

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MARCH 26, 2001

JUDGE WELSH HEARING ROOM

The following minutes are available on-line as a service and are not the official record due to changes in formatting for the Internet. The minutes may have attachments that are not included here in this format. The official, complete paper copy can be viewed during regular office hours, Monday - Friday: 8 a.m. to 5 p.m. in the Office of the Town Clerk, 260 Commercial St. Provincetown, MA 02657.

Chairman, Betty Steele-Jeffers opened the meeting 7:04 PM noting the following attendees:

Board of Selectmen members: Elizabeth Steele-Jeffers, Cheryl Andrews, Mary-Jo Avellar, David Atkinson and Richard Prowell

Other attendees: Keith Bergman – Town Manager, Mark Latour – Assistant Manager

Recorder: Vernon Porter - Secretary to Board of Selectmen

The following are meeting minutes, in brief.

1A FY 2001 TOWN-WIDE POLICY GOALS QUARTERLY UPDATE IV

Fourth Quarterly Update from Goal Team Leaders

- Open Discussion -

1B WASTEWATER DESIGN-BUILD-OPERATE UPDATE

Introduction of “Most Advantageous” Proposer Metcalf & Eddy

Open discussion with Environmental Partners Group: Paul Gabriel, Mark White, Wayne Perry who introduced Metcalf & Eddy participants: Steve Johnson, Vice-President and Project Director and Brian Harrington who will lead M & E’s Provincetown’s team.

1C MacMillan PIER CONSTRUCTION PROJECT

Building Committee Recommendations

MOTION: *Move that the Board of Selectmen vote to approve the recommendations of the Building Committee and vote as follows relative to the MacMillan Pier Construction Project:*

(1) to approve Change Order #1 in the amount of \$246,728.45 to AGM for Test Procedure #3; added PDA testing at the "T" during Test #2; added PDA testing to piles 3F and 3B; extended reaction piles on the static load frame; the driving of additional indicator piles; and adding steel plates to the indicator piles.

(2) to award a \$15,000 contract for forensic engineering services to William S. Zoino; and

(3) to award a \$7,500 contract to perform two deep borings to Zoino Hebert Incorporated.

Motion by: David Atkinson ***Seconded by:*** Mary-Jo Avellar **Yea 5 Nay 0**

1D CHANGE ORDER: COURT STREET DRAINAGE

Coastal Engineering, \$12,000

MOTION: *Move that the Board of Selectmen vote to approve Change Order #2 in the amount of \$12,000 to Coastal Engineering, Inc. for additional professional services in connection with the Court Street/Shank Painter Road Drainage Project.*

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

1D MUSEUM MERGER FEASIBILITY STUDY: TAPPE' ASSOC.

Establish Gift Fund; Accept Funds; Award Contract: \$50,000

Richard Prowell and Betty Steele-Jeffers left the room.

Disclosure statement by Mary-Jo Avellar:

"I am a member of the Association of the Cape Cod Pilgrim Memorial Association. I receive no remuneration. No members of my family work for the CCPMA or do they receive any remuneration. For the privilege of belonging to the CCPMA, I pay \$25 per year. I have never voted on an issue at the CCPMA because I am not a member of the Board."

MOTION: Move that the Board of Selectmen vote as follows relative to a study of the feasibility of the Pilgrim Monument & Provincetown Museum merging the Heritage Museum collection with theirs:
(1) to establish a special gift fund pursuant to MGL C.44, §53A to be expended without further appropriation by the Town Manager to fund the Museum Merger Feasibility Study;
(2) to accept donations of \$2,000 each from the Cape Cod Pilgrim Memorial Association and the Friends of the Heritage Museum to be deposited in said Museum Merger Gift Fund;
(3) to accept a grant in the amount of \$18,000 from the Cape Cod Economic Development Council under its Cape & Islands License Plate Grant Program to fund said study;
(4) to approve the Visitor Services Board's recommendation of March 20, 2001 to transfer \$14,247 from unallocated funds in FY 2001 Municipal Projects to fund said study; and
(5) to authorize execution of a contract with Tappe Associates of Boston, MA in the amount of \$50,000 to conduct said study.

Motion by: Mary-Jo Avellar Seconded by: David Atkinson Yea 3 Nay 0

Richard Prowell and Betty Steele-Jeffers returned.

