

legal Services Budget: \$42,000

***MOTION:*** *Move that the Board of Selectmen vote, pursuant to Section 123 of the Chapter 46 of the Acts of 2003, to approve year-end budgetary transfers of \$42,000 into the Legal Services budget, as requested by the Director of Municipal Finance and approved by the Finance Committee.*

Motion by: Sarah Peake      Seconded by: Michele Couture      Yea 4 Nay 0

***MOTION:*** *Move that the Board of Selectmen vote to schedule a joint meeting with the Finance Committee for the Selectmen's July 26, 2004 regular meeting to discuss legal services in the matter of same-sex marriages.*

Motion by: Sarah Peake      Seconded by: Michele Couture      Yea 4 Nay 0

**6H3      MacMILLAN PIER**

Extension of Interim Agreement with Pier Corporation

***MOTION:*** *Move that the Board of Selectmen vote to execute a two-month extension agreement with the Provincetown Public Pier Corporation expiring September 1, 2004.*

Motion by: Sarah Peake      Seconded by: Richard Olson  
Yea 3 Nay 1 (Mary-Jo Avellar)

**7.      MINUTES OF BOARD OF SELECTMEN MEETING**

***MOTION:*** *Move that the Board of Selectmen vote to approve the minutes of June 14, 2004 (Regular Mtg.) with changes so noted. (All Present)*

Motion by: Michele Couture      .....      Seconded by: Sarah Peake      Yea 4 Nay 0

**8.      CLOSING STATEMENTS**

Sarah Peake - None

Michele Couture - None

**Richard Olson** - None

**Mary-Jo Avellar** - None

9. **TOWN COUNSEL: LITIGATION STRATEGY**

MacMillan Pier Floating Dock System: December 2003 Storm Damage

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B, clause 3, to go into executive session for the purpose of discussing strategy with respect to litigation; and not to convene in open session thereafter.* [Roll call]

**Sarah Peake - Yea**

**Richard Olson - Yea**

**Mary-Jo Avellar - Yea**

**Michele Couture - Yea**

**Motion by: Michele Couture**

**Seconded by: Sarah Peake**

**Yea 4 Nay 0**

The board went into executive session at 9:30 PM.

Minutes transcribed by: Vernon Porter, Secretary  
July 2, 2004