

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING - MONDAY, SEPTEMBER 13, 2004

### JUDGE WELSH HEARING ROOM

Chairman Cheryl Andrews opened the meeting at 6:00 PM noting the following attendees: Board of Selectmen members: Cheryl Andrews, Mary-Jo Avellar, Michele Couture, Richard Olson

Excused Absence: Sarah Peake    Other attendees: Keith Bergman Town Manager

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

#### 1.        **BARNSTABLE COUNTY**

Regional Services

Discussion ensued. No motions made.

#### 2.        **PUBLIC STATEMENTS**

Maurice Grunberg - As a follow-up to previous comments made at the last Selectmen's meeting re: 87 Bradford Street - glass windows and side light. Question as to whether the Historic Committee is authorizing 2 or 3 panels of glass. Just wanted to bring this to the Board of Selectmen for clarification.

Cindy Binder - 242 Bradford St., - re: having septic system problems and would like assistance from the town to get hooked up to sewer system.

Susan Avellar - On behalf of the Portuguese Festival Committee asked Chairman Andrews to draw the lucky winner for their annual raffle (tickets for two to Portugal). The winner was Mr. Phil MacDitis of upstate New York.

Mick Rudd - Passed out info on the upcoming "The Provincetown Great Schooner Regatta 2004 " in memory of Capt. John Bennett and encouraged everyone to attend. The Captain of the HMS Rose is going to give a presentation at Cape Inn to benefit the Public Library. We're in hopes of borrowing the Lipton Cup (with a police escort) for this event. A lot of history on Provincetown and its favorite sailors.

#### 3.        **SELECTMEN STATEMENTS**

**Mary-Jo Avellar**

***MOTION: Move that the Board of Selectmen send a letter of thanks to Michael MacIntyre for his \$85,000 gift that he has given in memory of his husband Bob Anderson to restore the Belfry atop the Library.***

**Motion by: Mary-Jo Avellar**

**Seconded by: Richard Olson**

**Yea 4**

**Nay 0**

Schooner Race Committee involved in organizing this event - speaks to what Provincetown is all about. The special events of this weekend should get nation wide attention.

Cindy Binder question re: Septic problem. How do we help her? Keith Bergman - we'll get a staff report to you on this matter.

Storm that hit Jamaica - where would we be without the help of the Jamaicans? We are extremely fortunately to have them here in the summer. Any efforts that are being undertaken to afford them any relief - as a community - this is an idea - and maybe we can get something going.

Cheryl Andrews - These are our community members and co-workers. Number listed in the Boston Globe today for anyone to call if they would like to help is-. 617-266-9604.

Hurricane victim - Collecting supplies, etc. You can contact Jamaican Consulate - 617-266-8604 for anyone who wants to call to find out how to organize or do what we can to help them out.

Keith will contact the Consulate to find out additional information.

**MOTION:** *Move that the Board of Selectmen vote to put on the town website any information related to assistance to the citizens of Jamaica.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Cheryl Andrews

**Yea 4 Nay 0**

**Michele Couture**

Attended Pier Corp. meeting on Thursday - and was very pleased to see a spirit of cooperation between the fishermen and the Pier directors.

**MOTION:** *Move that the Board of Selectmen vote to send a letter of gratitude to the Division of Career Services and commending Michele Frechette for her career opportunities.*

**Motion by:** Michele Couture

**Seconded by:** Mary-Jo Avellar

**Yea 4 Nay 0**

**MOTION:** *Move that the Board of Selectmen vote to request a placement on the Board of Health's Agenda to Discuss flow determination at 26 Alden Street.*

**Motion by:** Michele Couture

**Seconded:** Richard Olson

**Yea 4 Nay 0**

Looking forward to Mr. Bergman's report from Wixon the end of September about the SBA funding.

**MOTION:** *Move that the Board of Selectmen vote to request information as to when the crane in front of Old Reliable will be removed.*

**Motion by:** Michele Couture

**Seconded by:** Richard Olson

**Yea 4 Nay 0**

Re: Maurice Grunberg situation - Contacted a Historic Commission member and they said he did not have an application for two side windows. However, he showed me his application and it does have the front windows and side windows. I am going to follow-up on this matter to try and clear it up.

