

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – TUESDAY, MAY 28, 2002

## JUDGE WELSH HEARING ROOM

Mary-Jo Avellar, Chairman opened the meeting 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, Assistant Town Manager Mark Latour

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

### 1 TOWN BOARD INTERVIEWS

***MOTION: Move that the Board of Selectmen vote to appoint Mitchell Baker as a Regular Member of the Licensing Board with an expiration date of December 31, 2002***

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

***MOTION: Move that the Board of Selectmen vote to appoint John Foley as an Alternate Member of the Licensing Board with an expiration date of December 31, 2004***

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

***MOTION: Move that the Board of Selectmen vote to appoint Peter A.T. Page as a Regular Member of the Zoning Board of Appeals with an expiration date of May 31, 2004.***

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

***MOTION: Move that the Board of Selectmen table this agenda item to a time uncertain.***

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

Steve Milkewicz did not show up and the Board asks that he be contacted to come in for an interview.

### 2. PUBLIC STATEMENTS

Joan Lenane – VSB budget presentation - we supported putting additional funding towards trash removal for DPW. Now that the Memorial Day weekend has come and gone, the addition of the 3<sup>rd</sup> pick-up in the evening has worked the trick and I want to thank Sandy Turner for all the work she has done in making that happen.

Gabriel Brooke – Grass at Bas Relief looks really beautiful and I want to compliment the DPW and the Beautification Committee on a wonderful redesign of the park. Speak in support of the Film Festival that will be before you tonight. Signage on Conwell Street – is there any regulations on the size – is the Licensing Board addressing that? Smoking Regulations due to go into affect October 1<sup>st</sup>. – outdoor seating vs. indoor seating would like to see all business have equal support and opportunity.

John Bennett - Rose Dorthea Race Committee – will be holding a Schooner Race – Sunday, September 15, 2002 and would like a letter of support to be sent to the Licensing Department from the Board of Selectmen for a Tent to be erected on the Pier or the Parking Lot from 6-11 PM for a Crew Party, along with a one day evening liquor license to be held on Saturday, September 14, 2002

Mary-Jo Avellar left the room

Referencing your agenda item under Town Counsel this evening regarding MacMillan Pier – Concerned over his space 10W – Schooner Hindu and the suggestion of realignment of spaces. As it is now, there is not room for him to operate and it is putting him out of business. Was supposed to be resolved when the new pier was built and it has not been resolved yet. A hazard to passengers as well as to his vessel. Suggest to the Board of Selectmen that they enforce the water space and rights that it has.

Mary-Jo Avellar returned.

Stephanie Saner – Re: Tobacco control regulations. Would like the regulations postponed until the next Town Meeting.

Michael Fernandez - Read into the record statement concerning pedestrian crosswalks. (See attachment #1)

Peter Sousa – 2<sup>nd</sup> hand smoke from cigarettes – what about diesel fumes from vehicles. Leaching fields – no regards for trees by contractors. Let's have respect for our land.

Steve Miliken - Re: Chapter 91 Whydah – opposed to moving the floats down. Understand that the Whydah already in violation. Hindu is severely burdened. Float Space 9 is having problems as well and they can't see backing out - a lot of factors that endanger passengers and the boats themselves.

Vaughan Cabral - Concerned over rumors of spaces moving down ten feet close to the bulkhead. Mr. Guertin has all the records and I believe the Whydah is in violation. The Town of Provincetown, which owns the Chapter 91 license, is not in violations – the Whydah is in violation. I would object very strongly to moving any closer to their bulkhead.

Jill Vaughan – Owner of Essentials – and lives in town. Would like Board of Selectmen to look into the signage that is on Conwell Street that has been going on for 5 weeks. Afraid that it will escalate into something that will end up in violence. Would appreciate anything the Selectmen can do to look into the situation on Conwell Street.

### 3. SELECTMEN'S STATEMENTS

#### Richard Olson

Applications to Boards. Would like to encourage applicants to type or print clearly the information. Also to fill out the application with some background information – this goes for those that want to be reappointed as well.

