

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, MARCH 24, 2003

JUDGE WELSH HEARING ROOM

Acting Chairman Cheryl Andrews opened the meeting at 6:00 PM noting the following attendees:

Board of Selectmen members: Cheryl Andrews, Michele Couture, Sarah Peake, Richard Olson (Chairman Mary-Jo Avellar arrived at 6:20 pm)

Other attendees: Town Manager Keith Bergman

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

1A PUBLIC HEARING

Proposed Amendments to the Harbor Regulations.

Harbor Committee Members present: Acting Chair Sheila LaMontagne and Mel Cote.

Acting Chair Cheryl Andrews opened each section to the general public for comments for or against the changes - there were none. Discussion ensued between the Harbor Committee and the Board of Selectmen on each section of the proposed changes before motions were acted upon.

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

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

MOTION: *Move that the Board of Selectmen vote to approve the Harbor Committee's recommendations to revise the Harbor Regulations, as voted on March 5, 2003, as contained in the notice of this public hearing as follows:*

Chapter 2. Mooring Rules and Regulations

(1) Approved changes in the amendment in keeping with approved definition in 3-1-3.

2-2-3 Vessel: Includes ships of all kinds, barges, sailing vessels, watercraft and powerboats of any type or kind by whatsoever means propelled, every structure designed, adapted or capable of being navigated, towed or operated on water from place to place for the transportation or habitation of merchandise, people, or for any other purpose.

This change is for consistency with approve changes in 3-1-3 with reads:

3-1-3 Vessel: Includes ships of all kinds, barges, sailing vessels, watercraft and powerboats of any type or kind by whatsoever means propelled, every structure designed, adaptable or capable of being navigated, towed, or operated on water from place to place for the transportation or habitation of merchandise, people or for any other purpose.

2-4-4 Add the following sentence: Vessels having high freeboard or windage may be required to have larger moorings than proscribed above. Determination is to be made by the Harbormaster.

2-5-1 Replace the word 'may' with the word 'will intentionally'. No person ~~may~~ will intentionally discharge or spill oil, sewage, gray water, holding tank wastes, spirits, flammable liquids, contaminated bilge wastes, kitchen wastes, garbage, litter, or other refuse into Provincetown Harbor.

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

To amend Appendix B as follows:

NON-RESIDENTIAL FEES

Individual mooring fees for vessels 0-16 feet: \$50.00 flat rate (Old rate: \$20.00)

Individual mooring fees for vessels greater than 16 feet: \$50.00 for the first 16 feet (Old rate \$20.00) and \$10.00 (Old rate: \$8.00) for each additional foot. Holding Moorings: \$200.00 (No change)

RENTAL MOORING FEES

Moorings above the mean low water line: \$100.00 Moorings below the mean low water line: \$150.00 (Per \$100.00 rental mooring regardless of water depth.)

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

(NEW) COMMERCIAL FEES *

Provincetown based commercial vessels:

Individual mooring fees for vessels 0-16 feet: \$20.00 flat rate. Individual mooring fees for vessels greater than 16 feet: \$20.00 for first 16 Feet plus \$4.00 for each additional foot

Holding moorings: \$100.00

Commercial vessels that are not based in Provincetown Harbor:

Individual mooring fees for vessels 0-16 feet: \$50.00 flat rate. Individual mooring fees for vessels greater than 16 feet: \$50.00 for first 16 feet plus \$10.00 for each additional foot

Holding moorings: \$200.00

** Residency requirements for the Residential Rates are limited to those defined in Article 2. Definitions: 2-2-14*

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

1B PROVINCETOWN HOUSING AUTHORITY

Special Town Meeting Articles - Affordable Housing

***MOTION:** Move that the Board of Selectmen vote to recommend Special Town Meeting Article 8.*

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

***MOTION:** Move that the Board of Selectmen vote NOT to recommend Special Town Meeting Article 8.*

Motion by: Richard Olson Seconded by: Sarah Peake
Yea 3 Nay 2 (Mary-Jo Avellar/Michele Couture)

Cheryl Andrews left the room due to conflict of interest as she is an abutter.

***MOTION:** Move that the Board of Selectmen vote NOT to recommend Special Town Meeting Article 9.*

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

Cheryl Andrews returned.