Congratulations to DPW / Water De for the decline by 8.1 % for the first eight months of 2004 - for our water withdrawal.

Congratulations to Jonathan Silverstein of Kopelman & Paige for being on the 10 up and coming lawyers.

**Richard Olson**

As so often is the case, my views have been eloquently expressed by this time of the Selectmen's Statements that I'm willing to pass on to our agenda.

**Cheryl Andrews**

**MOTION:** *Move that the Board of Selectmen send a letter to Jack Kosko thanking him for all his many years of service on the Board of Assessors.*

**Motion by:** Cheryl Andrews

**Seconded by:** Mary-Jo Avellar

**Yea 4 Nay 0**

5 Anthony Street - Open discussion - re: muffler system. To DPW - when you decide to enclose this, please let the Board review it first.

Visitors Service Board - Long-term policy. The VSB is going through some discussions about how involved they want to be in the overall fiscal understanding and management of the tourism dollars. I'm always excited about getting more help from volunteers as opposed to less. My suggestion would be, as opposed to just sort of the overall budgeting that has been done for some of the projects on the municipal side of the budget, what I would like to see is a policy statement of this board is that we ask the VSB to look at all the expenditures that go through the tourism fund and ask them to treat them, in terms of the paperwork, in a similar way that they

are doing with the grants - meaning that they will issue the yellow paper for the expenditure, vote on it and it will come to us for the vote. That way we can get their input, overall, on what's going on with the tourism dollars. Because what is happening is that there are chunks that are being treated differently and it is starting to get very confusing - its getting confusing to me and its seems to be quite confusing for a lot of people.

**MOTION:** *Move that the Board of Selectmen vote that it be the Policy of the Board of Selectmen that all expenditures from the Tourism Fund will receive first a vote from the members of the Visitors Service Board followed by a vote from the Board of Selectmen prior to expenditures being processed by staff.*

**Motion by:** Cheryl Andrews

**Seconded by:** Mary-Jo Avellar

**Yea 4 Nay 0**

**4A**      **APPOINTMENTS**

Community Preservation Committee [General By-law §5-14-1]

**MOTION:** *Move that the Board of Selectmen vote, pursuant to General By-law Section 514-1 to appoint William P. Dougal to a three-year term on the Community Preservation Committee expiring August 23, 2007.*

**Motion by:** Michele Couture

**Seconded by:** Mary-Jo Avellar

**Yea 4 Nay 0**

**4B**      **APPOINTMENTS**

Art Commission

**MOTION:** *Move that the Board of Selectmen vote to appoint Anton Van Dereck Haunstrup (Napi) as a Regular Member of the Art Commission with a term expiration date Of December 31, 2005.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

**Yea 4 Nay 0**

**5A**      **WATER & SEWER BOARD**

Phase 11 Wastewater - Comprehensive Planning Services, \$8,500

**MOTION:** *Move that the Board of Selectmen vote to authorize execution of Contract Amendment No. I with Environmental Partners Group, Inc. of Hingham, Massachusetts for \$8,500 in comprehensive planning services for Phase II wastewater facilities planning within the total \$175, 000 approved on July 19, 2002.*

**Motion by:** Michele Couture

**Seconded by:** Richard Olson

**Yea 4 Nay 0**

**5B**      **CZM COASTAL POLLUTANT REMEDIATION GRANT**

Grant Award - \$93,750 for Atlantic Avenue Town Landing

**MOTION:** *Move that the Board of Selectmen vote to accept a grant of \$93,750 from the Massachusetts Coastal Zone Management in the amount \$93,750 under its FY 2005 Coastal Pollutant Remediation Program for a Provincetown Harbor Stormwater Assessment Project to install stormwater facilities at the Atlantic Avenue Town Landing.*