#### Sarah Peake

**MOTION:** *Move that the Board of Selectmen send a letter to Joseph Neumeister in response to his citizen's complaint regarding the Board of Health's Public Hearing held on May 16, 2002.*

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

**MOTION:** *Move that the Board of Selectmen send a letter to the Board of Health advising them of our receipt of a citizen's complaint and that as a Board we would encourage clear communication with the public in stating when their vote may or may not be held so that the public can make an informed decision as to whether to stay or leave.*

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

#### Cheryl Andrews

Thank you to those who spoke during public statements.

**MOTION:** *Move that the Board of Selectmen vote to ask the DPW Director, David Guertin to send a memo to the Board of Selectmen advising as to what kinds of activities the Wastewater contractors are scheduled for and where in town we would expect them to be occurring during Women's Week.*

Michael Fernandez – if he were here, I would apologize to him. He is absolutely right. I appreciate him bring this matter to our attention right away and I am sure we all agree and will talk to the Chief and have that done pronto.

One member of the public talked about various concerns about signage. I think the town is committed to respecting everyone's rights and upholding the law. I feel strongly that this Police Department and this Police Chief is here to enforce the law and if the laws are broken – something will be done about it. But just because we don't like something or the way something looks does not necessarily mean that a law is being broken. While I don't want to minimize the concerns, because I hear them clearly and see them often, I think we are all on aboard in understanding where breaking the law happens and where it doesn't. I feel strongly that everyone's rights are respected and the laws will be enforced in Provincetown.

**Michele Couture**

Letter from Mark Latour to Keith re: meeting with Winslow Street residents on the bus parking. One of the concerns that I have, and I am not in favor of, is the use of Tourism Fund to pay back taxi fare or trolley air back to the town. Keith – we are not going to do that.

Mary-Jo Avellar left the room.

FFT agenda postings dated April 4<sup>th</sup> - “#2 Change Order mentions that Building Committee authorized FFT to finalize timber platforms to support the Harbormaster's building. He indicated the Town is talking to an architect about making the platform large enough to accommodate public restrooms, probably to the North of the Harbormasters buildings. This matter will have to be resolved before the Town authorizes FFT to proceed.” Since this was supposed to impact their schedule - is that due to come up soon? David Guertin – The selectmen voted several meetings ago to authorize that change order and those engineering plans are almost completed. How it relates to AGM is a matter of opinion. It is a discussion item at the job meeting tomorrow at 8:30 am. Michele – the other one was from May 20<sup>th</sup> – under contract issues, it refers to the ramp rider, has that been resolved yet? David Guertin - Yes, a letter went out to AGM insisting that they procure what was specified. That transpired early last week. Michele – So there is not any plans to make any changes in what we have actually agreed to have done? David Guertin – We have no intentions of making any changes, other than authorized by the Building Committee.

Thanks the Police and all town departments for doing an extraordinary job over the Memorial Day weekend. I echo Ms. Leanne's comments that you all did a fabulous job. For all those people who made Memorial Day weekend successful – Thank You.

**Mary-Jo Avellar**

John Bennett – Regarding your request - you are going to have to put that in writing to the Town Manager. If you could make that request as soon as you can, it can be dealt with. That would include requesting the letter of support from the Board of Selectmen.

Echo crosswalk concerns by Michael Fernandez. It is important to make sure that those crosswalks are clearly identified.

***MOTION: Move that the Board of Selectmen send a letter of thanks to Andy Fisher, Cape Cod National Seashore thanking them for allowing us to use the second parking lot.***

**Motion by: Mary-Jo Avellar**

**Seconded by: Cheryl Andrews**

**Yea 5 Nay 0**

***MOTION: Move that the Board of Selectmen send a letter of thanks to Eric Dray who has resigned from the Provincetown Housing Authority.***

**Motion by: Mary-Jo Avellar**

**Seconded by: Cheryl Andrews**

**Yea 5 Nay 0**

Thanks to the Police Chief for his weekly reports.

