

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, AUGUST 25, 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 and Acting Assistant Town Manager Michelle Jarusiewicz.

Recorder: Secretary to Board of Selectmen Vernon G. Porter

The following are meeting minutes, in brief.

MOTION: *Move that the Board of Selectmen vote to take Agenda Item 6C out of order.*

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

Mary-Jo Avellar left the room due to conflict. Her husband is Assistant Harbormaster.

6C. **BOARD OF SELECTMEN APPOINTMENTS**

MOTION: *Move that the Board of Selectmen vote to appoint Kerry L. Adams as a Regular Member of the Harbor Committee with an expiration date of June 30, 2005.*

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

Mary-Jo Avellar returned.

Cheryl Andrews left the room due to conflict. Her father is a resident at the CEM.

1A **CAPE END MANOR CARE CAMPUS UPDATE**

Joint Meeting with CEM Board of Directors

Chairman Marilyn Downey introduced her Board members present: Rev. Henry J. Dahl, Katherine Margie Perry, Sandy Dobyne, and Marilyn Downey

Other attendees: CEM CEO Dennis Anderson, Administrator Eileen Thomas and Director of Nursing Jacqueline Rozza.

MOTION: *Move that the Manor Board of Directors vote to join the Board of Selectmen in a joint meeting to discuss Cape End Manor issues.*

Motion by: Margie Perry **Seconded by:** Sandy Dobyne Yea 4 Nay 0

Ms. Downey read a statement into the record. (See attachment #1)

Open discussion ensued.

MOTION: *Move that the Board of Selectmen and the CEM Board of Directors vote to send a letter of thanks to Representative Shirley Gomes and Senator Robert O'Leary for their efforts in working with the Manor on Inter-Governmental Transfer.*

Motion by: Michele Couture **Seconded by:** Sarah Peake Yea 8 Nay 0

1B **CAPE END MANOR CARE CAMPUS**

Land Negotiations (MGL C.39, §23B Clause 6)

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, section 23B, clause 6, to go into executive session for the purpose of considering the purchase or value of real property; and to reconvene in open session thereafter; and to invite the CEM Board of Directors, Dennis Anderson, Eileen*

Thomas and Jacqueline Rozza to attend.

[Roll Call Vote]

Richard Olson - Yea Sarah Peake - Yea Mary-Jo Avellar - Yea Michele Couture - Yea

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

The Boards went into executive session at 6:55 pm and returned at 7: 45 pm.

Cheryl Andrews returned.

2. PUBLIC STATEMENTS

Barbara Rushmore - Tax bills - sending out another tax bill as scheduled is too close to the last bill. Encouraged the Board of Selectmen not to take on any more new projects. Reduce each Department by 10% by not hiring when people retire. No new raises.

Francis John Santos - Waterfront pilings are in shambles. Anchor at Lopes Square - it is taking too much paperwork to get a simple job done. Urge Board of Selectmen to get involved in different committees. If there is any money left from the Pier Project the town should be getting it back.

Mary-Jo Avellar left the room due to conflict. Her husband is Assistant Harbormaster.

Chris Maxwell - Owner of Mad Maxine's. Feels that the current by-law did not take into consideration her business of 9 years and she would like some consideration towards an amendment that would make everybody happy and would make the waterways much safer for everyone. There was no problem until this by-law came into affect this year. Also would like to have the Police Department and the Harbormaster work with her

Dana Colburn - Is handicapped and works for Ms. Maxwell. Encouraged the Board of Selectmen to have the by-laws changed as it would help him stay employed and remove some of the stress that affects his being handicapped.

Mary-Jo Avellar returned.

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3. SELECTMEN'S STATEMENTS

Michele Couture

Atlantic Avenue Repairs - How are they proceeding. Sandy Turner - We are waiting for the grant - and it should be coming soon. Michele - Until we can get it fixed, can we put up a sign 'Hazardous Do Not Use'? Something to make tourist aware of the hazard.

Congratulations to DPW and Police Dept. for doing an excellent job during Carnival - as did the PBG and Ms. Fitzpatrick of our Tourism Office. Please pass this on to your departments.

Profish Ice Machine - when are they getting it? Answer: Should be this week.

Richard Olson

Had a very happy chance encounter on the street today - Admiral Vivian Craig. The first woman Admiral in the US Coast Guard.

Carnival Parade - agree with Michele, it was beautifully done.

Met Stephen Bennett on the street and had a good conversation with him and his wife.