**Motion by:** Michele Couture

**Seconded by:** Richard Olson

**Yea 4 Nay 0**

**5C**      **HOMELAND SECURITY GRANT AWARD**

Accept Grant Award - \$12,920

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

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

**Yea 4 Nay 0**

**5D**      **PARADE PERMIT: CAPE COD FOUNDATION**

Annual Bike Run, October 2, 2004

**MOTION:** *Move that the Board of Selectmen vote to [approve/not approve] the Parade Permit Application*

*submitted by Lisa Zawaduk on behalf of the Provincetown High School, 12 Winslow Street, Provincetown, MA to hold their annual "P.H.S. Sports Car Rally" to be held on Friday, September 17, 2004 from 6.00 pm to 7.00 pm*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture      Yea 4   Nay 0

**5D1      PARADE PERMIT: PROVINCETOWN HIGH SCHOOL  
Sports Car Rally, September 17, 2004**

***MOTION:** Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Lisa Zawaduk on behalf of the Provincetown High School, 12 Winslow Street, Provincetown, MA to hold their annual "P.H.S. Sports Car Rally" to be held on Friday, September 17, 2004 from 6:00pm to 7:00 pm.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture      Yea 4   Nay 0

**6A      OCTOBER 25,2004 SPECIAL TOWN MEETING**

**Fall Special Town Meeting-, Open Warrant, Insert Articles**

***MOTION:** Move that the Board of Selectmen vote, pursuant to MGL C. 39,§10 and Charter §2-3-3, to call a special town meeting for Monday, October 25, 2004, to open the Warrant forthwith, and to close it on Friday, September 24, 2004 at 5 p.m., in accordance with Charter §2-1- 7;*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture      Yea 4   Nay 0

***MOTION:** Move that the Board of Selectmen vote to insert onto the October 25, 2004 Special Town Meeting warrant the following articles:*

*Article I. Cape End Manor Care Campus Land Exchange -Initial Authorizations*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 3   Nay 0   Abstain 1 (Cheryl Andrews)

*Article 2. Transfer 0.09 Acres of 100 Alden Street to the School Committee for playground purposes.*

**Motion by:**

Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 3   Nay 0   Abstain 1 (Cheryl Andrews)

*Article 3. Zoning Amendment. Health Care Overlay District Rezoning.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 3   Nay 0   Abstain 1 (Cheryl Andrews)

*Article - 5 & 6 Zoning Amendments: Adult Entertainment*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 4   Nay 0

*Article 7. Accept MGL C. 83§1 6A-1 6F - Sewer Bills.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 4   Nay 0

*Article 9. FY2005 Tourism Fund Appropriations*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 4   Nay 0

**6B      REFER ZONING AMENDMENTS TO PLANNING BOARD**

Proposed Amendments for October 25, 2004 Special Town Meeting

***MOTION:** Move that the Board of Selectmen vote, pursuant to MGL C 40A,§5, to refer to the Planning Board the following proposed zoning amendments: an adult entertainment zoning by-law amendment drafted by Town Counsel for the Board of Selectmen; and two adult entertainment zoning by-law amendments submitted in the voter petition calling a special town meeting.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 4   Nay 0

Cheryl Andrews left the room. Her father is a resident of the CEM.

**6C CAPE END MANOR CARE CAMPUS**

Determination under MGL C. 30B, § 16 (a)

**MOTION:** *Move that the Board of Selectmen pursuant to MGL C. 40, §3 and MGL C30B, §16, clause (a), and contingent upon Town Meeting approval of the acquisition of a 1.1 acre parcel of land from the Bishop of Fall River as set forth in an agreement entitled, "Land Exchange and Development Agreement" dated August 11, 2004, vote to declare that the Cape End Manor Care Campus Site, so-called, comprised of a total of 2.2 acres as shown on a plan entitled, "Plan of Cape End Manor and Portion of St. Peter's Cemetery" dated August 4, 2004, is available for disposition pursuant to the terms of a Request for Proposals in which the Town shall seek offers from qualified health care providers to acquire title to said Care Campus Site and construct thereon a new health care complex consisting of a nursing home, outpatient rehab services, and affordable assisted living, and to transfer the Cape End Manor nursing home license for operation thereof. Title to the said Site shall not be conveyed until all the following conditions have been satisfied.*

- 1. The Town Meeting shall have approved the conveyance of the Cape End Manor Care Campus Site to a selected health care provider and shall have approved any zoning amendments necessary to authorize the proposed Care Campus; and*
- 2. All regulatory approvals, licenses and permits of whatever kind necessary to authorize the construction and operation of the proposed Care Campus shall have been obtained; and*
- 3. The Town shall have acquired title to the 1.1 acre parcel of land from the Bishop of Fall River as described in the Land Exchange and Development Agreement referenced above.*

**Motion by:** Michele Couture

**Seconded by:** Richard Olson    Yea 3    Nay 0

Cheryl Andrews returned.

