

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING - FEBRUARY 14, 2000

## JUDGE WELSH HEARING ROOM

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Chairman, Betty Steele-Jeffers opened the meeting at 7 PM, noting the following attendees: Board of Selectmen members: Elizabeth Steele-Jeffers, Cheryl Andrews, Mary-Jo Avellar, David Atkinson, Richard Prowell and Vernon Porter, Secretary to the Board of Selectmen. Other attendees: Keith A. Bergman -Town Manager, E. Winn Davis – Assistant Town Manager, Ken Learned – Director of Municipal Finance, David Guertin – DPW Director, Craig Weigand – Water Superintendent and other interested parties

The following are minutes, in brief.

### 1 PUBLIC HEARING: GRANT APPLICATION

Ready Resource Program: \$490,000 for MacMillan Pier Reconstruction

***MOTION: Move that the Board of Selectmen vote to submit a grant application for \$490,000 for the MacMillan Pier Reconstruction project under the Ready Resource Program through the Department of Housing & Community Development, and to request a waiver from the Director of DHCD for the maximum funding allowed.***

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

### 1B PUBLIC HEARING: HARBOR REGULATIONS

Fee Structure for Commercial Embarkation/Debarkation at Extended Skiff/Dinghy Dock

***MOTION: Move that the Board of Selectmen vote to amend the Harbor Regulations by creating a new category of skiff-dinghy dock permit for appropriately sized small boats and tenders from commercial boats (as determined by the Marine Superintendent) to embark and debark passengers at this and/or other designated town facilities carrying a charge of \$300 per boat per season.***

**Motion by: David Atkinson    Seconded by: Cheryl Andrews  
Yea 4 Nay 1 (Richard Prowell)**

### 1C SCHEDULE PUBLIC HEARING ON SHUTTLE: 3/13/00

Project Briefing on Proposed Provincetown/Truro/Seashore Shuttle

***MOTION: Move that the Board of Selectmen vote to schedule a public hearing for Monday, March 13, 2000 at 7 p.m. on the proposed Provincetown/Truro/Seashore shuttle.***

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

## 2. PUBLIC STATEMENTS

**Patricia Fitzpatrick** – Read letter requesting Board of Selectmen invite the Captains and crews of the Tall Ships to “Drop Anchor in Provincetown” on their journey to Boston during the Sail Boston - July 11-16, 2000. (Attachment #1)

**Barbara Rushmore** - This years fireworks – is money required from VSB – if so – how much? Need a response

ASAP.

**Jimmy Fund bike rack** – location should not be at Bas Relief. Should be located next to the vestibule and stone barriers next to Town Hall.

**Elevator access** has been limited as the door has been locked. Would like some help on this matter.

**Celine Gandolfo** – MMA meeting with Telecommunications Industry and they are introducing a bill that overrides local zoning by-laws.

**Rick Murray** – Still have not received any answers of his requests in January. #91 numbers – Growth Management By-Law changes. Read letter into record. (Attachment #2)

## **SELECTMEN'S STATEMENTS**

**Mary-Jo Avellar - Re:** Dr. Murray's comments along with letter from Tom Hocard and Larry Mahan - can't support Growth Management By-Laws at this time. Changes have to be made.

**Elevator** – should be open.

**Motion:** *Move that the Board of Selectmen contact Sail Boston 2000 and extend an invitation for the Tall Ships to stop at Provincetown during their journey to Boston and further to have Patricia Fitzpatrick, Tourism Director draft the letter.*

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

**Bas Relief** – West Side – no more ground cover – a lot of erosion. People still driving on it and may be part of the problem. Request this be put on as agenda item for 2/28/00 Board of Selectmen meeting.

**Finance Committee** – read in newspaper that the finance committee met with a quorum of one. **Keith** – No – a quorum of 5 met and under the Town Board handbook that the Town Clerk has drafted and consistent with the State Law – that a board can convene with a quorum and less than a quorum can act on a motion. **Mary-Jo Avellar** – then I would like some clarification from Town Counsel on this matter.

**David Atkinson** – Dr. Murray's suggestion – I agree and this matter should be looked into.

**MMA – Cell towers** – as mentioned by Celine Gandolfo. Notices some at the Wellfleet Fire tower.

Thank **Warren Alexander** for his letter of February 7<sup>th</sup> re: 142 Commercial Street – and was wondering if there were any update. (Mr. Snow is appealing.)

**Letter of 2/7/00 from Building Committee** to appoint Joyce Guide – gave to Town Manager to handle.

Memo from Keith 2/7/00 re: Pre-Hearing Conference of the Town's Appeal of DEP's Reduction of **Provincetown Water System** on March 31, 2000 – who will be attending and should one of the selectmen be there? Town Manager and Staff will cover.

