

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
SPECIAL & REGULAR MEETING – MONDAY, FEBRUARY 10, 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, Town Counsel John Giorgio (For Special Meeting only.)

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

1A LITIGATION STRATEGY

Town Counsel John W. Giorgio

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 to convene in open session thereafter [roll call vote]*

Michele Couture - Yes

Richard Olson - Yes

Sarah Peake - Yes

Cheryl Andrews - Yes

Mary-Jo Avellar - Yes

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

The Board reconvened in open session at 7:20 p.m.

1B TELECOMMUNICATIONS FACILITIES

Zoning Amendments: Invite Proposals for WWTP, Mt. Gilboa Sites

MOTION: *Move that the Board of Selectmen vote as follows:*

(1) to refer to the Planning Board, pursuant to MGL C.40A,§5, the following proposed zoning amendments relative to telecommunications facilities: Option #1 - waiver; Option #2 overlay [including standpipe behind VMES];

(2) to declare, pursuant to MGL C.30B,§16, clause (a), the following Town-owned property as available for disposition subject to the restriction that subsequent use thereof shall be limited to installation and operation of wireless telecommunications facilities: the Wastewater Treatment Plant site (WWTP) and the Mt. Gilboa Water Tank; and

(3) to insert an article on the April 7, 2003 Annual Town Meeting warrant authorizing a 20-year lease for the WWTP site and the standpipe behind VMES.

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

2. PUBLIC HEARING

Proposed General By-law Amendments re: Dogs

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

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

Open discussion ensued.

Members of public who spoken in favor: Gabriel Brooks, Dr. Richard Ferri, Rick Patulak, Jennifer Runtza, Celine Gandolfo, Chip Brock, Mindy ?, Gary Reinhardt, Susan Wasson, Elizabeth Patrick, Jackie Freitas, Jennifer Crook, Dawn Pino.

Member of the public who spoke in opposition: Peter Sousa, Jim McGowan.

Chairman Avellar read into the record the names of the correspondence received in favor of the proposed amendments (See attachments #1-7). No correspondence was received opposed to the proposed general by-law amendments.

MOTION: *Move that the Board of Selectmen vote to table this item to February 24, 2003.*

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

3. **PUBLIC STATEMENTS**

Jim McCollum - re: Proposed changes in the Telecommunications Bylaw. Proposal #2 - say that the proposal would respect the 500ft setback, however, when you get down to the recommending actual things to the bylaw changes it allows them to be on the Mt. Gilboa Water Tank - that is not 500ft back. So that should be made clear one-way or the other what you are trying to do with that. Secure a 20-year lease for everyone and also make use of Seashore.

Celine Gandolfo - Passed out literature on Mark Hutchinson, Radiofrequency Engineer (Attachment #8) re: Telecommunications Bylaw - recognize health issues and preserve the right for our town to have the right to choose someone who checks and monitors those installations each year to see that they are in compliance. The fees for this would be paid for by the installation companies.

Elizabeth Patrick - re: Cell towers - Perhaps someone can ask Town Counsel - why they recommended Zoning Option #1 the waiver which seems to give the Planning Board more freedom to waive the exiting zoning bylaw. Don't want to see the cell towers in any residential areas and the 500ft set back should be the minimum.

Michael Bunn - 1) Signed the first 5 leases with families at the Old Ann Page Way - a joyous occasion. 2) Budget cuts from the State: a) 7.5 M cut from MA. Affordable Housing Trust Fund (40 Nelson Ave. & White Pines on Harry Way Kemp affected by these cuts) and b) 5M from Local Housing Authorities Operating and Capital Reserves. We're just starting to get on our feet and have been financially responsible. Urge the Board of Selectmen to write the Governor and oppose these cuts.

4. **SELECTMEN'S STATEMENTS**

Cheryl Andrews - None

Michele Couture

MOTION - Move that the Board of Selectmen vote to send a letter to Governor Mitt Romney opposing cuts to the MA. Affordable Housing Trust Fund and Local Housing Authority Operating and Capital Reserve.