2. PUBLIC STATEMENTS

Phil Michaud - Have two main concerns. 1) Observing the Pier and hopes that we do not have to downsize the project. 1) Last week during the 40 – 50 mph winds they had problems with two vessels in trouble and the Coast Guard was not able to be of any help as the 47209 Coast Guard boat was out of service. The fishing vessel Terra Nova went aground in Provincetown Harbor and the fishing vessel Bandit went adrift after parting its mooring chain and had to be rescued by another private fishing vessel. Suggest that the Harbormaster needs larger boat. Would like the Selectmen to be aware of a possible dangerous situation – with Provincetown not being protected very well with little or no Coast Guard support when it is needed. We took care of ourselves this time but what about the future?

Jack Joyce - Commercial fisherman here in Provincetown – my first boat 'Dana Marie' sank because the Coast Guard refused to come out and help me in a storm and it blew up.

My new boat will be in the harbor in May. I've working on and off the harbor for over 30 years and I have seen the Pier go through a lot of changes. I'm concerned over two things that is going to cost the Town a lot of money. 1) is somebody watching the slump? 2) electrolysis – eats through metal – do the steel pilings have protection?

Peter Sousa - Wooden piles for the pier last 50 to 100 years. It cost more for consultants that it does to build a pier. My dreams are shattered – that land was Provinceland since 1654 for conservation and recreation. Saw the plans for the proposed treatment plant and feel insulted and sad that once that land is gone it is never coming back.

Sheila Benzer – does not trust the engineering and also feels the leaching fields will be extending into the

graveyards and that the town's people are quite upset over this. Also she feels that the DEP will not approve the Sewer Plant at this site.

Luis Ribas - Problems with last storm – no help from Coast Guard. Harbormaster needs larger boat. Concerned over electrolysis – galvanized problems. Leave 'T' the size as on the project. Talk to the fishermen – they will help you save time and money.

Jim McGowan - Two issues I want to bring to your attention.

1) Sewer System – I consider it to be a disaster as it is planned. “Unless they put an auxiliary power system in place to run all of the grinders. Let's power it with Town power or from the sewer plant. I got an estimate today of my cost of hooking up to it today - \$1780.00 – annual fee on top of the 20 year funding plus a water bill. I think we should meter the sewerage going into the pipe rather than the water going into the building and charge us on the sewerage usage rather than the water usage.

2) The Pier – this town entered into an agreement with myself as a taxpayer and other citizens. I think this Board of Selectmen should read the agreement because you are not in compliance with the agreement at this time. This Town has done things to skirt the agreement which I consider to be offensive – and almost to the point of litigation. I give you understanding – read the agreement you entered into before you allow this project to move forward. As far as these new pilings that you are considering, if they are not filled with concrete they will literally disintegrate around you within 15 years. Hollow steel piles don't work. Let this engineering firm tell you why they made so many mistakes. They can write a one paragraph letter to tell you to tear down the 'T' section but they can write you hundreds of pages of what they have done perfectly correct and there was just a little oversight here or a little oversight there. We are now over \$500K further in the hole on this pier design with many modifications and changes coming into place. There has been an attempt to modify the handicapped accessibility in violation of an agreement that you people collective entered into – don't go there 'cause I will go back into court again. I and others want you to clearly understand this pier is turning into a disaster and we are moving right down the end of it and we will be pushed right into the water at about \$22.5 million before you are done. This engineering firm has not done a thorough comprehensive job and we are paying dearly for it. And while we might sue them and they might have insurance – do they have an insurance policy – is it in hand, let's look at it. Why did they make this mistake? They have been looking after this pier for twelve years and these are the level of mistakes they made. Now they have come up with a new piling design – it won't be filled with concrete - we'll just push it in the ground. But what happens if it gets a hairline crack when it gets down a 100 feet and it gets filled with salt water and starts to disintegrate. Who's going to check it for the first five or six years? Is this engineering firm going to warranty this pier for 40 years? They won't warranty it until after they walk off the site – that's the end of their agreement to us. But we will pay for every failure we buy. Let's make sure we know what we are getting with our money – State and Federal money. OK! Do not modify this pier in any way shape or form other than what was laid out before me and in the agreement with Mr. Bergman, Kopelman & Paige and Fay, Spofford & Thorndike or we will go back to court. And you will be paying AMG huge fees for not allowing them to continue with the project. It's a two-way sword we've got here in front of us. I want a good safe pier – one for the public – one for everyone – one based on what we agreed to, not with modifications and changes week after week after week after week. Do we really know what we are building? I don't think anyone knows what we are going to get in the end other than the shaft. Thank you.”