Street Signs - that are in the street. Can we put them on the sidewalk instead of in the street? Let's find out if it's feasible

Sarah Peake

Ditto my feelings towards the DPW and the Police Dept. for the Carnival Parade. It was as mess on Thursday night and the next day, on Friday morning, you would walk down the streets and it was spic and span.

Airport Special Permit - can you give a rundown? Keith - We are still in negotiations with the CCNS over a form of a long-term agreement and John Giorgio is to develop alternative language to propose to their counsel. It does not jeopardize the FAA Grant.

Sunday Cape Cod Times article on Lottery Revenue. We're getting the short end of the stick here down on the Cape because the funding formula is based on real property values as opposed to income. (See attached #2) If it is the will of the Board, I will be happy to contact Sally Sears-Mack of the Lower Cape Selectmen's Association and request that his be an agenda item.

MOTION: Move that the Board of Selectmen contact Barnstable County and the Lower Cape Selectmen's Association and the Barnstable County Selectmen's & Councilors Association to push this issue of Lottery Revenue forward on behalf of Provincetown.

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

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Cheryl Andrews

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Carnival - Agree with my colleagues. It was a lot of fun and an amazing amount of work and both the people in the parade and the folks on the street enjoyed themselves immensely. To Chief Meyer - Why don't we just ban vehicles from parking on Commercial Street. I don't understand why we don't do that. Answer: We've had several calls on that and it is something we will explore for next year.

Street Performers - allocating space in front of Town Hall. Chief Meyer - The group met with us and John Thomas and the end results is that they will work it out between themselves. Also, it will be blocked off with tape so that people don't block the sidewalk. There is no time limit, unless somebody asks. So far it seems to be OK.

Mary-Jo Avellar

It is my understand that the meeting did not go very well and one street performer, the gentleman who performs in front of the Library, was not happy. (Cheryl to the Chief - I don't want to micromanage you on this issue but I would say that it's one that is going to need more attention; even if it comes down to the lottery system, particularly in front of town hall.

Issues raised by Barbara Rushmore on tax bills are valid and we need to be prepared to have answers for people. It is a problem having two tax bills come together. Keith - Will discuss sending out quarterly bills with Finance Department.

Also, my congratulations to DPW and the Police during Carnival week

Mary-Jo Avellar left the room due to conflict. Her husband is Assistant Harbormaster.

4A PROVINCETOWN PUBLIC PIER CORPORATION
Approval of Berthing Agreements - Interim Agreement §7(h)

MOTION: Move that the Board of Selectmen vote, pursuant to Section 7(h) of the interim agreement with the Provincetown Public Pier Corporation dated June 23, 2003, to approve a berthing agreement with Bay State Cruise Company for the period commencing January 1, 2003 and ending December 31, 2013; and a

dockage excursion licensing agreement with The Boat Provincetown c/o Bayside Betsy's for the period June 30, 2003 through September 1, 2003.

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

Mary-Jo Avellar returned.

4B PROVINCETOWN HOUSING PARTNERSHIP

“Local Preference” Policy for Affordable Housing Units

MOTION: *Move that the Board of Selectmen vote to table this agenda item until September 8, 2003 meeting.*

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

4C JOHN ARTHUR HENRY TRUST FUND

Update from Human Services Team

MOTION: *Move that the Board of Selectmen vote to adopt the August 19, 2003 recommendations of the Human Services Team relative to the John Arthur Henry Trust Fund.*

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

4D SKATE BOARD PARK

Update Report from Sandra M. Turner, DPW Deputy Director

Open discussion ensued. No motions made.

4E FIREWORKS

FY 2005 Proposed Budget and Spending Plan

Discussion ensued. No motions made. However, it is the understanding by the Board of Selectmen that staff will submit a request to the Visitors Services Board for inclusion in their FY 2005 spending plan.

4F CAPE LIGHT COMPACT

Authorization to Execute Power Supply Contract

MOTION: *Move that the Board of Selectmen vote, pursuant to the request of the Cape Light Compact, to authorize the Town Manager to execute the power supply contract with the supplier chosen by the Cape Light Compact in response to its recent Request for Proposals.*

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

4G PARADE PERMIT: YANKEE LAMBDA CAR CLUB

Annual Request for Parade Permit

MOTION: *Move that the Board of Selectmen vote to approve Parade application submitted by Doug VanWassenhove, 4 Tiger Row, Georgetown, MA on behalf of the Yankee Lambda Car Club for a Public Showing of Residential Motorcade & Classic Cars on Saturday, September 6, 2003 starting at 2:00 PM and ending by 3:00 PM.*