***MOTION:** Move that the Board of Selectmen vote to recommend STM Article 10 as amended by Town Counsel and to delete the language about spouses. (Deleting sections C, K and M)*

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

2. PUBLIC STATEMENTS

Mary (Kelly) Kelman - Re: Her application for use of Bas Relief. Needs approval ASAP so that she can notify and secure vendors before it is too late. New guidelines being written but it may be too late for her to secure vendors.

Dennis Allee - Urge Board of Selectmen to formally inform State officials of the town's policy that Mt. Gilboa site is not useable for affordable housing.

Jonathan Sinaiko - Encouraged to hear of the movement to recycle housing. Rumors over the old A & P housing - someone has to dispel the rumors.

Celine Gandolfo - Supports Jonathan in his comments on recycling housing. Also heard rumors today concerning development of sites A & E. Thank you for maintaining the greenway and I do support affordable housing.

Peter Souza - Better idea for 100 Alden Street - build a prison and half of it should be a mental institution. The greenway is not safe, nothing is - all it takes is the right connections and the right amount of money - and you can do anything. People do not take our natural environment seriously. In the future, I recommend we hire a permanent full-time Conservation Agent or Officer to keep an eye on things because we are loosing Provincetown incrementally. There are things in this town you don't even know about.

3. SELECTMEN'S STATEMENTS

Sarah Peake

MOTION: *Move that the Board of Selectmen vote to schedule potential regulations for Bas Relief as agenda item for April 14, 2003 with a Public Hearing to follow on May 12, 2003.*

Motion by: Michele Couture **Seconded by:** Sarah Peake
Yea 3 Nay 2 (Cheryl Andrews/Mary-Jo Avellar)

MOTION: *Move that the Board of Selectmen direct staff to process all applications requesting to use Bas Relief based on current established regulations.*

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

MOTION: *Move that the Board of Selectmen vote to send a letter to CCNS Advisory Commission asking for an extension of time from March 25, 2003 through Tuesday, May 6, 2003 in which to provide public comments for the title "CCNS Dune Shack Subcommittee Findings dated January 2003."*

Motion by: Sarah Peake **Seconded by:** Mary-Jo Avellar Yea 5 Nay 0

Tone & Tenor - that not only all of us as a Board but the public uses when we talk to each other and either agree or disagree about ideas. I learned this morning that shortly after the Public Hearing having to do with the Housing Authority one person who spoke at that meeting received an anonymous letter, which I can only describe as hateful in tone. It was very disturbing - it was obviously disturbing to this person. The words themselves were disturbing but more than the emotion and feeling behind it were just horrible. I've always taken pride in saying that in Provincetown that we can all agree to disagree. That we can battle it out on the floor of town meeting and then buy each other a cup of coffee and a brownie from the PTA when we come down stairs - and it's OK to disagree on the issues but we don't cast each other in terms that this person is a good person, this person is a bad person or their intentions are less than honorable. This is just one particular instance. There have been comments in the paper recently, etc. We're not going to agree with each other all the time but as we approach our town meeting - let's be careful when we speak to each other and to other about a person who spoke at a meeting, I think that is often where hurtful and distrustful language can be used.

Cheryl Andrews

Well-said Ms. Peake.

Comments that Mr. Souza raised. - Why do we behave the way we do?

MOTION: *Move that the Board of Selectmen vote to with the Conservation Commission and our Acting Conservation Agent Gordon Peabody, after Town Meeting, with a date to be determined.*

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

Bas Relief - wish you all the best - I am just concerned about the process and I am sure we can straighten this all our and that is why I am abstaining from some of those votes - and for no other reason.

State land out in the highway - there was a motion made once - and there seems, somehow, that some people need clarification as to what that motion meant. I'll leave that up to my colleagues. What I've heard tonight is that both the Board of Selectmen and the Housing Authority were expressing no interest in seeking any of that State own land for development.

MOTION: Move that the Board of Selectmen vote to affirm our endorsement of keeping the Route 6 Greenway parcels "A through N" as open space and to direct the Town Manager to clarify any confusion and to communicate our desire to keep that as open space to anybody in the Governor's office or wherever that confusion may have be emanated from.