***MOTION: Move that the Board of Selectmen send a letter of thanks to Veterans of Foreign Wars***

*thanking them for allowing us to use the their parking lot.*

**Motion by: Mary-Jo Avellar                      Seconded by: Cheryl Andrews                      Yea 5    Nay 0**

Thank you DPW – the Cemetery looked very nice.

Signage on Conwell Street – echo Dr. Andrews remarks – and that the Police Department and Administration are aware of what is going on.

**TOWN BOARD INTERVIEWS** (Continued)

**MOTION:** *Move that the Board of Selectmen vote to take off the table Town Board Interviews.*

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

**MOTION:** *Move that the Board of Selectmen vote to appoint Albert I. (Len) Bowen Jr. as a Regular Member of the Planning Board with an expiration date of May 31, 2003.*

**Motion by: Cheryl Andrews                      Seconded by: Richard Olson                      Yea 5    Nay 0**

**MOTION:** *Move that the Board of Selectmen vote to appoint Howard Burchman as a Regular Member of the Planning Board with an expiration date of May 31, 2004.*

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

**MOTION:** *Move that the Board of Selectmen vote to appoint Celine Gandolfo as a Regular Member of the Open Space Committee with an expiration date of May 31, 2005.*

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

**MOTION:** *Move that the Board of Selectmen vote to appoint Robin Evans as a Regular Member of the Open Space Committee with an expiration date of May 31, 2004.*

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

**MOTION:** *Move that the Board of Selectmen vote to appoint Hatty Walker Fitts as a Regular Member of the Open Space Committee with an expiration date of May 31, 2004.*

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

**MOTION:** *Move that the Board of Selectmen vote to appoint Miriam Collinson as a Regular Member of the Open Space Committee with an expiration date of May 31, 2003.*

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

**4A    AIRPORT COMMISSION**

MOA with Transportation Security Administration

**MOTION:** *Move that the Board of Selectmen vote to approve the execution of a memorandum of agreement between the Town of Provincetown (Provincetown Municipal Airport) and the United States of America (Transportation Security Administration), as approved as to form by Town Counsel, for provision by the Provincetown Police Department of security screening at Provincetown Municipal Airport.*

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

**4B    RECREATION DIRECTOR**

Establish Community Center Special Gift Fund

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL Chapter 44, section 53A, to establish a special gift fund, with the balance in said fund to be expended without further appropriation by the Recreation Commission to make improvements to the Community Center.*

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

**4C      STREET CLOSING; PROVINCETOWN FILM FESTIVAL**

**MOTION:** *Move that the Board of Selectmen vote to approve the closing of Commercial Street on June 13, 2002 between 9pm and 1am Carver Street to Winthrop Street for the Provincetown International Film Festival Opening Night Party in accordance with the conditions expressed in the May 15, 2002 memo of Town Licensing Agent Greta Holman, with the further condition that port-o-johns shall be required.*

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

**4D      PARADE PERMIT; PORTUGUESE FESTIVAL**

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Mark and Paul Silva, PO Box 1133, Provincetown, MA for the annual celebration of “The Portuguese Festival ” to be held on Saturday, June 29, 2000 from 5 p.m. to 8:00 p.m.*

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

**4E      PARADE PERMIT; BLESSING OF THE FLEET**

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Mark and Paul Silva, PO Box 1133, Provincetown, MA for the annual celebration of “The Blessing of the Fleet” to be held on Sunday, June 30, 2001 from Noon to 3:00 p.m.*

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

**4F      PARADE PERMIT; INDEPENDENCE DAY CELEBRATION**

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade Application Permit submitted by Dennis Clark, Recreation Director for the Town of Provincetown for the purpose of the Town to hold an Independence Day Parade to be held on Wednesday, July 4, 2002 from 11:00 AM to 12:20 PM.*

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

Mary-Jo Avellar left the room

**5A      WHYDAH – CHAPTER 91 LICENSE**

Discussion with Town Counsel

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, §23B, clause 3, to go into executive session for the purpose of discussion strategy with respect to litigation, and to convene in open session thereafter.*

**Motion by:** Michele Couture      **Seconded by:** Richard Olson

***Roll call vote:*** Sarah Peake – Yes      Richard Olson – Yes  
Michele Couture - Yes      Cheryl Andrews - Yes

Mary-Jo Avellar returned.

