

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, JANUARY 13, 2003

## JUDGE WELSH HEARING ROOM

Chairman Mary-Jo Avellar opened the meeting at 6:03 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: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

***MOTION: Move that the Board of Selectmen vote to waive the reading of the Public Hearing.***

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

### 1A      **PUBLIC HEARING - NSTAR**

Temporary Pole Relocation Request for Pole 101/1

Public Comments - None

Board of Selectmen Comments - None

***MOTION: Move that the Board of Selectmen vote, pursuant to MGL Chapter 166 Section 22 approve the request of NSTAR to grant an easement to Commonwealth Electric Company to relocate pole 101/1 (Town Pier/ Ryder Street Extension) to a temporary location.***

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

### 1B1      **HISTORICAL DISTRICT STUDY COMMITTEE**

Preliminary Study Report for Provincetown Historic District

***MOTION: Move that the Board of Selectmen vote to receive the Historic District Study Committee's Preliminary Study Report for the proposed Provincetown Historic District.***

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

### 1B2      **HISTORICAL DISTRICT STUDY COMMITTEE**

Historic Preservation Consultant

***MOTION: Move that the Board of Selectmen vote to award a contract in the amount of \$18,739 to Kise, Straw & Kolodner of Philadelphia, Pennsylvania to undertake an inventory of Provincetown's historic properties.***

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

### 2.      **PUBLIC STATEMENTS**

Peter Souza - Re: Site Y - Made several calls to the state and local levels asking them for a meeting for a hearing on how DCAM awarded the land. Urge the Board of Selectmen not to sign the waiver and ask that they request an investigation for a hearing into this matter.

Michael Bunn - Agrees with previous speaker and also urges the Board of Selectmen not to sign the waiver.

Margaret Carroll-Bergman - Vice-Chair, Provincetown Housing Authority - Urge the Board of Selectmen not to sign the waiver. PHA is going to try to meet State Representative and then with the Governor's Staff to ask for the parcels that they were originally going to request.

Bobby Cabral - Shocked to find out that they wanted to circumvent the law again. Urge you not to break the law

yourselves - do not sign the waiver.

Rev. Brenda Hayward - Ask you not to sign the waiver. We were appointed by the Board of Selectmen to look for housing and we need the opportunity to address this with the State.

### 3. SELECTMEN'S STATEMENTS

#### Richard Olson

Admire tremendously the patience, the courage and the determination of all of the people who have just spoken, whether it be specifically to Site Y or the basic way that we have engaged in this process and I will not discuss it further because it comes up under section 4D.

#### Sarah Peake

In response to public comment re: Site Y - I would like to explain why I am willing to move on at an expeditious pace. I am being pro-active. Expenses exceed the revenue at the Manor in excess of over \$500K/year. The amount of time that we have, from a fiscal stand point, to get a new Care Campus built is on a very tight time frame. Fighting for Site Y will take years to resolve the lawsuits. I see there being costs associated with that - and not just monetary cost - but cost to the residents in their quality of life. I want to get them into the new state-of-the-art facility ASAP. If we take time to go down the path to litigate and fight all those law suits and maybe at the end of the day come out with Site Y - but quite as likely, not to come out with Site Y in our hand, we've squandered all this time and resources - the quality of life of our residents who are in the Manor and quite possibly we have lost jobs because the CEM and the Care Campus is an economic engine in this community. And I am not willing to take the risk or the gamble or roll of the dice that those jobs will leave town and they will be lost here forever. We all know the value of year-round viable economic jobs within this community. I feel that I am doing what I was elected to do and that is to keep my eye on the ball - the ball of keeping the Care Campus and the CEM in Provincetown and that is what I am bound and determined to do. And if it is at 24 Race Point Road, we will do the best we can there and perhaps it will even turn out to be ultimately a better site than Site Y and certainly one where we will be able to site the Cape End Manor Care Campus.