3. SELECTMEN'S STATEMENTS

Cheryl Andrews

MOTION: *Move that the Board of Selectmen request that Police Chief Anthony recommend a correction of the issue concerning the problems at the intersection of Harry Kemp Way and Conwell Street.*

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

Betty Steele-Jeffers

Letter from citizen who is against two-way passage on Nickerson Street. We need to respond.

MOTION: *Move that the Board of Selectmen write to the appropriate Coast Guard authority and ask*

what our status is and mention that in the past forum we felt and the fishermen, pier users felt they were not getting adequate protection and that adequate protection was not available. Copy to our Congressional Representative

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

In terms of Mr. McGowan's comments I am requesting a response by our next regularly scheduled meeting.

I would ask the question, did we not vote just a couple of weeks ago to use 40 out of the 47 acres as open space. Answer: Yes.

A written response – comments relative to electrolysis as mentioned by members of the public during public statements. Also –hollow pipe as opposed to filled pipe, etc.

Mary-Jo Avellar

I agree with just about everything everyone said in public statements tonight. I said most of what I had to say about the Pier during that section. But what Jack Joyce said about Vaughn Cabral being able to build 4 piers for \$16M is true. I just don't have any faith in this new construction. With all due respect of all the hard work being doing by staff, I am very much afraid of public safety, I am terrified of what is going on down there.

David Atkinson

Coast Guard issue – People that are down there, their hands are tied by the funding that comes from Congress.

Pier – test pilings – I asked if they were going to get dipped and she said no as they were only test pilings but I got the impression they were going to be treated. It would be nice to get a report or something to hear about it.

4A TRAFFIC HEARING CONTINUATION

Parking on Howland Street Next to the Patrician – Item 10

MOTION: *Move that the Board of Selectmen vote to approve the recommendation of the Transportation Team to eliminate the first full parking space on the east side of Howland Street closest to the Bradford Street intersection. This would create a corner restriction, improve visibility and maneuvering space at the intersection to eliminate parking in a public way and retain the other 6 spaces that have been in use fore many years.*

**Motion by: Mary-Jo Avellar Seconded by: David Atkinson
Yea 4 Nay 1 (Betty Steele-Jeffers)**

4B LAND COURT PLAN DISCREPANCY

Captain Bertie's Way

MOTION: *Move that the Board of Selectmen vote to assent to the plan as filed with the Court effectuating a change in the Land Court Plan abutting Captain Bertie's Way.*

Motion by: David Atkinson Seconded by: Cheryl Andrews Yea 5 Nay 0

5A APRIL 2, 2001 ANNUAL & SPECIAL TOWN MEETINGS

Adoption of Board of Selectmen's Recommendation on Articles

MOTION: *Move that the Board of Selectmen vote to recommend Special Town Meeting Article 2.*

Motion by: Cheryl Andrews **Seconded by:** David Atkinson
Yea 3 Nay 2 (Mary-Jo Avellar / Richard Prowell)

MOTION: *Move that the Board of Selectmen vote to recommend Special Town Meeting Article 9.*

Motion by: Cheryl Andrews **Seconded by:** Mary-Jo Avellar
Yea 4 Nay 1 (David Atkinson)

MOTION: *Move that the Board of Selectmen vote to recommend on Special Town Meeting Article 11.*

Motion by: Cheryl Andrews **Seconded by:** Mary-Jo Avellar
Yea 4 Nay 1 (David Atkinson)

MOTION: *Move that the Board of Selectmen vote to reserve recommendation on Special Town Meeting Article 12.*

Motion by: David Atkinson **Seconded by:** Cheryl Andrews Yea 5 Nay 0

Cheryl Andrews and David Atkinson left the room.

MOTION: *Move that the Board of Selectmen vote to recommend Special Town Meeting Article 18.*

Motion by: Mary-Jo Avellar **Seconded by:** Richard Prowell
Yea 3 Nay 0 Abstain 0

MOTION: *Move that the Board of Selectmen vote to indefinite postpone Special Town Meeting Article 19.*

Motion by: Mary-Jo Avellar **Seconded by:** Richard Prowell
Yea 3 Nay 0 Abstain 0

MOTION: *Move that the Board of Selectmen vote to recommend Annual Town Meeting Article 3.*

Motion by: Richard Prowell **Seconded by:** Mary-Jo Avellar
Yea 3 Nay 0 Abstain 0

MOTION: *Move that the Board of Selectmen vote to not recommend Annual Town Meeting Article 4.*

Motion by: Richard Prowell **Seconded by:** Mary-Jo Avellar
Yea 3 Nay 0 Abstain 0

Cheryl Andrews and David Atkinson returned.