**Thanks** to Environmental Partners and Sterns & Wheeler for their professional presentation and pictures.

**Reconfigured lot at Race Point Road** – (Collision Property) – we should purchase this piece of land. (**Keith** – DPW has checked out this area and the reconfiguration does not include the area where we have electrical wiring buried. We will have to discuss moving the line so as to include this area.)

## **Official documents - Boards votes**

**Motion:** *Move that the Board of Selectmen vote to include the actual vote(s), in parenthesis, of Selectmen's decisions when they are mentioned in official paperwork.*

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

**RICHARD PROWELL** – Skiff/Dinghy Dock - voted against using it for commercial purposes. I am against it for safety reasons and have no problem looking at it again after the new pier is built. Against fees being charged and in

the original motion the Marine Superintendent - it's at his discretion – yet, now he's going to be using a commercial boat. I have a problem with that and glad that I voted against that.

**Hallway Avenue property** – would like to get an update from Mr. Davis before he leaves. I see it in the paper periodically and I sure would like to know where it's at right now.

Still looking for information on **Clapp's Pond traffic** – whether it's walk-in or vehicle using that – whether we block it off or not. I was out there the other day and am still seeing a lot of damage to this area.

**CHERYL ANDREWS** – Barbara Rushmore's questions as to where the **bike rack** should go. Do we still have an active Bike Committee? Answer: No Then that is our problem! She has a valid point. Look forward to comments from my colleagues – would not mind having that discussion with the board.

Mr. Prowell raises the concern about a **conflict of interest** with regards to the Skiff/Dingy Dock – and I am glad he mentioned it as it is obviously a problem. We have an Assistant Harbormaster and I would assume he would be in charge of those areas and that there would be a financial conflict of interest.

**Pre-hearing DEP ground water withdrawal permit.** – The State comes in and without any hearing or discussion whatsoever and takes away 100K gallons per day of our pumping rights that we exercised since 1990 - I think the Town of Provincetown should be screaming bloody murder. If your need selectmen there, let us know.

**MOTION:** *Move that the Board of Selectmen vote to direct the Town Manager to take whatever steps necessary to send a strong message at the pre-hearing and all that is to follow, that our rights needs to be protected and that we feel they haven't been. We want to preserve our rights to that 100K gallons.*

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

**Growth Management By-law** – need a priority list? The concept of allocating gallonage into different categories was raised the night of the public hearing – it wasn't raised prior to the night of the that hearing and consequently we did not really talk about whether we could support it or not. I don't have a lot of problem with it. It makes a lot of sense in terms of this fairness issue. I think it would be an improvement over the old system. All these complaints that are coming out now – the truth is that some of them have been around since the beginning of the Growth Management By-Law for about 10 years. My suggestion to the Selectmen is to prepare a separate article as an addendum to our GM By-law. Present it to the Planning Board the night of their hearing. If they support this change, which can be done reasonably simply and it sounds like Staff is interested in it, great! If they don't then the Board of Selectmen can bring it forward at Town Meeting. I think it would be a good discussion on Town Meeting floor. **(Add this item to Feb. 22<sup>nd</sup> agenda)**

**Cape End Manor** – When first came on the Board - new subject – definition of the problem was the amount we were subsidizing Manor budget and we needed to deal with that. The Manor has done a fantastic job. Read article dated 2/14/00 from Boston Globe on closing of Nursing Homes. Medicaid and Medicare reimbursement schedules. This is not just affecting us it is affecting nursing homes all over the country. We've never as a Board said, "Hey! It's time to start screaming." We should be screaming at our State and Federal officials about these reimbursement rates. I think we should start taking some political action in this area and start to press our Congressmen and our State Reps and let them know that it is about time that we see these changes. This is not going to solve all of our issues at the Manor but it certainly is one of them. It's getting worse and worse. They are just ignoring the problem.

**Betty Steele-Jeffers** - will leave statements until the end.

#### **4 FISCAL POLICY PLAN ADOPTION** FY 2001-FY 2010 Financial Planning Tool

**MOTION:** *Move that the Board of Selectmen vote to adopt the conclusion of the Town Manager's Fiscal Policy Plan that the Town cannot afford to undertake all three "beyond the baseline" projects-- i.e., school improvements, Cape End Manor facility, and the Library/Heritage swap-- in FY 2002 as their proponents plan.*

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

**Addition to the above motion.** *Move that in the event any of the school projects proceeds sooner than FY 2005, that one-half of the debt service costs associated therewith should be defrayed by the School Department.*

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

**5 OPEN SPACE COMMITTEE – Recommended Acquisition Priorities**

**MOTION:** *Move that the Board of Selectmen vote to table this item until the February 28, 2000.*

**Motion by:** David Atkinson **Seconded by:** Cheryl Andrews for Discussion  
**Motion withdrawn by both David Atkinson and Cheryl Andrews.**

Betty Steele-Jeffers turned this portion of the meeting over to Cheryl Andrews and left the room.

