

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING - APRIL 24, 2000

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 at 7:00 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, and other interested parties.

The following are minutes, in brief.

1A PUBLIC HEARING CURB CUTS

48-58 Harry Kemp Way

MOTION: *Move that the Board of Selectmen vote, pursuant to General By-laws Section 11-6-2, to approve the application of William N. Rogers II on behalf of Harry Kemp Way Corporation for the following curb cuts: 48 and 50 Harry Kemp Way (Assessor's Maps 13-1-025G and 13-1-025H), 56 and 58 Harry Kemp Way (Assessor's Maps 13-1-025E and 13-1-025F), and 52 and 54 Harry Kemp Way (Assessor's Maps 13-1-025A and 13-1-025D).*

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

1B PUBLIC HEARING: MacMillan PIER FLOAT SPACE 6W

Transfer of Stock in Ranger V Corporation

MOTION: *Move that the Board of Selectmen vote in accordance with Special Condition No. 7 of the Chapter 91 License for MacMillan Pier issued October 23, 1995, to approve the proposed transfer of stock in MacMillan Pier Float Space 6W Licensee Ranger V Corporation [Gerald Costa, Sr., Truro, MA, manager] to Dana Goddell, Boston, MA and George Hilton, Newburyport, MA.*

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

2. PUBLIC STATEMENTS

Peter Sousa - Read into record a letter he sent to newspaper re: "Endangered Habitat".
(Attachment #1)

Michelle Orman - Supports Whaler's Wharf and read into record a petition she generated to 'urge the Selectmen of Provincetown' to put the Whalers Wharf issue to rest once and for all. (Attachment #2)

Paul DeRuyter - One of the owners of Whaler's Wharf. This project has proceeded in good faith and they are willing to work. Feels they have done nothing wrong. Dealing with any concerns in the best possible way.

Celine Gandolfo - re: MMA – Telecommunications Law – before Legislators at this time. Request that we write letter stating we are not in favor of the proposed legislation.

Sheila Benzer – In complete agreement with contents of the letter that Peter Sousa sent to newspapers and asked that Selectmen think of the consequences of their actions towards Clapps Pond area.

Dennis Alley – Seconds the request by Celine Gandolfo. “Guts our Zoning By-laws.”
Urge the Selectmen to write a letter immediately and stand up and fight for an important ordinance that preserves local authority.

Rick Swift – spoke in support Whaler’s Wharf

Richard Cuencasuinka - spoke in support of Whaler’s Wharf

Michael Rogers, Montague, MA – in support of Whaler’s Wharf.

Joe Sousa – Support of Whaler’s Wharf

Nicholas Robertos – fire victim and urge Selectmen to let this project proceed

Elizabeth Patrick - Read letter into record concerning Whaler’s Wharf. (*Attachment #3*)

Robert Swift - (Attorney for Whaler’s Wharf) - Response to Ms. Patrick’s comments just made. 1) This project is one of the most highly reviewed projects in this Town starting in the fall of 1998. 2) Relative to any damage that may have been caused to the Patrick’s building – my clients have insurance and are ready to deal with any issues that may have caused any damage to their property. That is a non-issue for us. We have tried to meet with the Patrick’s several times to resolve any issues but have been unable to get them or Mr. Snow to meet with us. To refer to Cape Cod Commission, at this time, is improper.

3. SELECTMEN’S STATEMENTS

David Atkinson

Whaler’s Wharf – I think we can learn, if anything, from this whole experience. What we should put in place is a process where computer generated 3-dimensional pictures shows proposed new construction in existing neighborhood – from North – South – East and West – before committee - any project over \$250K. This way everybody knows what is going on.

Ronald Martin - Long time Cemetery Superintendent is retiring effective June 30, 2000.

