

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

Rescheduled - REGULAR MEETING – MONDAY, DECEMBER 29, 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. Excused Absence: Richard Olson

Other attendees: Town Manager Keith Bergman

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

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

1A PUBLIC HEARING: MOORING FEES

Proposed Amendments to the Harbor Regulations, Appendix B

Comments from Public

Alex Brown owner of Victory Fisheries - Met with Marine Superintendent and he explained the rationale as to why the Harbor Committee wants to do this and I agree with him wholeheartedly. However, think that the fees should be gradually increased and the fees should not be the same for the small boats.

Staff Comments

Michele Couture - agrees with Mr. Brown that fees should be raised gradually. Answer: Chris Flavell - some will go down and some will go up.

	<i>Residential</i>	<i>Non-Residential</i>	<u>MOTION:</u> <i>Move that the Board of Selectmen vote to approve the Harbor Committee's November 19, 2003 recommendation to revise the Harbor Regulations by amending the</i>
<i>Individual Mooring permits</i>			
<i>Vessel Length</i>			
<i>0 to 16 feet</i>	\$20	\$40	
<i>Greater than 16 feet</i>	\$20 for the first 16 feet plus \$4 for each additional foot.	\$40 for the first 16 feet plus \$8 for each additional foot.	
<i>Holding Moorings</i>	\$100	\$200	

Harbor Regulations, Appendix B, Harbor Fee Schedules, by deleting:

And inserting in place thereof the following:

<i>Individual Mooring Permits</i>	<i>Residential</i>	<i>Non-Residential</i>
<i>Location/Vessel Length</i>		
<i>Above low water and less than 15 feet</i>	\$50	\$100
<i>Outside low water or greater than 15 feet</i>	\$75	\$200

<i>Vessels greater than 30 feet</i>	<i>\$125</i>	<i>\$300</i>
<i>Vessels greater than 40 feet</i>	<i>\$150</i>	<i>\$400</i>
<i> Holding Moorings</i>	<i>\$100</i>	<i>\$200</i>

Motion by: Sarah Peake Seconded by: Cheryl Andrews
Yea 2 Nay 1 (Michele Couture)

Mary-Jo Avellar returned.

1B PUBLIC HEARING; GROWTH MANAGEMENT

Annual Hearing Per Zoning By-law Article VIII, Section Cl.3)

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

Motion by: Cheryl Andrews Seconded by: Sarah Peake Yea 4 Nay 0

Comments from public in favor or opposed - None

Public Comments

Barbara Rushmore - Don't feel that when people use less water - the finances involved in it - I think that it is overdone.

Anne Howard - Want to let Board of Selectmen know that the Planning Board has not seen this report. Has not had any official meetings or discussions on this. We don't know anything right now.

David Nicolau- Re: Growth Management Report - who makes the recommendations? Attached to this report is a Community Housing Article that is trying to be presented and we are still working on it. Discussions have not been concluded. Would prefer to have a separate report on any article that may be coming your way. (Mary-Jo Avellar - we are inclined to agree with you.)

Ginny Binder - David is right and the Local Comprehensive Plan is working hard on the Growth Management section of the By-Law.

Staff Comments

Cheryl Andrews - 1) To Jon Gilmore - think the purpose of the Growth Management got lost in this process. There are two separate processes: a) Bring us the data at the end of the year. Tell us what is going on in terms of the areas we ask about and b) talk about the actual gallons that we're going to allocate in a given year under the Growth Management By-law and what the recommendation is about that.

There should be two reports: 1) Growth Management By-Law report and 2) Community Housing Annual Report.

Board of Health and the Water & Sewer Board are two critical boards for the report and should be present at the Public Hearing.

MOTION: *Move that the Board of Selectmen vote to ask the Town Manager to develop a proposed policy / process for community housing proposals to be developed and reviews [perhaps a joint public hearing].*

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

MOTION: *Move that the Board of Selectmen vote to keep this public hearing open until January 26, 2004; have staff rewrite the report and make sure the relevant boards are consulted in the meantime.*

Mary-Jo Avellar - With all due respect from everyone and their input. I am not sure we actually received a Growth Management Report - or the type of GM Report that we are use to receiving. Community Housing issue and the Growth Management Report are not the one in the same.

2. PUBLIC STATEMENTS

Su Hoffman - Upset over the Building Inspector relative to his decision on her condo landscaped area and parking spaces.

Valerie Martin - owner of Cape Cab. Concerned over the non-renewal of license for one of her employees. There are no procedures or policies to follow and suggest that guidelines be established immediately.

Barbara Rushmore - 1) Suggest that the Cell Tower hearing be attended by Town Counsel. 2) Early retirement - suggest that the town consider something similar to Yarmouth. 3) Water Bills - where are we spending all the money? 4) Room excise tax money - suggest that any money left over should go to the General Fund and not the Wastewater Enterprise Fund.