Cheryl Andrews and Keith Bergman left the room.

**5B** **BASINE V. ConCom [SITE Y WETLANDS]**

Discussion with Town Counsel

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, §23B, clause 3, to go into executive session for the purpose of discussion strategy with respect to litigation, and to convene in open session thereafter.*

**Motion by:** Michele Couture                      **Seconded by:** Sarah Peake

**Roll call vote:** Sarah Peake – Yes                      Richard Olson – Yes  
                                 Michele Couture - Yes                      Mary-Jo Avellar - Yes

Cheryl Andrews and Keith Bergman returned.

**6A1** **WATER UPDATE**

DPW Reorganization Plan

**MOTION:** *Move that the Board of Selectmen vote, pursuant to Charter §§7-2-2[i] and 7-2-3[i] to approve the reorganization of the Department of Public Works so as to staff the DPW Director's office with a non-union Grade 11 Deputy Water Superintendent.*

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

**6A2** **WATER UPDATE**

Water Management Planning: Off-Peak Billing Results: unaccounted for Water;  
Joint Meeting with Truro Selectmen.

**MOTION:** *Move that the Board of Selectmen vote to schedule a special meeting with the Truro Board of Selectmen for June 25, 2002 @ 6 pm, in accordance with Part I, Section 3 of the Intermunicipal Water Agreement.*

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

**6B** **MASS HIGHWAYS; WASTEWATER DISPOSAL**

Maintenance Agreement for Discontinuance of State Route 6

**MOTION:** *Move that the Board of Selectmen vote, pursuant to Article 58 of the April 1, 1991 Annual Town Meeting, to execute an agreement with the Massachusetts Highway Department relative to the maintenance of the discontinued portion of State Route 6 in Provincetown and otherwise to accept the discontinued portion of Route 6 "as is" based on said agreement.*

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

**6C1** **HERITAGE MUSEUM REPAIRS: CHANGE ORDER**

Kronenberg & Sons: CO#1- \$12,995; CO#2 - \$7,842

**MOTION:** *Move that the Board of Selectmen vote, to approve execution of Change Order #1 and Change*

*Order #2 in the amounts of \$12,995 and \$7,842, respectively, for the construction contract with Kronenberger & Sons of Middletown, CT for the base bid for Heritage Museum structural repairs.*

**Motion by:** Cheryl Andrews

**Seconded by:** Michele Couture

**Yea 5 Nay 0**

**6C2 DEM GRANT EXTENSIONS**

Historic Landscape Preservations: Winthrop Street Cemetery

***MOTION:*** *Move that the Board of Selectmen vote, authorize execution of grant agreement amendments for FY 2001 and FY 2002 with the Department of Environmental Management Historic Landscape Preservation grant program for the restoration of the Winthrop Street cemetery, to extend the project date to June 30, 2003.*

**Motion by:** Michele Couture

**Seconded by:** Cheryl Andrews

**Yea 5 Nay 0**

**7A POLICY STATEMENT**

Free Parking Permits for Provincetown Fire Department Members

***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, for members of the Provincetown Fire Department and Rescue Squad, the fee shall be waived for the parking permit for which said member would otherwise qualify, be it resident or non-resident. This policy is adopted as a gesture of thanks to those volunteers who provide Provincetown with its fire and rescue protection.*

*The Board of Fire Engineers shall annually in February prepare a list of the names and addresses of active Fire Department and Rescue Squad members, and shall present this list to the Parking Department. The Parking Administrator shall work from this list when issuing free parking permits to Fire Department/ Rescue Squad members during that year.*

*If there is a question by the Parking Department regarding who is or is not an active member of the Fire Department/ Rescue Squad, that question shall be answered by the Fire Chief, and the list prepared by the Board of Fire Engineers shall be updated accordingly.*