I was in Boston at MMA this weekend as well as my colleagues - There were great seminars and workshops. I attended one on Telecommunication and Cable TV laws and that lead me to get thinking about our Telecommunications Bylaw. It is being challenged by one of the Telecommunications Companies. As much as members of the community may seek to not have any Telecommunications service (cell sites, towers or anything) within the town we cannot draft a bylaw that prohibits that. As much as people fear the health hazards, unfortunately under the Telecommunications Act the only question we can ask is, "does the Telecommunication Company meet the standards that the Federal Government sets.?" - And if the answer is yes - then we have to allow them in. I feel the current bylaw we have is so restrictive and overreaching that it limits us in being able to be the master of our own destiny and the Captain of our own ship, if you will, in that we have very little room to exercise discretion to talk about alternate siting possibilities and as such we are put into a position where it is a Court of Law that is mandating that a site go into a place. With a differently crafted Bylaw, right from the get-go we would have had more say in the process.

Additionally, on the economic side of things, we're taking an economic hit with our existing bylaw which all but prohibits cell sites, we are losing the potential for cash in as we contract with Telecommunication Companies as there is also a revenue drain as we defend law suits as we've seen with this current law suit. In fact with this current law suit we are lucky that they haven't sued us under any of the civil rights acts - and if they did, and if we were to lose and we would, we would owe them their attorney's fees as well as our own attorney's fees. So given all of that, I move the following motion:

***MOTION: Move that the Board of Selectmen vote to ask the Town Manager to direct the Department of Community Development and Town Counsel to draft a Telecommunications Bylaw which allows for telecommunications facilities in appropriate locations and enumerates criteria to be applied by the Planning Board in granting or denying Special Permits (including visual impacts).***

**Motion by: Sarah Peake**

**Seconded by: Richard Olson**

**Yea 5 Nay 0**

Acknowledge the one-year anniversary of our Police Chief coming on board.

**MOTION:** *Move that the Board of Selectmen vote to request from the Town Manager and the Chief of Police at our February 10, 2003 meeting an update addressing:*

- a) *Hiring plans for the summer officers.*
- b) *Training plan for summer officers*
- c) *Update on status of PC General Order*
- d) *Follow-up on the Community Values Day (When will public & PD be brought together and what is next step?)*
- e) *Other initiatives that have been undertaken to support adherence to the COP model and to insure a "peaceful" summer.*

**Motion by:** Sarah Peake

**Seconded by:** Cheryl Andrews

**Yea 5 Nay 0**

### **Cheryl Andrews**

Enjoyed the MMA Convention this past weekend - this year was the most interesting. To hear from the Governor and the Speaker of the House all in the confines of one convention was pretty exciting and at the same time was pretty upsetting to realize that things are kind of messy and there is a big challenge being thrown at the Legislature. I don't think it's going to be pretty. It was nice to be there and represent you.

I represented the Board of Selectmen at the Mass Selectmen's Association Town Meeting and Sarah and I represented the Board at the MMA Business meeting. None of the motions made were controversial. The meals tax was discussed and the minutes should be posted on the web site soon.

**MOTION:** *Move that the Board of Selectmen vote to set as Agenda Item #1 for the Board of Selectmen's meeting on January 16, 2003 the following item: FY 2003 update building upon the Town Manager's Report to the Board of Selectmen dated December 13, 2002 which outlines a possible deficit and suggest plans to remedy the deficit. Further that the Town Manager include in this report: 1) clear number as to the total size of the FY 03 deficit with clarity as to the size of the non-nursing home portion and 2) any cost-cutting measures for FY 03 that have been implemented and/or any suggested cost cutting measures that may be implemented.*

**Motion by:** Cheryl Andrews

**Seconded by:** Sarah Peake

**Yea 5 Nay 0**

### **Mary-Jo Avellar**

MMA - Best one ever attended.