Steve Roderick - 1) Still have not had an answer as to why VSB is advertising in local publications. 2) You all missed a great Senior Dinner and saddened that a member of the Board of Selectmen was not there. Would like the proclamations printed in the banner. 3) On-Street Parking is out of hand ... so many cars in the street that no emergency vehicle could get through (Carver Street). People parking in front of fire hydrants, etc. Seriously needs to be looked into.

3. SELECTMEN'S STATEMENTS

CHERYL ANDREWS

Affordable Housing - food for thought for my fellow board members. Reality is, even though there has been this ongoing process, with all these groups working on the issues, I don't think there has been much direction, per se from the Board of Selectmen, other than some of the reports that we have issued one year to the other as to things that concerned us. I'm hoping, in Mr. Bergman's suggested process, that there is a Public Hearing and that we have it be a joint hearing with those groups so that we may share some ideas. One idea I plan to share, very strongly, is my personal hope that many of the units of Community Housing, that we're talking about creating offer year-round rentals. I don't see in the paperwork that the town is generating any strong distinction about units that are going to be used to provide year-round rental as opposed to owner occupied.

Conservation Commission - To Keith - 1) that we go out of our way to investigate training opportunities for the new members and 2) how we can contract out technical services. Let us know when you have any training sessions so that we may advise others that may want to attend.

Cell Tower - hearing being held in Boston.

MOTION: Move that the Board of Selectmen vote to have Town Counsel appear at the Nextel hearing in Boston.

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

Early retirement article in the Cape Cod Times - left out information about cost savings. They did not give you enough information to do the math.

Mr. Roderick's question about VSB - justification for advertising in local publications? (Keith - my first questions is did we pay for the ad or was it comp? Sarah - Is the VSB the oversight organization or does this come out of the Tourism Directors marketing fund - which I understand, at her discretion with the absence of a supervisor, has the ability to spend this money. I'm not sure where these funds come from and

who made the decision. I suspect that maybe the Tourism Director without input from the VSB. Keith - we can get some clarification on that. I've asked the Assistant Town Manager to look into that.

MICHELE COUTURE

Valarie Martin's questions. - What is the definition of a denial of someone's taxi license and what would be the standards of the appeal process? Chief Meyer - agrees and thinks it is a good idea to have a policy between the Police Department and the Licensing Department.

Reports by Mark Latour - I consider them to be exhaustive reports that he did relative to what Ms. Hoffman's problems are. Keith - We have found, on numerous occasions over the few years, that the parking issue at her condo association is a private matter.

Compliment the Police Department on the recent drug bust. Also, let us know if you need any help securing the \$8900 reimbursement from the State.

Glad to see that the second quarter room taxes are up.

SEMASS increase in rates. Is this going to affect our bottom line this year? Keith - We're looking at it and will have information on that by the time we submit the budget to you.

SARAH PEAKE

Relative to Ms. Rushmore's public statement re: water rates - in bringing this forward to town meeting how that money is spent in the Water Enterprise Fund. I have grave concerns about that notion. A great deal of that money will be spent on our infrastructure as well as in satisfying the DEP's mandate to find a redundant source. To bring a line item by line item to town meeting to approve every expenditure will tie our hands in such a way that we would not be able to move forward in a productive manner.

MOTION: Move that the Board of Selectmen vote to schedule a joint meeting with the Board of Selectmen, the School Committee and the Finance Committee in early February.

Motion by: Sarah Peake Seconded by: Cheryl Andrews Yea 4 Nay 0

MOTION: Move that the Board of Selectmen vote to place the letter from the Barnstable County Cooperative Extension congratulating our Shellfish Constable Tony Jacket in his personnel folder.

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

MOTION: Move that the Board of Selectmen vote to publish the Senior Citizen Day Proclamation (December 14, 2004) in the Provincetown Banner.

Motion by: Sarah Peake Seconded by: Michele Couture

- Motion withdrawn -

Steve Roderick will put it in the Banner along with his ad of thanks to all the people who helped during this event.

MARY-JO AVELLAR

Remind Chief Meyer that the Town of Newburyport has found a way to effectively try to reduce noise from motorcycles. Maybe he could take a look into this.

Agree with Barbara Rushmore on early retirement issues if it is geared toward employees who are planning on retiring and we are not filling their vacated positions.

439 Commercial Street sewer problem. 1) Want to thank Sandra Turner for getting out of her sick bed to handle the issue. The number for the sewer hotline was not being answered and she had to go find people, in the middle of the night. 2) The issue of non-installation of their sewer having gone one with town supervision. (This second issue has been answered as we saw a report from the DPW Director). David Guertin - we've changed the phone and the police has been given a list of back-up calls and we reprogrammed the phone and re-

instructed those that need to be re-instructed. Mary-Jo - Want to thank everyone involved for their help.

Richard Olson is making a presentation to the O'Neill Society today in San Diego and it is a really nice presentation and report.