MOTION: *Move that the Board of Selectmen send a Thank You letter and a Town Pin to Ronald (Gus) Martin for his service to the Town.*

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

MOTION: *Motion that the Board of Selectmen forward the letter dated April 19,200 from Chuck Turley, Executive Director of the Pilgrim Monument & Provincetown Museum to the Heritage Museum’s Directors for appropriate action.*

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

MOTION: *Move that the Board of Selectmen invite a dialogue with the Pilgrim Monument and Heritage Museum people with reference to the Rose Dorothea for the purpose of fact finding.*

Motion by: David Atkinson **Seconded by:** Richard Prowell
Yea 1 Nay 4 (*Motion does not carry.*)

Cape Cod Advisory Commission - Letter can now go out appointing Keith.

MOTION: *Move that the Board of Selectmen schedule the Art Commission as a future agenda item.*

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

MOTION: *Move that the Board of Selectmen send a letter to Superintendent Maria Burks of the Cape Cod National Seashore requesting documentation supporting the fact that the CCNS must charge a fee. Request response by next regular meeting.*

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

Richard Prowell

Wireless Communications - I'd like to address the two speakers regarding wireless communications. I would really like to get involved in this – unfortunately, from now on I will not be able to enter into any discussions as I am employed by Bell Atlantic – a former employer of ATT and my brother is employed with GTE – which is soon to merge with Bell Atlantic. Therefore, I cannot get involved and should the subject come up again, I will have to leave the room. It is a very important item and I would like to see the Board schedules this as an agenda item – unfortunately, I cannot be part of the discussion. This is all I'm going to say on this matter.

Mayflower Compact – I had a very historic interview on the Mayflower Compact a week ago last Thursday night at Crown Point. I would very much like to thank the English Television Company and the owners of Crown Point, Pilgrim Monument and our wonderful Tourism Director, Pat Fitzpatrick for this wonderful evening. I look forward to this very historic event to take place in Plymouth, England in May of this year.

Properties behind 333 and 331 Commercial Street - Had a tour with one of the property owners – Lee Brenner who brought this matter up about two years ago re: debris on the beach.

MOTION: Move that the Board of Selectmen request our Health Agent send us a one page report on the debris issue located on the beach behind 331 and 333 Commercial Street.

Motion by: Richard Prowell **Seconded by:** Mary-Jo Avellar **Yea 5 Nay 0**

Cheryl Andrews

Curb Cuts - Human nature – is that if you can help people or have them leave your Board or Commission meeting happy – we try to do that. Typically the only time that it does not happen is when an abutter comes in and shows an interest; has a lot of questions or hires an attorney – difficult issue. What happens when an abutter is not happy - they get booed and hissed. I'm trying to figure out, as a Selectmen, what I can do to help the process along – and I am seeing three areas that would like to mention to the selectmen.

- 1) It is incumbent upon us to demand good performance of Staff
- 2) We should say to the public, “If you don't like some of the things that are going on in Town – volunteer and get on these Boards.
- 2) Some of these laws, in general, need some tightening. Particularly the scale by-law, we should discuss that this coming year and second one would be with regards to the wetland protection act.

MOTION: *Move that the Board of Selectmen notify MMA, and the proper authorities, of the Boards non-support of the current MMA' proposed legislation on siting of wireless communications facilities.*

Motion by: Cheryl Andrews **Seconded by:** Mary-Jo Avellar

Yea 3 Nay 1 (David Atkinson) Abstain (Richard Prowell)

Betty Steele-Jeffers

Parade Permit - Cape Cod Gay Pride – Saturday - May 20, 2000

MOTION: *Move that the Board of Selectmen approve the Parade Permit of the Cape Cod Gay Pride to be held on Saturday, May 20, 1000.*

Motion by: Mary-Jo Avellar **Seconded by:** Betty Steele-Jeffers **Yea 5 Nay 0**

2nd Part of their request is to hang banners – will be handled by Keith and DRM Staff.

Banner request – dated April 24, 2000 – Nancy Fletcher. - (Betty to Vernon Porter – I am handing both of these over to the Town Manager.)

Comments to Mr. Sousa and Ms. Benzer - I think that the Wastewater project has taken years to get to the point that it is and that the only reason that I was not hot for the amended article is that I do not want to do any of this off the cuff and that is the way that I viewed it. That's all I have to say about it.