**Motion by:** Cheryl Andrews

**Seconded by:** Sarah Peake

**Yea 5 Nay 0**

**7B POLICY STATEMENT**

Waiver of Regulatory Fees 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 Town regulatory fees shall be waived by the respective Town boards and departments for affordable housing projects in which 100% of the project's units are affordable, provided that the applicant has first executed an affordable housing restriction document approved as to form by Town Counsel and executed by the Board of Selectmen.*

*The Town will report this fee waiver system 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.*

*The Town will also keep a record of amount of the fees waived and said amount shall appear as a separate category in the calculation of departmental revenues reported by the respective departments.*

**Motion by:** Michele Couture

**Seconded by:** Sarah Peake

**Yea 5 Nay 0**

7C **BOARD OF SELECTMEN'S RULES OF PROCEDURES**

Adoption, Consideration of Amendments

**MOTION:** *Move that the Board of Selectmen vote to accept the proposed revisions to the Board of Selectmen Rules of Procedures as submitted by Selectmen Sarah Peake (Section 4 (f), Section 4 (e), as follows:*

**Section 4 (f) (e)** Limit Public Statements *Public Statements are limited to a total of 60 minutes. Each public speaker is limited to 5 minutes speaking time.*

**Rationale:** This proposed change makes paragraph "f" become "e" so it can more easily be referred to in new paragraph "f". The second proposed change merely cleans up the grammar and makes the style consistent with the other paragraphs.

**Section 4 (e) (f)** The Board of Selectmen may respond to public speakers under public statements providing a majority of the board members present vote to do so *the speaker consents to the board member(s) responding and agrees to yield a portion of his or her 5 minutes of allotted time to said response.*

**Rationale:** This will allow us to be more responsive to our constituents while still limiting the time so discussions won't get out of control and take up too much of the night.

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

- **Motion Does Not Carry.** -

**MOTION:** *Move that the Board of Selectmen vote to accept the proposed revisions to the Board of Selectmen Rules of Procedures as submitted by Selectmen Sarah Peake (Sections 2 (g), Section 5 (c) and (d) as follows:*

**Section 2 (g.)** The Board of Selectmen will *may* schedule work sessions on the third Monday of the month. These work sessions will allow for more in depth discussion on matters pertaining to the town. They may include discussions with other boards and staff.

**Rationale:** "Will" could be interpreted as mandatory language, by saying "may" we are not requiring ourselves to schedule these work sessions.

**Section 5(c) and (d)** Section (C) states that after arguments questions will be asked by the public. Section (d) says "Questions will be accepted first from Board members and then from the public".

**Rationale:** This conflict needs to be reconciled.

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

8. **BOARD OF SELECTMEN APPOINTMENTS**

**MOTION:** *Move that the Board of Selectmen appoint Robert McCandless as a Regular Member of the Democratic Board of Registrars with an expiration date of December 31, 2004.*

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

8. **TOWN BOARD APPOINTMENT: DISABILITY COMMISSION**

Selectmen's Approval of Town Manager Appointment.

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.40, §8J, to approve the Town Manager's appointment of Licensing Agent Greta Holman as a regular member of the Disability Commission, for a term expiring December 31, 2004.*

**Motion by: Cheryl Andrews**

**Seconded by: Michele Couture**

**Yea 5 Nay 0**

**9. MINUTES OF BOARD OF SELECTMEN'S MEETINGS**

**MOTION: *Move that the Board of Selectmen approve the minutes of May 13, 2002 (Reg. Mtg.) as printed.***

**Motion by: Michele Couture**

**Seconded by: Cheryl Andrews**

**Yea 5 Nay 0**

**10. CLOSING STATEMENTS**

**Richard Olson - None**

**Sarah Peake - None**

**Cheryl Andrews - None**

**Mary-Jo Avellar - None**

**Michele Couture - None**

Motion to adjourn by Michele Couture at 10:31 PM

**Minutes transcribed by: Vernon Porter, Secretary ,  
June 17, 2002**

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