Attended the Hate Crimes program with Michele and Provincetown is well ahead of the game. Members of our community could be panelists. Also attended two others that were related - having to do with Zoning Reforms law to Chapter 40A. We received material from APCC in early January urging us to sign on to this and I am going to get the information that I picked up at the hearing and:

**MOTION:** *Move that the Board of Selectmen vote to refer this material to Jon Gilmore and ask that he report back to us if there is any relevance to our community.*

**Motion by:** Mary-Jo Avellar

**Seconded by:** Michele Couture

**Yea 5 Nay 0**

Letter from Bruce Tarvers re: Anchor in Lopes Square - when is the anchor coming back? David Guertin - next Tuesday.

Custodio J. Silva, Jr. letter - re: sidewalk at 419 Commercial St., damage occurred during road construction three weeks ago. David Guertin: This is appropriately being handled during sewer construction.

Letter from Chamber of Commerce re: Parking at MPL - we should respond to the letter. (Don Richards

has responded)

Mr. Souza's comments at Public Statements - Giving the fact that the Town had to file a Determination of Need early in January, I don't know whether it is even possible now for us to pursue the Y Site for the CEM - although I agree that an explanation as to why DCAM acted as quickly as they did. I think that we need to ask that question. I have made up my mind not to support the waiver. I think DCAM owes the Town an explanation.

**Michele Couture**

I echo Ms. Avellar's comments and couldn't disagree more with Ms. Peak's comments. I am outraged that the rug was pulled out from underneath us. I grudgingly voted to go along with voting for the Manor at the Highway garage. Someone owes us an explanation - either DCAM or Fisheries & Wildlife. If I thought I could get a majority vote to send a letter to DCAM asking them to explain in detail their reasoning for this ridiculous decision, then I would certainly do so.

**MOTION:** *Move that the Board of Selectmen vote to ask the DPW to fix the Town Hall Clock.*

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

**MOTION:** *Move that the Board of Selectmen vote to ask Veterans Agent Earle Chaddock to have the MMA flag replace at Town Hall.*

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

Did we ever receive a response from the Open Space Committee on the letter we sent them? Answer: No

**MOTION:** *Move that the Board of Selectmen vote to have Staff send a letter to NSTAR asking why we have so many power outages?*

**Motion by:** Michele Couture      **Seconded by:** Mary-Jo Avellar      Yea 5    Nay 0

**4A**      **AMBULANCE SERVICES - CONTRACT AMENDMENT**

Lower Cape Ambulance Association, Inc.

**MOTION:** *Move that the Board of Selectmen vote to execute an amendment with the contract with Lower Cape Ambulance Association, Inc for provision of ambulance services for the Town of Provincetown for the period July 1, 2002 through June 30, 2005, by increasing from \$29,645 to \$65,776 the amount for Fiscal Year 2003, and by establishing the amount for FY 2004 at \$174,168, both subject to appropriation.*

**Motion by:** Michele Couture      **Seconded by:** Richard Olson  
Yea 4    Nay 1 (Cheryl Andrews)

**4B**      **REQUEST: CABLE ADVISORY COMMISSION**

Award of Lease for Cable TV Facility at Whalers Wharf

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.30B, §16, to approve the execution of a lease agreement between the Town of Provincetown and Whalers Wharf, LLC for rental by the Cable Advisory Commission of Unit #22 at Whalers Wharf (367+/- square feet) for a term of one year, commencing January 15, 2003, and ending January 14, 2004 for a total rent of \$11,000.*

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

**4C**      **FLOAT SPACE 3W JOHN R. WOODS**

Transfer of Ownership Interest to Center for Coastal Studies

**MOTION:** *Move that the Board of Selectmen vote, in the matter of the transfer of ownership interest in Float Space 3W licensee, John R. Woods, Inc. to the Center for Coastal Studies, to accept an affidavit in lieu of a certificate from the Department of Revenue as evidence of full compliance with payment of state taxes by the transferor and transferee.*

