

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, MARCH 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, Acting Assistant Town Manager Michelle Jarusiewicz

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

1A STATE SENATOR ROB O'LEARY

Meeting with Board of Selectmen

Open discussion. No motions made.

1B PUBLIC HEARING: NSTAR

Utility Pole Installation for Central Vacuum Station

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.166, §22 to approve the request of NSTAR to install one new pole as a riser pole for underground conduit, with cable to feed the electric system for Provincetown's waste water facility (Central Vacuum Station) on Ryder Street Extension.*

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

1C APRIL 7, 2003 ANNUAL & SPECIAL TOWN MEETINGS

Determine order in which articles appear on the warrants.

MOTION: *Move that the Board of Selectmen vote to accept the ordering of the articles in the warrants for the April 7, 2003 Annual and Special Town Meeting, as recommended by the Town Manager*

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

2. PUBLIC STATEMENTS

Peter Sousa - Reiterated his feelings from the last Board of Selectmen's meeting relating to Site Y. Do not like the idea of a swap with the Wildlife people and even if there is a swap the Conservation Commission has to approve it.

Barbara Rushmore - Concerned over the proposed water rate increases. Increase fines for people washing cars; install low flush toilets; outlaw garbage disposal units in people's homes - or at least enforce it.

Steve Roderick - Real Estate transfer fees - urge you to look closely at this. The article that is going to come up this year should go under some more review for ways to look at it for essential services - and be voted on each year at town meeting. The transfer fee as it is proposed this year it is very limited. We should not limit ourselves. I urge you to get a group together and not rush this article through this year.

Affordable Housing - Urge Board of Selectmen to begin talking with School Committee on surplus property - 9 rooms vacant. Turn Annex back to town. Has excellent vision for use of this building. Site C - Concerned over development along Route 6.

Sheila Benzer - Thank Ms. Couture for her concerns over Mass Health to Senator O'Leary. Rumor of dollars being reduced for social needs? Response from staff - this is ill founded.

3. SELECTMEN'S STATEMENTS

Richard Olson

Freeman Library - (appointment of Trustee) Happy that Town Counsel reminded us that an opinion going back to 1997 and that the Legislature had put a sunset clause on these reverters on old wills and we are free and clear.

Sarah Peake

Community Development Director John Gilmore's weekly report was very interesting to read and I look forward to receiving more.

Public hearings related to warrant. KB are listed on the website and as of tonight the text of all the proposal will be there.

Something brought up by Mr. Sousa's - I am curious what the jurisdiction is of the ConCom regarding the land that is being sought for the swap; and is the approval of the ConCom necessary. Keith - At some point yes.

Regarding our letter to Assembly of Delegates Finance Committee requesting that the refund of a million dollars of the County surplus go back to Cape Towns, and that it be returned in same proportion in which each town contributed. The Assembly met and voted to return the surplus, but there were two "no" votes cast, one by our delegate George Bryant. I'm concerned that after he received a copy of our letter in support of the refund, that he would vote against it. As far as I know he didn't contact this board to let us know why he would be voting against the refund. I know that the next thing to be considered by the County Commissioners and the Assembly of Delegates, is a re-calculation of the amount each Town pays in. Bill each town the correct amount, rather than taking too much money only to refund it later. I think it would be appropriate to ask Mr. Bryant to meet with us so we can discuss these matters with him. They have an impact on the Town budget and on Town's finances.

MOTION: Move that the Board of Selectmen vote to invite George Bryant to attend a Board of Selectmen meeting to discuss pending matters before the Assembly of Delegates, specifically finances and refunds.

Motion by: Sarah Peake Seconded by: Richard Olson **Yea 5 Nay 0**

Richard Olson - re: Planning Board - Surprised and disappointed, somewhat, that they did not bring to us any warrant articles for substantive revision of the zoning bylaw.

Cheryl Andrews

Acknowledge Mr. Roderick's comments on the Real Estate transfer tax. He echoed some comments that I have heard from other constituents and I think he has a lot of interesting points to make.

Issue to appoint or not to appoint Mr. Mahan - I went back and forth as whether to even raise this and at the same time I have to be honest - it has been eating at me. It has been almost thirteen years that I have served the town and I don't think that anything has bothered me as much - in all the years that I have served. To call the Board, and I waited to see if any of us was going to be singled out, and from what I'm hearing I have been singled out for a comment that is being misrepresented, and in essence the Board has been charged with being racist ... for being racially insensitive... for using code words and as I said when I first read the letter from Mrs. Wolfman I was so taken back I said, that I was not going to dignify this with a response and instead let myself stew for a couple of days.

But the truth is I have a heart too and I live amongst all of you, not just as a selectman or as a dentist but as your neighbor and your friend and I can't think of too much worse that someone could say than to call me a racist. Go ahead and take me to task for votes, for things I've said - God knows that I will own them. I've certainly known that I've been told over the years that I could have used a better tone or I could have handled people better. I think I have come a long way in growing ... serving the town and opening myself up to other people.