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

Michele Couture

MOTION: Move that the Board of Selectmen vote to indefinitely postpone Special Town Meeting Article 15.

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

When is Forum on betterments going to happen? - Needs to be published in paper.

Richard Olson

MOTION: Move that the Board of Selectmen vote to send a letter to Tourism Director Patricia Fitzpatrick thanking her for organization of the 10th Annual Gay & Lesbian Business and Entertainment Expo in New York City, March 21 - 23, 2003.

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

Mary-Jo Avellar

MOTION: Move that the Board of Selectmen send a letter of thanks and gratitude to the Department of Municipal Finance for all their efforts in helping the Town achieve the Standard & Poor's highest rating of SP I+

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

MOTION: Move that the Board of Selectmen vote to take Agenda Item 5A out of order.

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

Sarah Peake left the room due to conflict of interest - she is a guesthouse owner.

5A CONFLICT OF INTEREST LAW DETERMINATION

Zoning Board of Appeals [MGL C.268A, §19]

MOTION: Move that the Board of Selectmen vote, pursuant to MGL C.268A,§19, and as appointing authority for the Zoning Board of Appeals, to make the determination that the financial interest of appointee, Howard Weiner is so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the appointee.

**Motion by: Cheryl Andrews Seconded by: Michele Couture
Yea 2 Nay 2 (Mary-Jo Avellar / Richard Olson)**

Sarah Peake returned.

4A REQUEST: PROVINCETOWN HOUSING PARTNERSHIP

Affordable Housing Deed Restrictions: 48 Point Road

MOTION: *Move that the Board of Selectmen vote to accept and execute an Affordable Housing Deed Restriction with Monument Valley Realty Trust, Miriam Collinson, Trustee for three affordable housing units (home ownership) at 48 Race Point Road, as approved as to form by Town Counsel.*

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

4B CHAPTER 40B APPLICATION - STAFF COMMENTS

Meadow Road Affordable Home Ownership Development

MOTION: *Move that the Board of Selectmen vote to submit the staff comments to the Zoning Board of Appeals in connection with its review of the 36-unit Meadow Road affordable home ownership development on a 5.4-acre parcel at 122 Bradford Street Extension as follows:*

Building Commissioner - *has no objection to the proposal.*

Community Development Director. *The applicant has distinguished himself through his design for this difficult site, and his willingness to negotiate that design with town regulatory staff and boards. The project proposes features besides 50% affordable housing, which make it more attractive: 18 accessory artist studios, 5 principal use artist studios and a mix of units and sizes that will result in greater project diversity.*

The applicant met with the Conservation Commission and subsequently adjusted the development proposal to reflect that meeting (relocated a building and proposed slab construction). In addition, the applicant has provided information respecting protection of the resource (no adverse impacts), construction mitigation of any resource impacts, no practical alternative to the proposed plan, project cost and benefits conferred to the town by the affordable units proposed.

In addition, the applicant, although he is not under any legal obligation to do so, has largely complied with municipal development regulations. The applicant requests that review of the Comprehensive Permit be substituted for Planning Board Site Plan Review and Growth Management Allocation "Permits." Further applicant requests include relief from the Demolition Delay By-Law and the local Wetland Protection By-Law; to the extent it exceeds the State Act. He also requests relief from the payment of municipal regulatory application fees.

Deputy Community Development Director. *The town's Affordable Housing Specialist and Deputy Community Development Director points out that the proposal:*

- 1. Will nicely complement the existing neighborhood.*
- 2. Involves no wetland, isolated wetland subject to flooding or transition zone filling.*
- 3. Nearly 75% of the site will remain as open space, far in excess of most such larger projects.*
- 4. New leach areas will be located at least 100' from wetlands.*

DPW Director of Operations. *The DPW does not pick up more than 8 condos in a complex, whether it is on a private way or a public way. This BOH Regulation should not be changed for one condo complex, which would result in the need for more DPW manpower and equipment. Renters should have the choice of taking trash to the Transfer Station themselves (at no cost) or they can hire their own private hauler, instead of making it part of the condo fees. We also do not sand and plow. The proposed roadway is a large private driveway. It is not a through traffic public way. We will address drainage in that area at the ZBA hearing.*