**6D FY 2004 FOUNDATION RESERVE APPLICATION**

**Relief of Municipalities with High Property Values Compared to Income**

**MOTION:** *Move that the Board of Selectmen vote to authorize submission of a funding request to the Massachusetts Department of Education under its FY 2005 Foundation Reserve Program under Category 5, relief for municipalities with high property values in comparison to income*

**Motion by:**

Mary-Jo Avellar

**Seconded by:** Michele Couture

Yea 4    Nay 0

**6E LAND BANK ACQUISITION - 290F BRADFORD STREET** Extend closing date to not later than December 31, 2004

**MOTION:** *Move that the Board of Selectmen vote to extend the scheduled closing for the Town's purchase of 290F Bradford Street owned by Aaron L Curtis, containing 1.5-acres, more or less, shown as Assessors Map 15-3-105 for the sum of \$89,000 under the Cape Cod Open Space Land Acquisition Act from September 15, 2004 to not later than December 31, 2004.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Richard Olson

Yea 3    Nay 1 (Michele Couture)

**6F LAND BANK ACQUISITION - 82 HARRY KEMP WAY**

**Relief of Municipalities with High Property Values Compared to Income**

**MOTION:** *Move that the Board of Selectmen pursuant to Article 18 of the April 7, 2004 Special Town Meeting to enter into a purchase and sales agreement to acquire the fee interest in a certain parcel of real estate at 82 Harry Kemp Way owned by Ray M. Wells, containing 2.09 acres, more or less, shown as Assessors Map 13-2-034-A for the sum of \$125,000 under the Cape Cod Open Space Land Acquisition Act.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Richard Olson

Yea 4    Nay 0

**6G FISCAL POLICY PLAN UPDATE** Presentation from Director of Municipal Finance

**MOTION:** *Move that the Board of Selectmen vote to table this item and bring it forth at the September 20, 2004 meeting.*

**Motion by:** Mary-Jo Avellar                      **Seconded by:** Richard Olson                      Yea 4    Nay 0

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

**MOTION,** *Move that the Board of Selectmen vote table the minutes of August 23, 2004 (Reg. Mtg.) as printed. (SP Absent)*

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

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of August 30, 2004 (Special Mtg re Water.) as printed (MJA arrived late.)*

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

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of August 30, 2004(joint Mtg. w/Truro) as printed (All Present)*

**Motion by:** Michele Couture                      **Seconded by:** Mary-Jo Avellar                      Yea 4    Nay 0

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of August 30, 2004 (Special Mtg. re: Sewer) as printed (RO Absent)*

**Motion by:** Michele Couture                      **Seconded by:** Mary-Jo Avellar                      Yea 4    Nay 0

8.            **CLOSING STATEMENTS**

Michele Couture - None                      Richard Olson - None  
Mary-Jo Avellar - None                      Cheryl Andrews - None

9A,            **STRATEGY WITH RESPECT TO LITIGATION**

B,C.            Johnson, et al. V. Reilly, et al. -MGL C.39, §23B cl.3.

Potential Use of CPA funds for Housing - cl 6.

Preparation for Next Joint Meeting - Truro Water Negotiations - cl 6.

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B clause 6 and clause 3, to go into executive session to consider the purchase, exchange, lease or value of real property; and for the purpose of discussing strategy with respect to litigation and not to convene in open session thereafter. [Roll Call Vote]*

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

Sarah Peake - Yea                      Richard Olson - Yea  
Cheryl Andrews - Yea                      Michele Couture - Yea

The Board went into executive session at 8:10 PM.

Minutes transcribed by:                      Vernon Porter, Secretary  
September 17, 2004