I thought about this all week and it's too big to allow two people to call the Board, and as I've said my name has been mentioned, as being racists. I cannot let it go without addressing it - and I will say that I am deeply offended. There is not a racist bone in my body. They are absolutely 100% wrong. I am very grateful that I

live in a small town and I have lived here long enough that a lot of people know me personally. Because, otherwise, how do you defend yourself - ??? other than the fact that people know you. I have to say that there has been a running joke with the Cable Advisory Commission about taping our meetings and I will tell you I wish that camera had been here that night because not only that charge but so many other things that have been said are so wrong. So, it has been a tough week. It truly is the low point of my service to the town but at the same time ... forget the service - the bottom line is ... in ten or twenty years ... who cares if I am a Selectmen or not, what I care about is my integrity and my decency. I am a decent person and I am not racist and it never occurred to me to think of Larry Mahan as anything other than an equal. Larry is my age. Larry is a professional. Larry has served the town. I think of him as having an awful lot in common with me. It was a difficult thing to sit here and have to pass judgment on his performance and I remember during that thinking - gee, I wish I could leave, I wish I was somewhere else - because it is not fun, it is not nice and I also remember having the discussion in my head - but you know what - that is part of being a Selectman. So, I have to make the decision if I want to serve the town and I have to do also the things that are difficult and had a decision to make as to whether the reappointment was one I could feel comfortable with. I didn't and that is the motion I made and the vote I made and I feel comfortable with that.

I am still shocked that Mrs. Wolfman and Mr. Mahan have brought race into that whole decision-making process that evening. There have been discussions in town about apologies - and I can say this and I can't say it any stronger - boy, do they owe an apology to this Board and to me personally. Like I've said, I really can't think of anything worse you can say about someone. I was sort of brought up in Provincetown politically that you were not supposed to bring it up - you were just to take it and bare it and live with it. But I'm not going to do that. You've known me too long. I've live here and worked hard. I'm not perfect. I've still got more things to learn about how to do this job better and how to be a better person. I don't need to be educated about racism. That was a false charge. It was painful - I'm glad I got away this weekend. Thank you for your time, I just wanted to share that with you.

Mary-Jo Avellar

I feel as strongly as you do - I feel exactly the same way you do. I could not wait to sit down and write a letter to the editor explaining why I voted the way I did over the Larry Mahan matter. Dr. Andrews was the one, at the meeting, who reminded us all what our responsibility was as an appointing authority when it comes to people from whom we bear some responsibility when they go out and vote on matters that affect you and your neighbors and even sometimes ourselves. It was the most uncomfortable meeting in which I have ever sat. In my heart I kept thinking, why is this man angry with me? I have a responsibility to make sure that people sitting on regulatory boards, whom I appoint, are doing the best job that they can do because the zoning board, more than any other board, affects that bottom line on our legal budget. If people that we put on these boards do not understand the law or refuse to seek advise when there is a problem then it reflects on what we do here. I though that Dr. Andrews was incredibly stalwart when she stood up - when I was here trying to find a way to maybe make it go away, in my heart, to find a way to reappoint the gentlemen in spite of the fact that I thought he clearly did not understand what conflict of interest was all about because it was such an unpleasant event. Never did I think that this Board would be branded racist. I cannot tell you how annoyed and angry I was when I saw Mrs. Wolfman's letter and I guess we've received another letter regarding the whole conflict of interest issue which clearly that gentlemen did not understand and he attacked Ms. Couture and he attacked Dr. Andrews. Nobody wants to be in a position of having to vote up or down on someone because it is such a small town and you have to run into them in the A & P and that sort of thing every day of the week - but you know what? She was right - we acted in a manner that we thought that was appropriate at the time and I would stand by the vote that I made that night because I know when it comes to conflict of interest it's up to each individual member of a board to seek by whatever means is necessary through the legal process decisions from either the Ethics Commission or your appointing authority - that's how you find out if you have a conflict. That did not happen in this case and we were made to feel - at least I was made to feel, that I was doing something wrong by questioning somebody who may or may not have had a conflict of interest on a matter, which he sat. I don't think I have to defend that to anybody. Actually, I will defend that to anybody but I am not going to sit here and let anybody brand me a racist for having a made a decision as to whether or not I felt someone was appropriate to sit on a board. I'm not going to tiptoe around the people that I appoint. I am not going to treat them any differently than I am going to treat anybody else because they are gay or straight or black or white or whatever. I'm the only straight member of this Board and I can tell you nobody treats me any differently. My colleagues don't treat me any differently when I disagree with them. I just can't tell you how angry I have been

this week about this issue. It was just so unfair. And I would think that people who have spent a lifetime of dealing with injustice would have a little more sensitivity towards us. It was not easy being where we were having to sit on that decision. I will, however, take responsibility for not having made it clear to Mr. Porter the reasons why we wanted Mr. Mahan to come in. But I can tell you, if you go back and listen to the tape, he didn't give us a chance to even explain that to him. I will stand by my decision but I will not tolerate being called a racists.