Board of Selectmen want a detailed report from the Open Space Committee with the help of Staff. (Cheryl Andrew: If a conclusion has been reached – tell us what your conclusion is and why you came to it. In lieu of minutes, tell us your process and how you came to the conclusion you did.)

**MOTION:** *Move that the Board of Selectmen vote to continue this agenda item until the next Board of Selectmen meeting on February 28, 2000.*

**Motion by:** Mary-Jo Avellar **Seconded by:** David Atkinson **Yea 4 Nay 0**

Betty Steele-Jeffers returned to the room.

**6A APPROVAL OF FEES - Licensing Board: Liquor License Fees**

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.40,§22F, to approve the following increases in license fees adopted by the Licensing Board on February 8, 2000:*

<i>Fee</i>	<i>Current</i>	<i>Proposed</i>
Annual All Alcohol Beverages Pouring Licenses	\$1100	\$1250
Annual All Alcohol Package Store License	\$1100	\$1200
Annual Wines & Malt Beverages Pouring License	\$950	\$1100
Annual Wines & Malt Beverages Package Store License	\$950	\$1050
Seasonal All Alcohol Beverages Pouring Licenses	\$1200	\$1350
Seasonal All Alcohol Package Store License	\$1100	\$1200
Seasonal Wines & Malt Beverages Pouring License	\$1050	\$1200
Seasonal Wines & Malt Beverages Package Store License	\$950	\$1050
Club (Non Profit) All Alcoholic Beverages License	\$200	\$230
Application	\$25	\$30

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

**6B APPROVAL OF FEES - Board of Health: Solid Waste Disposal Fees**

David Atkinson recused himself from agenda item 6B and left the room

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.40,§22F, to approve the following transfer station fee increases proposed by the Director of Public Works to be considered by the Board of Health at a public hearing to be held on March 9, 2000.*

**Motion by:** Mary-Jo Avellar **Seconded by:** Cheryl Andrews **Yea 4 Nay 0**

David Atkinson returned to the room.

**7A WATER UPDATE - US Geological Survey, Cape Cod National Seashore**

**MOTION:** *Move that the Board of Selectmen fund Provincetown's share of the USGS study on "Water Resource Analysis of the Lower Cape Cod Aquifer System" from the FY 2001 Water Enterprise Fund, by reducing the Reserve Fund by \$25,000 and increasing the 5922 CCNS/Testing Program line by a like amount.*

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

**7B HERITAGE MUSEUM ENGINEERING CONTRACT**

**Coastal Engineering Change Order \$10,000**

**MOTION:** *Move that the Board of Selectmen vote to approve Change Order #1 to the engineering contract with Coastal Engineering in the amount of \$10,000 for repairs to the Heritage Museum, as recommended by the Director of Public Works.*

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

**7C GRACE GOUVEIA & LIBRARY BUILDINGS - REPAIRS**

**Change Order: Dandis Contracting, Inc. \$2,200**

**MOTION:** *Move that the Board of Selectman vote to approve a change order to the contract with Dandis Contracting, Inc. for repairs to the Grace Gouveia and Library buildings in the amount of \$2,200, as recommended by the Director of Public Works.*

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

**7D APRIL 3, 2000 ANNUAL & SPECIAL TOWN MEETINGS**

**Set Dates for Opening and Closing of Warrants**

**MOTION:** *Move that the Board of Selectmen vote to open the April 3, 2000 Annual and Special Town Meeting warrants on Monday, February 28, 2000 and to close them on Friday, March 3, 2000 at 5:00 p.m., in accordance with Charter §2-1-7.*

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

**7E FY 2001 BUDGET AMENDMENTS**

**Capital Improvements Program Substitutions; Senior Tax Credit Program**

**MOTION:** *Move that the Board of Selectmen vote to amend its recommendations for the FY 2001 Capital Improvements Program (a) by adding \$150,000 to the Fire Vehicle Account for replacement of Rescue 196; and (b) by deleting \$175,451 for School Improvements, which the School Committee will be adding to its \$5.7-million SBA-funded building project.*

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

**MOTION:** *Move that the Board of Selectmen vote to amend its recommendation*

*for the FY 2001 Council on Aging budget by deleting \$10,000 from line 541/731 Senior Tax Program, and vote to insert an article onto the April 3, 2000 Special Town Meeting warrant to accept the provisions of MGL C.59, §5K, Senior Citizen Property Tax Work-Off Abatement.*

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

**7F APPROVE APPOINTMENT**

**Acting Assistant Town Manager Michelle Jarusiewicz**

**MOTION: *Move that the Board of Selectmen vote, pursuant to Charter section 7-2-5-c, to approve the Town Mnaager's appointment of Grant Administrator Michelle Jarusiewicz as Acting Assistant Town Mnager for the period of February 22, 2000 through the effective date of the appointment of the next permanent Assistant Town Manager.***