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

Towing Contract - Several complaints. September 30, 2002 task assigned to develop a towing contract between the Town with Rod's Towing. When are we going to get this contract done? Chief - we are in the process of checking out another venue over the Truro line as well as two other contacts on my own and are in hopes of making some decision soon. We want to explore other potential vendors just to make sure we provide a fair and equitable service for everybody in town and our visitors. We've discussed some of the issue you brought up with Mark at Rod's Towing many times. Michele - They need to be more courteous and also accept credit cards. Chief - will do.

Time to schedule a Quarterly Meeting - Date: March 18, 2003 - 6 pm - Open Forum. Display Ad in Banner.

What is Special Business Space fees increasing - what are they Keith - Dune Tours and Trolley spaces.

Joint meeting with Building Committee? - Let's wait until towards the end. Construction Contingency must meet requirements of grant.

Library - found out that overdue fees go to the General Fund instead of a book fund to buy books, etc.- why? Keith - We would have to go and get special legislation to set up such a special fund.

Sally Sears Mack - Joint Boards of Selectmen of the Lower Outer Cape meeting - Thursday, March 20th. Some really good issues to be discussed. Sarah Peake: Can we get back to them and suggest another date?

MOTION: Move that the Board of Selectmen send a letter to AT&T Broadband/Comcast expressing our displeasure with their decision to eliminate the broadcasting of local news on Channel 3.

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

Defibrillators - did we apply for a MDPH grant? Keith - Believe we have and will check it out with Michelle.

MOTION: Move that the Board of Selectmen send a letter of appreciation to Doug Johnstone for preparing the Employee Handbook.

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

Richard Olson

Know that the Cape End Manor / Care Campus is on the agenda for discussion but I will go on the record expressing my shock and dismay at the way the rug was pulled from under us. Still, in some manner, I hope that we will fall back and regroup.

Kudos to the representatives of the Affordable Housing Task Force for their report.

Also kudos to Chief Meyer on his memo in preparing for the summer officers and getting them up and running.

Question to Mr. Guertin - Water rates - does this represent a 20% increase for maximum volume users? - Answer: No. It is a little bit higher.

Sarah Peake

Cell Towers - We want to assure people that it is the sentiment of the Board of Selectmen that we are working in the best interest of the community. It is not just a money driven thing. A lot of what is driving us is finding ourselves being taken into a corner with existing litigation and seeing that we really don't have much control and trying rework the bylaw so that we can wrest back some control. To be able to weigh all of those factors and come up some options to bring to Town Meeting that hopefully, a majority of the people would be able to get on board with.

Grant from Dept. of Housing & Community Development for projects that support downtown commercial areas revitalization. What about our bathroom facilities - firehouses, etc. Can this be applied towards this?

Keith - The difficulty would be to find the low and moderate-income benefit for those projects and that category / income.

MOTION: Move that the Board of Selectmen vote to send a letter of thanks and a town pin to Jane Donahue for her service during her tenure on the Building Committee

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

Water Update - Are we soon to have another water meeting / update on USGS and our Intermunicipal Agreement with Truro? David Guertin - Was just in process of updating Keith on February 5th, the Truro Board of Selectmen were to meet with their water resources committee. However, that meeting has been rescheduled to the 12th and Mr. Breault will contact Mr. Bergman thereafter.

Public Hearing - County surplus eyed to offset state cuts - Barnstable County Courthouse on 2/19/02 @ 2 pm.

MOTION: Move that the Board of Selectmen vote to support the reduction in the County Assessment.

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

Keith - will provide a letter and Sarah will attend the meeting and read the letter into the record.

Mary-Jo Avellar

Letter received re: Sidewalks between 112 and 104 Commercial Street - requesting they be replaced with brick. They are uneven and are not uniform - whether they are brick or not - is there anything we can do about it? Keith - We don't have any money in the budget to do anything this year. Mary-Jo - I trust that you will write those folks.

Telecommunications - To the cell tower people, I have to say it really irked me that we're not thinking about the public health or public good. I found the remarks almost offensive - but I am trying not to be sensitive. I am very mindful of those issue but we have a bylaw that is not workable and it's costing us a fortune in legal fees and continuously being challenged - and not in our best interest to continue spending that kind of money. I think the Board has to look at alternatives, whether they are palatable or not, doesn't mean that we are going to necessarily support them all on the town meeting floor but I think that we have an obligation to bring some alternative to the town meeting and that is what I voted to do tonight.