MOTION: *Move that the Board of Selectmen vote to send a letter to the School Committee asking what the plan is for the Annex Building once the High School renovations are completed.*

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

Michele Couture

Pier - Jib Crane - When will it be installed? D. Guertin - between the 17th & 21st of March.

4A LIBRARY

Mass. Board of Library Commissioners Grant Application

MOTION: *Move that the Board of Selectmen vote to authorize the submission of a grant application for \$10,000 under the "Mother Goose Asks Why?" grant program through the Massachusetts Board of Library Commissioners to promote family literacy and exploring the processes of science.*

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

4B APPROVAL OF WATER RATES

FY 2004 Water Enterprise Fund Revenues

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.40, §22F, to approve the amended water rate structure as adopted by the Water & Sewer Board on March 3, 2003 for the period March 15, 2003 through March 14, 2004.*

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

5A WATER UPDATE

Preparations for Intermunicipal Water Agreement Negotiations

MOTION: *Move that the Board of Selectmen vote to authorize an extension of the Intermunicipal Water Agreement with the Town of Truro through June 30, 2003, as proposed by the Truro Town Administrator AND through December 31, 2003.*

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

5B WATER - CONTRACT AMENDMENT

Environmental Partners Group, Inc. \$66,766

MOTION: *Move that the Board of Selectmen vote to authorize execution of an engineering contract amendment in the amount of \$66,766 to Environmental Partners Group, Inc. of Hingham, Massachusetts for the Water Management Study which supports the Provincetown Water System's water withdrawal permit application to the Department of Environmental Protection.*

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

5C WASTEWATER CONSTRUCTION OVERSIGHT

Environmental Partners Group: \$330,000

MOTION: *Move that the Board of Selectmen vote to authorize execution of a contract amendment with Environmental Partners Group, Inc. of Hingham, Massachusetts in the amount of \$330,000 for Phase I wastewater construction oversight.*

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

5D WASTEWATER PROJECT

Construction Contract change Order: Metcalf & Eddy

MOTION: *Move that the Board of Selectmen vote to approve Change Order No. 3A for the sewer construction contract with Metcalf & Eddy in the amount of \$69,837 for the removal of abandoned water mains, as recommended by Environmental Partners Group.*

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

5E APRIL 7, 2003 ANNUAL & SPECIAL TOWN MEETINGS

FY 2004 Budget Amendments

Mary-Jo Avellar left the room due to conflict of interest. (Husband is Assistant Harbormaster.)

MOTION: *Move that the Board of Selectmen vote to amend its operating budget request for Fiscal Year 2004 as follows:*

1) *by increasing the 295 Harbormaster Budget's from \$80,681 to \$133,275 — i.e., the Department's original request, to conform with the Finance Committee's recommendation;*

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

Mary-Jo Avellar returned.

(2) *by increasing the 310 Cape Cod Regional Technical High School assessment from \$40,000 to \$42,298, based on the most recent information from its Superintendent.*

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

5F TOWN CLERK

2002 Town Report Dedication

MOTION: *Move that the Board of Selectmen vote to dedicate the 2002 Annual Town Report to those current and former Town board members and employees who died during calendar year 2002, as contained in the list of names submitted by Town Clerk Greta Holman.*

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

6. MUNICIPAL PURPOSE GRANT ANTICIPATION NOTE #1015

MOTION: *Move that the Board of Selectmen vote to issue a Grant Anticipation Note #1015 in the amount of \$1,500,000.00 dated March 12, 2003 at 1.60% interest payable at maturity to Cape Cod Bank and Trust on June 25, 2003.*

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

7. BOARD OF SELECTMEN APPOINTMENTS

Cheryl Andrews left the room due to conflict of interest. (Father is patient at CEM)

Disclosure statement by Richard Olson - Cape End Manor

“I have a relative (my Aunt) who residing at the Cape End Manor. My disclosure form is on file in the Town Clerks Office.”

MOTION: Move that the Board of Selectmen vote to approve the appointment of Rev. Henry J. Dahl as member of the Cape End Manor Board of Directors, representing the Business Community, with an expiration date of December 31, 2004.

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

Cheryl Andrews returned.

MOTION: Move that the Board of Selectmen vote to approve the appointment of Lynne Davies from an alternate member to a regular member on the Zoning Board of Appeals with an expiration date of December 31, 2005

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

8. MINUTES OF BOARD OF SELECTMEN MEETINGS

MOTION: Move that the Board of Selectmen approve the minutes of March 6, 2003 as printed.

Motion by: Sarah Peake Seconded by Richard Olson Yea 5 Nay 0

9. CLOSING STATEMENTS

Richard Olson - None Sarah Peake - None Cheryl Andrews - None

Mary-Jo Avellar - None Michele Couture - None

Motion to adjourn by Sarah Peake at 9:10 p.m.

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