DPW Water & Sewer Superintendent. *Other than the fact that there will probably be increased water consumption, there are no further comments. The plan for water is same as the "old A&P" site, so the consumption bases are covered.*

Health Agent. *Upon review of the Septic System Permit Application and the accompanying septic system design plans the following issues need to be addressed by the design engineer:*

- 1. There are components of the septic system that do not meet the 100' setback to the wetland.*

2. *Any 90-degree angle of the sewage line should have thrust blocks including any sweeps. A detail of the thrust blocks should be shown on the septic system design plan.*
3. *This office needs to have a copy of the pressure dosing calculations as well as the total dynamic head.*
4. *Engineer needs to provide expanded pump calculations including friction loss.*

The design engineer has been notified of these requirements. I am awaiting this information.

Board of Fire Engineers. *No comments received.*

Provincetown Housing Partnership. *No comments received.*

Planning Board. *No comment received.*

Police Chief. *The project will result in an increase in traffic, but any development of the site would do the same. He has no objection to the project.*

Cape Cod Commission. *Paul Ruchinskas, the Commission's Affordable Housing Specialist, was very pleased with the project's 50% affordability. He indicated that he had successfully negotiated a reduction of approximately 10% in unit cost with the project proponent*

Motion by: Sarah Peake Seconded by: Richard Olson
Yea 4 Nay 1 (Cheryl Andrews)

4C **POLICY STATEMENT**

Provision of Certain Town Services for 100% Affordable Housing Projects

MOTION: *Move that the Board of Selectmen vote to adopt the following policy statement:*

It shall be the policy of the Board of Selectmen that the following Town services shall be provided by the Department of Public Works for affordable housing projects in which 100% of the project's units are affordable, provided that the property owner has first executed an affordable housing restriction document approved as to form by Town Counsel and executed by the Board of Selectmen: (1) residential solid waste and recycling pick-up services and (2) plowing of snow.

The Board of Health is requested to revise its regulations relative to solid waste and recycling to reflect this policy.

The Town will report policy to the Massachusetts Department of Housing and Community Development in the annual housing certification request under Executive Order 418 as one of the Town of Provincetown's proactive steps to encourage affordable housing production.

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

Sarah Peake left the room due to conflict of interest - she is a guesthouse owner.

5B **COMMUNITY DEVELOPMENT**

Review of Fee Structures

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.40, §22F, to approve the proposed fee structures for the Department of Community Development, as proposed by the Director.*

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 4 Nay 0

Sarah Peake returned.

6A **APRIL 7, 2003 ANNUAL & SPECIAL TOWN MEETINGS**

Adoption of Board of Selectmen's Recommendations on Articles

No action taken. No motions made.

7. **MUNICIPAL PURPOSE GRANT ANTICIPATION NOTE**

MOTION: *Move that the Board of Selectmen vote to accept the terms and conditions as contained in the Bond Anticipation Note documents amounting to \$2,340,000.00 dated March 27, 2003 at 1.1269%, payable to Cape Cod Bank and Trust Co. as the Town's paying agent.*

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

8. **MINUTES OF BOARD OF SELECTMEN MEETINGS**

MOTION: *Move that the Board of Selectmen approve the minutes of:*

February 24, 2003 (Board Interviews) *with changes so noted. (MJA Absent)*

Motion by: Sarah Peake **Seconded by** Michele Couture
Yea 4 Nay 0 Abstain 1 (Mary-Jo Avellar)

February 24, 2003 (Regular Mtg.) *with changes so noted. (MJA Absent)*

Motion by: Sarah Peake **Seconded by** Michele Couture
Yea 4 Nay 0 Abstain 1 (Mary-Jo Avellar)

March 10, 2003 (Regular Mtg.) *with changes so noted. (All Present)*

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

March 11, 2003 (Traffic Hearing) *as printed. (MJA Absent)*

Motion by: Michele Couture **Seconded by** Sarah Peake
Yea 4 Nay 0 Abstain 1 (Mary-Jo Avellar)

March 17, 2003 (Joint Mtg w/FinCom) *as printed. (All Present)*

Motion by: Michele Couture **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 9:37 p.m.

Minutes transcribed by: Vernon Porter, Secretary
March 27, 2003