4A1 **MDPH HIV/AIDS HOME HEALTH GRANT**

FY 2005 & FY 2006 Renewal

MOTION: Move that the Board of Selectmen vote to authorize the execution of the contract renewal with the Massachusetts Department of Public Health for the HIV/AIDS Comprehensive Home Health Program for FY 2005 & FY 2006 increasing the total maximum obligation of the contract from \$1,314,772.50 to \$1,648,112.50, an increase of \$333,340.

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

4A2 **MDPH HIV/AIDS HOME HEALTH GRANT**

FY 2004 sub contracts

MOTION: Move that the Board of Selectmen vote to authorize the execution of the following sub-contracts for the provision of homemaking services as outlined in the Town's grant agreement with the Massachusetts Department of Public Health for the period July 1, 2003 through June 30, 2004: (1) AIDS Support Group of Cape Cod, Inc. up to \$16,000 and (2) Visiting Nurses Association of Cape Cod up to \$8,904.80.

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

4B **VISITOR SERVICES BOARD - FY 2004 TOURISM FUND**

Co-op Advertising Grant Agreements: Chamber, PBG

MOTION: Move that the Board of Selectmen vote to approve cooperative advertising grant agreements of \$10,250 each to the Provincetown Business Guild and the Provincetown Chamber of Commerce for FY 2004, with funding therefor from the 699 Tourism Marketing budget for FY 2004.

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

4C **CENTER FOR COASTAL STUDIES**

Letter of Support for CZM Grant Application - Non-point source program

MOTION: Move that the Board of Selectmen vote to support the Center for Coastal Studies' application for a grant from the Massachusetts Office of Coastal Zone Management for a coastal non-point source program for Provincetown Harbor.

Motion by: Cheryl Andrews Seconded by: Sarah Peake Yea 4 Nay 0

5A **EMPLOYMENT CONTRACTS**

Approval of Extensions: Grant Administrator & HIV Grant Coordinator

MOTION: Move that the Board of Selectmen vote, pursuant to Policy Statement No. 2002-01-28-A, to approve the Town Manager's extension of the employment contract with Grant Administrator Michelle Jarusiewicz through December 31, 2004 and with HIV Coordinator Patrick Manning through June 30, 2004, upon the same terms and conditions.

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

5B **TOWN CLERK**

Approval of Town Manager's Appointment [Charter §7-2-5(d)]

MOTION: *Move that the Board of Selectmen vote, to approve the Town Manager's appointment of Douglas Johnstone of Provincetown as Town Clerk, effective January 1, 2004.*

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

6. **BOND ANTICIPATION NOTE #R1**

MOTION: *Move that the Board of Selectmen vote to accept the terms and conditions as contained in the Bond Anticipation Note document amounting to \$7,000,000.00 dated January 14, 2004 at 1.14% interest payable to Cape Cod Bank and Trust as the Town's paying agent. This note is scheduled to mature on January 14, 2005, as prescribed by Bond Counsel, the text of which is attached hereto and made a part hereof.*

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

7. **MINUTES OF BOARD OF SELECTMEN MEETINGS**

MOTION: *Move that the Board of Selectmen vote to approve the minutes of December 2, 2003 (Reg. Mtg.) with changes so noted. (All Present)*

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

MOTION: *Move that the Board of Selectmen vote to approve the minutes of December 8, 2003 (Reg. Mtg.) with changes so noted. (All Present)*

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

MOTION: *Move that the Board of Selectmen vote to approve the minutes of December 11, 2003 (Special Mtg.) as printed (MJA/SP Absent)*

Motion by: Michele Couture **Seconded by:** Sarah Peake
Yea 2 Nay 0 Abstain 2 (Mary-Jo Avellar/Sarah Peake)

8. **CLOSING STATEMENTS**

Cheryl Andrews

MOTION: *Move that the Board of Selectmen vote to send Selectman Cheryl Andrews and Michele Couture to the Board of Health meeting on January 8, 2004 to ask for a six month extension from the Board of Health and discuss with them the hiring of an Engineer.*

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

To Keith - do the mooring fees go into the general fund? **Answer:** Yes

97 Bradford Street property - was process and negotiations going on between DPW and Mr. Guertin and the owner. Was there ever a final conclusion. **Keith** - Mr. Guertin and I have met with the property owner and were are in the process of having Town Counsel draft a document for their review which will be close to settlement.

Michele Couture - None **Sarah Peake** - None **Mary-Jo Avellar** - None

Mary-Jo Avellar left the room due to conflict. Her husband works as Asst. Harbormaster.

9. **MacMILLAN PIER DAMAGER**

Litigation Strategy [MGL C.39, § 23B c1.3]

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B, clause 3, pursuant to go into executive session to discuss strategy with respect to litigation; and not to convene in open session*

thereafter [roll call vote]

Sarah Peake - Yes Cheryl Andrews - Yes Michele Couture - Yes

Motion by: Cheryl Andrews Seconded by: Michele Couture **Yea 3 Nay 0**

The Board went into executive session at 8:20 p.m.

Minutes transcribed by: Vernon Porter, Secretary
February 2, 2004