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

**7G SOUTH HOLLOW WELLFIELD IMPROVEMENTS**

Change Order: Environmental Partners Group: \$32,600

**MOTION: *Move that the Board of Selectman vote to approve a change order to the engineering contract with Environmental Partners Group, Inc. for South Hollow Wellfield improvements, in the amount of \$32,600, as recommended by the Director of Public Works.***

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

**8 CONTRACT EXECUTION – Town Manager Employment Agreement**

**MOTION: *Move that the Board of Selectmen vote, pursuant to Charter section 4-4-1, to execute an employment agreement with Town Manager Keith A. Bergman for the period April 23, 2000 to April 22,2002.***

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

Note: Add Preformance Appraisal Policy #5 to 2/28/00 Agenda

**9 BOARD OF SELECTMEN APPOINTMENTS**

**MOTION: *Move that the Board of Selectmen appoint Peter A. Garza as a Regular Member of the Art Commission with a term expiring 12/31/01.***

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

**MOTION: *Move that the Board of Selectmen appoint Stan Klein as a Regular Member of the Board of Health with a term expiring 12/31/02.***

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

**MOTION: *Move that the Board of Selectmen appoint Greta N. Holman as a Regular Member of the Cable Advisory Commission with a term expiring 12/31/01.***



## 11 CLOSING STATEMENTS

David Atkinson

**MOTION:** *Move to appoint Joyce Guide as a Regular Member of the Building Committee.*

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

Barnstable Assembly of Delegates – would like for us to appoint someone to be on their Advisory Board of County Expenditures.

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Annual Town Report – memo from Stephan saying that they were short \$332.00 for a colored cover. I asked Patricia Fitzpatrick if VSB could fund under marketing. Comments from Board: Don't feel this is marketing.

-  
Intermunicipal Water Agreement with Truro – what would be the harm of having someone from Truro be on the board as a non-voting member? "Mary-Jo Avellar – NO !  
Absolutely not. Betty Steele-Jeffers – I think that is a worthwhile discussion but not at 11 o'clock at night. I am with you David – I don't mind if we have some discussion if we can frame it properly – but not at 11 o'clock at night."

Richard Prowell – Pass

-  
Cheryl Andrews – Follow-up issue – Town Clerk report as to minutes that were not filed on a timely manner. I would like to see this report. Comments: Report was submitted all the committees. Cheryl Andrews – then I apologize to the Town Clerk. Would someone give me a copy of that report. Mr. Begman, if you can get me a copy of that report I would be grateful.

-  
Betty Steele-Jeffers - Barbara Rushmore's question about fireworks – the answer to that please. Keith – Toursim budget and municipal expenses. Pat should be able to find that? Answer: Yes

RE: 91 Permits – maybe we got but Dr. Murray did not get – how the 91 permits were arrived at. Someone should send it out to him with date and an apology.

-  
Mary-Jo Avellar – Visitor Services Board – thought that the money from the VSB was to enhance the off-season tourism. When does the money stop – seed money. We are going to face a problem with Holly Folly. Cheryl – Can you explain what you mean - we are going to face a problem with Holly Folly? Are you saying they are going to come to the Board and appeal the decision of the VSB? Mary-Jo – they are going to have to because the committee would not vote to give Holly Folly their money. Cheryl – so you are assuming they are going to come here? Mary-Jo – Yes. Betty – they do because it is a grant and the grants come to us anyway. Keith – there are a couple of opportunities here: 1) the Board of Selectmen ought to adopt a policy for the edification of VSB on what you view as repeat offenders and whether or not you are going to entertain funding for multiple years – that you may need to direct the VSB to prepare a list.

Cheryl – that's the if. Mary-Jo – my understanding is that we would give seed money but once the organization got up and running and was successful - know the Single Men's Weekend is a money maker now – should they continue to receive money from VSB? If Holly Folly has become a financially stable program – should they forego the money in favor of another group that may come up with something new. The notion is to find things for these off weekends – off session business. If someone is already making money then they don't need our help anymore – we did our part and now it's time to let us give to the another organization. Cheryl – if the Board were to adopt a policy – what would be the time frame for them – or is there one? Keith – I think you would want to

give six months notice – if it was your intent not to fund a project for the 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> year. It would be fair to give the promoters of that project, at the earliest possible date, at least six months notice of your intent not to do that. Betty – someone has to inquire from the Toursim Director how many grants have come before them and when they intend to bring them forward to us for our final approval.

Motion to adjourn by Cheryl Andrews at 10:00 PM

Minutes transcribed by: Vernon Porter, Secretary  
February 25, 2000