MOTION: *Move that the Board of Selectmen vote to recommend Special Town Meeting Article 24.*

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

MOTION: *Move that the Board of Selectmen vote to recommend Annual Town Meeting Article 14.*

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

MOTION: *Move that the Board of Selectmen vote to not recommend Annual Town Meeting Article 12.*

**Motion by: Cheryl Andrews Seconded by: David Atkinson
Yea 3 Nay 2 (Mary-Jo Avellar / Richard Prowell)**

MOTION: *Move that the Board of Selectmen vote to recommend Annual Town Meeting Article 18.*

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

MOTION: *Move that the Board of Selectmen vote to indefinitely postpone Annual Town Meeting Article 23.*

**Motion by: Mary-Jo Avellar Seconded by: Cheryl Andrews
Yea 4 Nay 1 (David Atkinson)**

MOTION: *Move that the Board of Selectmen vote to recommend Annual Town Meeting Article 24.*

Motion by: David Atkinson Seconded by: Richard Prowell Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to recommend Annual Town Meeting Article 25.*

Motion by: Cheryl Andrews Seconded by: David Atkinson Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to recommend Annual Town Meeting Article 33.*

**Motion by: Richard Prowell Seconded by: Cheryl Andrews
Yea 3 Nay 2 (Mary-Jo Avellar / David Atkinson)**

MOTION: *Move that the Board of Selectmen vote to reserve recommendation on Annual Town Meeting Article 34.*

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

MOTION: *Move that the Board of Selectmen vote to indefinitely postpone Annual Town Meeting Article 40.*

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

MOTION: *Move that the Board of Selectmen vote to reserve recommendation on Annual Town Meeting Article 41.*

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

5B SURPLUS DECLARATION

Town-owned Vehicles

MOTION: *Motion that the Board of Selectmen vote, pursuant to Provincetown General By-laws §6-4-6, to authorize the Town Manager to dispose, by sealed bid, of the following Town-owned vehicle declared surplus by the Town Manager and the Board of Fire Engineers: Old Fire Vehicle 195, a 1976 International Loadstar 1800/Continental Fire Engine, VIN # D05326HA10867.*

Motion by: David Atkinson Seconded by: Cheryl Andrews Yea 5 Nay 0

5C **ENERGY EFFICIENCY PLAN (STM-24)**

Cape Light Compact

MOTION: *Move that the Board of Selectmen vote to recommend Special Town Meeting Article 24 which would: approve and adopt the Cape Light Compact Energy Efficiency Plan, and the Compact's submission of the Energy Efficiency Plan on the Town's behalf to the Department of Telecommunications and Energy, and authorize the Board of Selectmen to approve such amendments or revisions to said Energy Plan as they may deem necessary or advisable, or to take any other action relative thereto.*

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

6 **BOARD OF SELECTMEN APPOINTMENTS**

MOTION: *Move that the Board of Selectmen appoint Kenneth Barge as a Regular Member of the Provincetown Local Housing Partnership with a term expiration date of June 30, 2003.*

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

7. **MINUTES OF MEETINGS**

MOTION: *Move that the Board of Selectmen approve the minutes of March 12, 2001 (Regular) with changes so noted.*

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

MOTION: *Move that the Board of Selectmen approve the minutes of March 13, 2001 (Traffic Hearing) with changes so noted. (Add reason why to No Action Take items.)*

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

8. **CLOSING STATEMENTS**

None

Cheryl Andrews and David Atkinson left the meeting at 10:30 PM

9. **AFSCME CAPE END MANOR UNIT**

Collective Bargaining Strategy

MOTION: *Move that the Board of Selectmen vote to go into executive session, pursuant to MGL Chapter 39, section 23B, clause 3, or the purpose of discussion strategy with respect to litigation; and not to convene in open session thereafter.*

Motion by: Mary-Jo Avellar **Seconded by:** Richard Prowell Yea 3 Nay 0

[Roll Call Vote]

Mary-Jo Avellar - Yes Richard Prowell – Yes Betty Steele-Jeffers - Yes

Board went into executive session at 10:31 PM

Minutes transcribed by: Vernon Porter, Secretary April 3, 2001