

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, JANUARY 27, 2003

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: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

1A PUBLIC HEARING

FY 2004 Capital Improvements Program Requests

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL Chapter §9-2-3, to submit to the Finance Committee its recommended Capital Improvements Program for Fiscal Year 2004 as set forth the revised plan submitted by the Town Manager, with the following amendments (specify):*

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

2. PUBLIC STATEMENTS

Gregory Daniels Streisel - Handed statement over to Board of Selectmen's Secretary to pass out to Board members. (See attachment #1)

Mark Baker - Read statement into record for the Somerset Heights Complainants re: 16 Thistlemore Road - Zoning Enforcement Officer not responding in allotted time of 14 days. (See attachment #2)

3. SELECTMEN'S STATEMENTS

Sarah Peake

MOTION: *Move that the Board of Selectmen vote to schedule an agenda item with Town Counsel on litigation updates for February 24, 200.*

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

MOTION: *Move that the Board of Selectmen vote to have monthly reports prepared for distribution to the Board of Selectmen. They shall include sufficient information that the Board of Selectmen can see budgeted spending versus actual spending. These reports shall be reviewed by the Town Manager who will flag budgets that are over or under spending and briefly explain why and quarterly budget meetings.*

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

Cheryl Andrews

16 Thistlemore - Re: 10 Day response by the Zoning Enforcement Officer - has the request met the letter of the law and was the request legitimately expected or whether the response that was given them just did not make them happy - I don't know. Would you let us know if there was a legal request and if the town has complied with that request?

I am not going to interfere with the duties of his job - as long as he is acting within the scope of his authority and appropriately, I am not going to get involved. Otherwise, I think someone should bring it before us as a personnel matter - otherwise it just has to go through the court system.

Mary-Jo Avellar left the room

Harbormaster question - was coverage enough when the boat sank? Let us know.

Michele Couture

McMillan Pier - Lease with Mr. Vinagre - expired December 31, 2002 - are we collecting rent - if not - why not? Keith - I will get the answer.

Also, there is such a mess out there. He certainly exceeds his limit of space - it is encroachment and other fishermen don't even have space to unload if they want to. Keith - once the Town enters into a lease with the Pier Corp. all of these become the Pier Corp. responsibility, in terms of staffing and so-forth, under the umbrella of their lease.

David Guertin - It was always fully recognized that there was some encroachment in occupying more space - through dialogue with him and dialogue with Pro-Fish that during construction we would allow Mr. Vinagra out there and the purpose of that is that there are a number of fishermen who would like to see him leave but he also provides a service to several other fishermen. So in order, at least, at a minimum, to have the ability to off-load fish and giving the fishermen the option of using him or not using him, we did allow a lease extension until the end of December 2002 and it is in a transition period at this point in time by virtue of the Pier Corp. just now coming up to speed. It is clearly recognized as being a mess and quite frankly we have limited option as what to do at this point in time.

Michele - Clearly there are wooden pallets out there that can be moved. There were a couple of boats that were trying to remove their cargo, that if they did not wish to engage Mr. Vinagre's services they was no place to offload because of those wooden pallets. I think they can be easily moved is my point.

Understand one of the fishermen is overdue in rent? - Chief Meyer - We are taking care of that and he is making payments as he can and has paid a third of his bill.

Mary-Jo Avellar returned

Helping Our Women - Letter received from them - Vernon's date January 16, 2003.

MOTION: Move that the Board of Selectmen approve the request of Helping Our Women to waive the Police detail and Town Hall rental fee for a Smoking Cessation Workshop co-sponsored by the American Cancer Society, Cape Cod Tobacco Control Program and the Provincetown Board of Health to be held on Saturday, March 29, 2003 from 1 - 4 PM.

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

Habitant for Humanity on Fritz's Way - would like an update, please.

Richard Olson

To Mr. Streisel - It is not likely that you are going to get the Selectmen to bring a petition to ask the citizens to start the process of making the BOH being elected. You can do that yourself. I would suggest going that route. The initiative should come from the proponents of the change.

Heartsafe Communications - Re: defibrillators for the town. Keith - That information is from the Board of Fire Engineers and represents a request that they want to bring to the attention of the VSB. Richard - Are we going to follow-up? It is an important thing to me. I wouldn't like to see this fall through a crack. Keith - It won't. I'll put it on my special list where things don't fall through the cracks.

Budget - finding the money to close the gap - I don't want to lose sight of the possibility of taking advantage of a law that lets us do the assessment of new growth. Keith - six months earlier. Richard - You have shown us in the last year the figure is \$200K of revenue from new growth going on the tax rolls - my rough guess is that half of that would be captured annually by advancing the date to the July 1 first day of the fiscal year.

Charter Change - Warrant report that citizens get in their mail prior to Town Meeting. Just want to confirm that this is in process. Keith - It is in process. I just need to work more closely with the new Town Clerk on it because it was an issue that the prior incumbent was dealing with.

Mary-Jo Avellar

CCNS Advisory Committee Mtg. - Can we get a report back on that?

16 Thistlemore Rd - I'm concerned with the legal question - if it was responded to in a timely manner - if not, then we need to have some kind of discussion with you about that. We received a report from Mr. Gilmore on 16 Thistlemore Road and basically what he told us is that he was waiting for the Building Commissioner to return from sick leave.