Whaler's Wharf - All I have to say about the scale is that I can understand that the Building that is there is not what people expected. I personally find it unusual because I do not really have that much to do with zoning regulations. Did visit the site and was concerned that businesses would be able to get in there. It is not really before the Board of Selectmen other than to hear public comments. Looks as though the Zoning Board decision stands

Mary-Jo Avellar

Whaler's Wharf – I have the same sentiments as my fellow selectmen. Dale Elmer was so loyal to the people that no one ever thought that they should approach him to buy the building so we could build a Library. We all feel badly for the tenants who expect to be in there this summer. There are a lot of issues that tug at our hearts and at your logic and I don't know now where this is going to go or whether this is our purview anymore – or what is going to happen. I can certainly see the merits on both sides.

Banner Request – I'm not in favor of any banners that come up as off-premises advertising without specific permission like the Film Festival in the Town Hall. When things start going across Commercial Street and are promoting businesses it seems to me that they should be going to the Zoning Board. Portuguese Festival and the PBG Pride they string banners from one end of Commercial Street to the other but none of them have anybody's name or advertising on them.

Burn Dump – I did vote in favor of the amendment. Didn't see any harm in it if, indeed, it is our will not to injure those wetlands that surround the old burn dump.

MOTION: *Move that the Board of Selectmen send a letter of thanks and a Town pin be given at the retirement of Director of Municipal Finance, Ken Learned and Assistant Town Clerk, Charles Holmes.*

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

Last Meeting - this could conceivably be my last meeting should I not be re-elected.

I've very much enjoyed serving with the current board and you have all treated me with a great deal of respect. I wish you all well should you find someone else sitting in my seat next week. Should I, however, be re-elected I'm going to continue to press for us to follow, what I consider to be one of the good examples of our Zoning Board of Appeals, is that when they conduct business in front of the public and call on members of the public that they do not use the person's first name. Thank you everybody for the past three years.

4. VICIOUS DOGS/DOG BITES

MOTION: *Move that the Board of Selectmen vote, pursuant to Charter section 4-1-2, to approve the issuance of an amended Administrative Directive 2000-02, setting forth the interdepartmental protocol for vicious dogs and dog bites prepared by the Regulatory Management, Police, and Public Health departments.*

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

(Keith will make the amended changes discussed at this meet.)

5A WASTEWATER UPDATE/ENGINEERING CONTRACTS

John Goodrich, Stearns & Wheeler, Environmental Partners Group

MOTION: *Move that the Board of Selectmen the next time they meet with the Town of Truro bring up the use of Pamet Lens for leaching.*

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

MOTION: *Move that the Board of Selectmen vote to authorize execution of the following contracts for wastewater facilities planning activities: (1) with John Goodrich in an amount not to exceed \$25,000 for facilitation services over the next year; (2) with Stearns & Wheler, LLC, in the amount of \$94,930 for development of the Comprehensive Wastewater Management Plan (CWMP); and (3) with Environmental Partners Group, Inc. (EPG) in the amount of \$199,350 for engineering work in support of the CWMP-- all as approved as to form by Town Counsel.*

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

5B1 OLD BURN DUMP CLOSURE / ENGINEERING CONTRACT

Environmental Partners Group

MOTION: *Move that the Board of Selectmen vote to authorize execution of a contract amendment with Environmental Partners Group, Inc. in an amount not exceed \$64,995 for engineering work in connection with the closure of the Old Burn Dump, as approved as to form by Town Counsel.*

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

5B2 SURPLUS DECLARATION

Town Owned Vehicles

MOTION: *Move 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 vehicles declared surplus by the Town Manager and the Director of Public Works: (1) 1989 Chevy Impala, and (2) 1991 Ford Crown Victoria.*

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

5B3 TOWN CLERK

Receipt of Certification on Petition to Recall School Committee Member

WHEREAS, the Board of Selectmen has received the Town Clerk's certificate pursuant to Charter §10-1-5

as to the sufficiency of a petition filed on April 20, 2000, pursuant to Charter §10-1-4, for the recall of School Committee member Dana Berry;

NOW, THEREFORE, I MOVE that the Board of Selectmen forthwith give written notice of the receipt of said certificate to School Committee member Dana Berry inviting his resignation within five days hereafter, all as mandated by Charter §10-1-6.