Mid-term evaluations for Town Manager and our Secretary Mr. Porter. Schedule this for February 24, 2003. Have your evaluation in to Chairman within a week.

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Cheryl Andrews left the room.

5A **CAPE END MANOR**

Supplemental Funding Request for FY 2003

MOTION: *Move that the Board of Selectmen vote to insert an article onto the April 7, 2003 Special Town Meeting warrant for supplemental appropriation for Cape End Manor for FY 2003 to be offset by \$305,326 in additional revenues.*

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

Cheryl Andrews returned.

MOTION: *Move that the Board of Selectmen vote to take Agenda Item #8 out of order.*

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

8. **BOARD OF SELECTMEN APPOINTMENTS**

Discussion ensued.

MOTION: *Move that the Board of Selectmen vote to not approve the appointment of Larry Mahan as member of the Zoning Board of Appeals with an expiration date of December 31, 2005.*

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

5B **CHIEF OF POLICE**

Summer 2003 Preparations

MOTION: *Move that the Board of Selectmen vote to support the use of \$70,000 in Tourism Fund monies for the Police Department's hiring of summer police officers, so that the Department's FY 2004 revised budget request can be used instead to fund two permanent full-time police positions which cannot otherwise be filled.*

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

6A APRIL 7, 2003 ANNUAL & SPECIAL TOWN MEETINGS

Set Dates for Opening and Closing of Warrants

MOTION: *Move that the Board of Selectmen vote to open the April 7, 2003 Annual and Special Town Meeting warrants forthwith and to close them on Friday, March 7, 2003 at 5:00 p.m., in accordance with Charter §2-1-7.*

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

6B POLICE: GRANT APPLICATIONS

MEMA/FEMA Grant Applications

MOTION: *Move that the Board of Selectmen vote to authorize the submission of grant applications under the following Federal Emergency Management Agency [FEMA] programs through the Massachusetts Emergency Management Agency [MEMA]: (1) All Hazards Emergency Operations Planning - \$900; (2) Community Emergency Response Team - \$7,000; and (3) Citizens Corps Council - \$5,000.*

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

6C WINTHROP STREET CEMETERY

Award Construction Contract: [Cer-Trom: \$133,428]

MOTION: *Move that the Board of Selectmen vote as follows: WHEREAS, the Town's architect, Paysage, the Acting Assistant Town Manager, the Deputy DPW Director, and Town Counsel have reviewed the bids opened on January 16, 2003 for the Winthrop Street Cemetery Improvement Project and determined that the bid submitted by Franny's Landscaping Co is not responsive to the bid specification issued by the town; and WHEREAS, the Town Manager as the Chief Procurement Officer, has adopted their findings; THEREFORE, the Board of Selectmen votes to award the contract to Cer-Trom Construction Corporation as the lowest responsible bidder for \$133,428 for the base bid and alternate A for the DEM Historic Landscape Preservation grant-funded project for the restoration of the Winthrop Street cemetery; and, further, to authorize execution of said contract by the Board upon receipt of all required bonds and insurance.*

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

6D AFFORDABLE HOUSING CONSULTANT

Award Grant-funded Contract: Rogerson Communities (\$12,500)

MOTION: *Move that the Board of Selectmen vote to execute a contract in the amount of \$12,500 to Rogerson Communities for affordable housing consulting services, to be funded from a grant from the Cape Cod Commission.*

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

7. TREASURER'S TRANSFER

Library Gift Fund

MOTION: *Move that the Board of Selectmen vote, as Commissioners of the Library Gift Fund, to approve the transfer of \$1,340.29 from the Library Gift Fund for the payment of an invoice.*

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

MOTION: *Move that the Board of Selectmen vote to extend the rules past 11 p.m.*

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

9. **CLOSING STATEMENTS**

Sarah Peake - None

Michele Couture - None

Cheryl Andrews - None

Mary-Jo Avellar - None

Richard Olson - None

Motion to adjourn by Michele Couture at 11:05 p.m.

Minutes transcribed by: Vernon Porter, Secretary
February 13, 2003