MOTION: *Move that the Board of Selectmen vote to have staff determine whether or not the question raised on November 13, 2002 regarding 16 Thistlemore Road, were properly put to the Zoning Enforcement Officer and was there a response?*

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

4A REQUEST: ATTORNEY ROSLYN GARFIELD

Estate of John Arthur Henry: Children's Room at New Public Library

MOTION: *Move that the Board of Selectmen vote to accept the bequest of John A. Henry in the amount of approximately \$400,000 and establish the John A. Henry Trust Fund to be used exclusively for the care of underprivileged children living in Provincetown, that we direct that the principal and any interest of such fund be dispersed for the purpose of constructing a children's room at a new public library to be constructed in the Town of Provincetown, provided that the Massachusetts Superior Court or Supreme Judicial Court instructs that such use of the John A. Henry Trust Fund for said children's library purpose is permitted under the terms of this bequest, and that we request Town Counsel to file a complaint in the appropriate court for such instructions, naming the Massachusetts Attorney General as a defendant.*

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

4B CHAMBER OF COMMERCE

Parking Lots During Off-Season

MOTION: *Move that the Board of Selectmen vote to not establish a policy of providing free parking in the MPL from November 1 to March 31 of each year.*

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

4C CAPE COD NATIONAL SEASHORE: HUNTING

General Management Plan Implementation Advisory Committee

MOTION: *Move that the Board of Selectmen vote to notify the Cape Cod National Seashore and the National Park Service that it expects the Cape Cod National Seashore and the National Park Service vigorously to defend any and all hunting rights guaranteed in the specific language of the legislative act creating the Seashore as well as the deed of conveyance which transferred the Provincelands from the Commonwealth of Massachusetts to the Seashore's jurisdiction. Further the Board of Selectmen request to receive any and all copies of legal actions or law suits pertaining to these matters.*

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

4D VISITOR SERVICES BOARD - FY 2003 TOURISM FUND

Saturdays at Seven Concert Series

MOTION: *Move that the Board of Selectmen vote to accept the Visitor Services Board's January 9 & 22, 2003 recommendations to fund (1) \$2,000 for the St. Mary's on the Harbor Saturdays at Seven Concert Series.*

Motion by: Richard Olson **Seconded by:** Cheryl Andrews
Yea 4 Nay 0 Abstain 1 (Mary-Jo Avellar)

and (2) \$1,000 for Hooray for Hollywood from the Promotional line-item of the FY 2003 699 tourism Budget.

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

4E **WINERGY LLC**

Proposed Provincetown Wind Farm

Discussion ensued.

4F **BARNSTABLE COUNTY**

Regional Emergency Planning Committee

MOTION: *Move that the Board of Selectmen vote authorize the Town of Provincetown to participate in the Regional Emergency Planning Committee through Barnstable County.*

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

4G **BARNSTABLE COUNTY AFFORDABLE HOUSING FUNDS**

Presentation by Paul Ruchinskas

Discussion ensued.

MOTION: *Move that the Board of Selectmen vote to request follow-up on the proposed projects so that applications can be made for these funds.*

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

5A **EO 418 SCOPE OF SERVICES**

Community Development Planning Grant Funds \$30,000

MOTION: *Move that the Board of Selectmen vote to submit to the Interagency Working Group (IAWG) through the Cape Cod Commission a proposed scope of services for a Community Development Plan for the Town of Provincetown using \$30,000 in planning grant funds available under Executive Order 418.*

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

5B **COUNCIL ON AGING**

CCRTA Van Lease/\$1

MOTION: *Move that the Board of Selectmen vote to execute a one-year lease agreement with the Cape Cod Regional Transit Authority for a 2002 Dodge Ram Maxi Van for \$1 for the Council on Aging.*

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

5C **ZONING AMENDMENTS**

Refer to the Planning Board [MGL C.40A,§5]

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C. 40A,§5, to refer to the Planning Board the following two proposed zoning amendments:*

(1) Article B To amend setbacks, definitions, permitted uses and other aspects of the Highway Corridor Overlay District [Requested by the Planning Board]

Motion by: Michele Couture **Seconded by:** Richard Olson
Yea 4 Nay 0 Abstain 1 (Cheryl Andrews)

MOTION: *Move that the Board of Selectmen vote to table (2) Article C to the February 10, 2003 meeting.*

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

5D PROCLAMATION: NORMAN MAILER DAY

Friday, January 31, 2003

MOTION: *Move that the Board of Selectmen vote, in recognition of his eightieth birthday on Friday, January 31, 2003, to declare that day as “Norman Mailer Day” in the Town of Provincetown.*

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

6. BOARD OF SELECTMEN - APPOINTMENTS

MOTION: *Move that the Board of Selectmen vote to approve the appointment of Dawn M. Henrique as an Alternate Member of the Recreation Committee with an expiration date of December 31, 2005.*

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

7. MINUTES OF MEETING

MOTION: *Move that the Board of Selectmen approve the minutes of January 13, 2003 (Reg. Mtg) with changes so noted. (All Present)*

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

MOTION: *Move that the Board of Selectmen approve the minutes of January 16, 2003 (Budget Mtg.) as printed. (All Present)*

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

MOTION: *Move that the Board of Selectmen approve the minutes of January 21, 2003 (Budget Mtg.) as printed. (All Present)*

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

9. CLOSING STATEMENTS

Sarah Peake - None

Michele Couture

Bas Relief - Back in May it was brought up about Gabriel Brooke’s encroachment on our Bas Relief property - as far as I know we have not done anything with it. Can we have a report from Dana Farris on this?

Cheryl Andrews -

This Wednesday - I have scheduled the whole day off from work and I am here until someone tells me to go home.

Mary-Jo Avellar - None

Richard Olson - None

Motion to adjourn by Michele Couture at 9:55 PM.

Minutes transcribed by: Vernon Porter, Secretary
January 30, 2003