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

5A ZONING BY-LAW AMENDMENTS

Adult Entertainment: Theater

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

A. *Adult Entertainment By-law Amendments (Alternative 2, proposed by Town Counsel Kopelman & Paige) (with setbacks in the footnotes revised from 500 feet to 300 feet);*

and

B. *The inclusion of theater into the Definition Section, Permitted Principal Use Table, and Permitted Accessory Table (as proposed by Town Counsel).*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

5B **MEMA GRANT AWARDS**

Community Emergency Response Team, Citizens Corps Council

MOTION: *Move that the Board of Selectmen vote to execute grant agreements with the Massachusetts Emergency Management Agency [MEMA] for the following FEMA-funded grant awards: (1) Community Emergency Response Team, \$1,017.03; and (2) Citizens Corps Council, \$810.*

Motion by: Michele Couture

Seconded by: Cheryl Andrews

Yea 5 Nay 0

5C **TRANSPORTATION SECURITY ADMINISTRATION**

Revised Agreement for Police Details at Provincetown Airport

MOTION: *Move that the Board of Selectmen vote to approve the execution of a Law Enforcement Personnel Reimbursement Agreement Between the Transportation Security Administration (TSA) and the Town Of Provincetown for provision by the Provincetown Police Department of security screening at Provincetown Municipal Airport, for the period June 1, 2003 through September 30, 2003 in an amount not to exceed \$54,656, said agreement subject to approval as to form by Town Counsel.*

Motion by: Cheryl Andrews

Seconded by: Michele Couture

Yea 5 Nay 0

5D **FERRY EMBARKATION FEE**

Amend Proposed Ballot Question - 50¢ as of January 1, 2005

MOTION: *Move that the Board of Selectmen vote to amend its vote of August 11, 2003 relative to a ballot question for a ferry embarkation fee, and to vote instead, as the local appropriating authority under MGL C.59, §21C, to place on the ballot for the Tuesday, May 4, 2004 Annual Town Election the following question: "Shall the town of Provincetown accept the law that allows the Town of Provincetown to impose an embarkation fee of \$.50 per passenger departing per ferry trip?"*

Motion by: Sarah Peake

Seconded by: Richard Olson

Yea 3 Nay 2 (Cheryl Andrews / Michele Couture)

6A **HISTORIC DISTRICT COMMISSION**

MOTION: *Move that the Board of Selectmen vote to schedule interviews at [time and date] with nominees and applicants for positions on the Historic District Commission created by Chapter 15 of the General By-laws.*

Motion by: Michele Couture

Seconded by: Sarah Peake

Yea 5 Nay 0

6B **CONSERVATION COMMISSION**

Request for Second Alternate Member

MOTION: *Move that the Board of Selectmen vote, pursuant to Charter §6-16-3, to approve the Conservation Commission's August 14, 2003 request for creation of a second alternate member position for the Conservation Commission.*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 2 Nay 3 (Cheryl Andrews/Mary-Jo Avellar/Sarah Peake_
- MOTION DOES NOT CARRY -

6C See beginning of minutes.

7. **MINUTES OF BOARD OF SELECTMEN MEETING**

MOTION: Move that the Board of Selectmen vote to approve the minutes of August 11, 2003 (Regular Mtg.) [] as printed [] with changes so noted. (All Present)

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

MOTION: Move that the Board of Selectmen vote to approve the minutes of August 18, 2003 (Board Interviews) [] as printed [] with changes so noted. (MJA Absent)

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

8. **CLOSING STATEMENTS**

Michele Couture - None **Richard Olson** - None **Sarah Peake** - None

Cheryl Andrews

To Michelle Jarusiewicz -thank you for handling things while Keith was out.

Dough Boy - That section of Town Hall is looking pretty awful now. There's foul language on it and it's dirty. There use to be a gate there at one time. Maybe a cleaning of the granite can be done; some lighting at night, shrubbs, etc.

9A1 **LITIGATION STRATEGY: DEP WHYDAH APPEAL**

Accept DEP Proposal for Settlement

MOTION: Move that the Board of Selectmen vote, pursuant to MGLO C.39,§23B, clause 3, to go into executive session for the purpose of discussing strategy with respect to litigation; and not to convene in open session thereafter. [Roll Call Vote]

Michele Couture - Yes **Mary-Jo Avellar** - Yes **Richard Olson** - Yes

Sarah Peake - Yes **Cheryl Andrews** - Yes

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

Mary-Jo Avellar left the room due to conflict. Her husband is Assistant Harbormaster.

The Board went into executive session at 9:55 p.m.

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