**4D** DIVISION OF CAPITAL ASSETS MANAGEMENT

Request for Waiver of 120-notice for Surplus State Property Transfer

**MOTION:** *Move that the Board of Selectmen vote to notify the Commissioner of the Division of Capital Asset Management that the Provincetown Board of Selectmen does not agree to waive a the 120-day notice requirement set forth in MGL C.7,§40I, so that the 122± acres of surplus state highway property in Provincetown can be promptly transferred to the Division of Fisheries & Wildlife.*

Motion by: Michele Couture      Seconded by: Richard Olson  
Yea 3 Nay 2 (Cheryl Andrews/Sarah Peake)

**5A** FY 2003 TOWN-WIDE POLICY GOALS

Quarterly Update from Goal Team Leaders

Affordable Housing Team - None

Cheryl Andrews left the room.

Cape End Manor Team - None

Cheryl Andrews returned.

Community Development Team

Goal 7.5 - Delete all wording under “Achievement-to-date”

Community Policing Team - None

Cultural Resource Team

Goal 6.1 - Museum Collection - Board asked to receive copy of Stephen Nofield’s report on where everything is being stored.

Facility Reuse Team

Goal 11.6 - Schedule as a Board of Selectmen agenda item the reuse of the Freeman Street building as to what the process should be as well as other buildings whose reuse is envisioned (such as Fire Houses # 2 & 3)

Finance & Administration Team

Mary-Jo Avellar left the room.

Goal 5.2 - One vacancy on the Public Pier Corporation BOD - readvertise.

Mary-Jo Avellar returned.

Human Resource Team - None

Municipal Facilities Team

Goal 5.3 - Beach Nourishment - Notify Conservation Commission of the status of this goal.

Public Works Team

Goal 3.1 - Sewer implementation - Schedule update as an agenda item.

**5B** MCDBG APPLICATION GRANT AWARD

\$223,850 for Business Development Center, Administration

**MOTION:** *Move that the Board of Selectmen vote to accept a grant award of \$223,850 from the Massachusetts Department of Housing and Community Development under its FY 2003 Massachusetts Community Development Block Grant program for the Provincetown Business Development Center, and general administration.*

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

**5C      EOPS GRANT AWARD**

Firefighter Public Safety Equipment / \$15,000

**MOTION:** *Move that the Board of Selectmen vote to accept a grant award of \$15,000 from the Executive Office of Public Safety under its FY 2003 Firefighter Public Safety Equipment grant program to purchase a thermal imaging camera and directional device system kits for the Provincetown Fire Department and to authorize the Fire Chief to execute the associated contracts.*

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

**5D      COUNCIL ON AGING**

Elder Services of Cape Cod & Islands Grant Award: \$6,000

**MOTION:** *Move that the Board of Selectmen vote to accept a grant award of \$6,000 from Elder Services of Cape Cod and the Islands under the Older Americans Act Title III to fund a program designed to identify, train and provide respite for those individuals who are caring for seniors 60+ (years of age) and for 60+ caregivers who are caring for individuals in the following categories: 60+ years of age, under 18 years of age or disabled.*

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

**5E      AFFORDABLE HOUSING**

Report on the Affordable Housing Roundtable

Discussion ensued. Great report. Posted on web site.

**6.      MUNICIPAL PURPOSE BOND ANTICIPATION NOTE #1014**

**MOTION:** *Move that the Board of Selectmen vote to issue a Bond Anticipation Note #1014 in the amount of \$3,000,000.00 dated January 14, 2003 at 1.95% interest payable at maturity to Cape Cod Bank and Trust on January 14, 2004.*

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

**7.      BOARD OF SELECTMEN - APPOINTMENTS**

**MOTION:** *Move that the Board of Selectmen vote to approve the appointment of Austin Knight as a Full Member of the Historic Commission as recommended by the Town Manager with an expiration date of December 31, 2005.*

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

**MOTION:** *Move that the Board of Selectmen vote to approve the appointment of Terry Siegel as a Full Member of the Water and Sewer Board with an expiration date of December 31, 2005.*

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