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

6. TREASURER/COLLECTOR

Revenue Anticipation Note No. 983

MOTION: *Move that the Board of Selectmen vote to issue Revenue Anticipation Note # 983 in the amount of one million dollars (\$1,000,000) dated April 28, 2000 at 4.25% interest payable at maturity to Cape Cod Bank & Trust Company on June 1, 2000.*

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

7. R.W. WALTERS ADVERTISING

Erection of Info-Boards on Town Property

MOTION: *Move that the Board of Selectmen vote to NOT approve the request of R. S. Walters Advertising, Inc., 251 Stevens St., Hyannis, MA 02601 to erect two info-boards on Town owned property. One to be erected inside Town Hall lobby and the second to the left of the rest rooms in the courtyard areas which faces MacMillan Parking Lot (MPL – town property).*

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

MOTION: *Move that the Board of Selectmen vote to remove all tourism related information out of the Lobby of Town Hall*

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

8. ANNUAL PERFORMANCE EVALUATIONS

Town Manager, Secretary to the Board of Selectmen

MOTION: (1) *Move that the Board of Selectmen vote, pursuant to the employment agreement dated February 14,2000 to submit to Town Manager, Keith A. Bergman a letter from the Board of Selectmen (attached) which establishes his annual performance as overall excellent as described therein, said letter summarizing his annual performance review and the priorities the Board has for the coming year; and, further to establish Town Manager Keith A. Bergman's merit pay increase for July 1,2000 at 3.2%*

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

MOTION: (2) *Move that the Board of Selectmen vote to establish Board of Selectmen's Secretary Vernon Porter's annual performance appraisal score as 12.6 Exceeds Expectations.*

Motion by: Mary-Jo Avellar Seconded by: Richard Prowell Yea 5 Nay 0

9. **BOARD OF SELECTMEN APPOINTMENTS**

MOTION: *Move that the Board of Selectmen vote Sarah Robin of 4 Stearns Avenue, Provincetown, MA as a Regular member of the Historic District Study Committee.*

Motion by: David Atkinson **Seconded by:** Mary-Jo Avellar
Yea 2 Nay 2 (Betty Steele-Jeffers / Richard Prowell)
Abstain 1 (Cheryl Andrews)

Discussion: Set up interview with Sarah for Thursday, April 27,2000 at 5 PM.

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10. **PROCLAMATION**

Arbor Day: Friday, April 28,2000

MOTION: *Move that the Board of Selectmen vote to proclaim Friday, April 28, 2000 as Arbor Day in the Town of Provincetown, and to authorize the issuance of a proclamation thereof drafted by Selectman David Atkinson.*

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

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11. **MINUTES OF BOARD OF SELECTMEN MEETINGS** – None at this time.

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12. **CLOSING STATEMENTS**

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David Atkinson

MOTION: Move that the Board of Selectmen send a copy of the Arbor Day Proclamation to Joseph Speroni, c/o Kingsbury Family and William Scott Family, c/o John Henry

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

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Richard Prowell - None at this time.

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Cheryl Andrews - Minutes of meetings from Boards – stress the importance of getting these minutes submitted to Town Clerk.

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Betty Steele-Jeffers - Building Committee is one of those Committees that have practically no minutes on record. If they are coming to us, I want to see minutes formally presented to us that they held a meeting and at that meeting vote by vote by vote of what they are bringing forward.

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Mary-Jo Avellar - if Committees do not file minutes, we ought to call them in and find out what is going on.

Motion to adjourn at 10:42 PM by Mary-Jo Avellar

Minutes transcribed by: Vernon Porter, Secretary
May 2, 2000