

Special Town Meeting

Monday, June 22, 2009

Meeting Called to Order. Town Moderator Irene Rabinowitz convened the Special Town Meeting at 6:00 p.m. on Monday, June 22, 2009 in the Veterans Memorial Elementary School.

Preliminary motions:

Michele Couture moved that the Town vote to waive the reading of the warrant.

Motion Passed.

Michele Couture moved that the Town vote to grant permission to speak at the June 22, 2009 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown: Russell Braun, *Building Commissioner*; John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Alexandra Heilala, *Finance Director*; Brandon Motta, *Recreation Director*; Beau Jackett, *Information Systems Director*; Michelle Jarusiewicz, *Housing Specialist/Grant Administrator*; Maxine Notaro, *Permit Coordinator*; Jane Evans, *Health Agent*; Wendall Kalsow, *Principal, McGinley Kalsow & Associates*; Mark Almeda, *Project Engineer, McGinley Kalsow & Associates*; Rob Adams, *Project Manager, Metcalf & Eddy*; Bill Meyers, *Project Superintendent, Kronenberger & Sons Restoration, Inc.*; Radu Luca, *Tourism Department Intern*; Domenic Rosati, *Parking Lot Manager*; Clarence Whatmough, W.W. Reich, Inc., *Clerk of the Works*

Motion Passed.

Michele Couture moved that on all matters to come before the June 22, 2009 Special Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

Motion Passed.

Article 1. Town Hall Renovations

To see if the Town will vote to raise and appropriate, or transfer from available funds, or borrow a sum of money for Phase II construction costs for the comprehensive restoration and renovation of Town Hall consisting of the replacement of the mechanical, electrical, plumbing, fire protection systems, and including all costs incidental and related thereto, with said borrowing authority contingent upon approval by the voters of a Proposition 2 ½ debt exclusion ballot question in accordance with the provisions of M.G.L. c. 59, §21C(m); or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Borrowing Authorization - 2/3's vote required

Sharon Lynn moved that the Town appropriate the sum of 2.9 million for Phase II construction costs

for the comprehensive restoration and renovation of Town Hall consisting of the replacement of the mechanical, electrical, plumbing and fire protection systems, and to update the accessibility of the building to comply with current building code requirements and including all costs incidental and related thereto; that to meet this the appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum pursuant to M.G.L. ch. 44, §7(3A), or any other enabling authority, and to issue bonds or notes of the Town therefor, said borrowing authority to be contingent upon approval by the voters of a Proposition 2 ½ debt exclusion ballot question, in accordance with the provisions of M.G.L ch.59, §21C(m).

Motion Passed. (2/3rd's Vote Declared)

Article 2. Fund Step 10 Retroactive Pay

To see if the Town will transfer \$15,245 from ATM 2007 Article 10, By-law increases, to fund the AFSCME Step 10 retroactive pay for 16 union employees that was not included in the FY2010 budget, or take any action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

David Bedard moved that the Town vote to transfer \$15,245 from ATM 2007 Article 10 to fund the AFSCME Step 10 retroactive pay for 16 union employees.

Motion Passed.

Article 3. Community Preservation Act: Acceptance of Administrative Expenses Permissible Under the Act

To see if the Town will vote to appropriate from Fiscal Year 2010 Community Preservation Fund estimated annual revenue a sum of money to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2010; or to take any action relative thereto.

[Requested by the Community Preservation Committee]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

William Dougal moved that the Town vote to appropriate from Fiscal Year 2010 Community Preservation Fund estimated annual revenue the sum of \$15,000 to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2010.

Motion Passed.

Article 4. Home Rule Petition: Equitable Distribution of Revenue

To see if the Town will instruct its Representatives in the General Court to file and support legislation that would return to the Town on a dollar for dollar basis the revenue collected on local option taxes, including meals and room tax, that is collected in the Town of Provincetown, rather than distributing said revenue in accordance with the Lottery aid formula; or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Mary-Jo Avellar that the Town vote to indefinitely postpone Article 4.

Motion Passed.

Article 5. Use of Parking Funds to Purchase Automated Pay Stations

To see if the Town will vote to expend \$17,000 from the Parking Fund for the purchase of one (1) automated pay station kiosk which will accept coins, paper currency, tokens and credit cards to be installed at the Ryder Street Parking Lot; or to take any other action thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Michele Couture that the Town vote to expend \$17,000 from the Parking Fund for the purchase of one (1) automated pay station to be installed at the Ryder Street Parking Lot.

Motion Passed.

Article 6. AMENDMENT to 04-06-09 ATM Article 17: Land Bank – Acquisition of Land for Community Agriculture, Conservation, and Open Space – 6R, 10R and 14R Browne Street

To see if the Town will vote to revise the vote taken under Article 17 of the April 6, 2009, Annual Town Meeting by changing the funding source for the acquisition of the Browne Street Parcel from borrowing to a transfer from Land Bank Funds, and further to reduce the amount of funds to be transferred from the Land Bank by the amount of any grants received for this acquisition; or to take any action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

OPEN SPACE COMMITTEE RECOMMENDS: 4-0-0

Austin Knight moved that the Town vote to approve Article 6 as printed in the warrant.

Motion Passed.

Article 7. PARC Land Grant – Suzanne's Garden

To see if the Town will vote to supplement the vote taken under Article 18 of the April 6, 2009 Annual Town Meeting, which vote authorized the Board of Selectmen to acquire the fee interest in a certain portion of the parcel of real estate at 608 Commercial Street and authorized the Board of Selectmen or other applicable boards or commissions to apply for federal, state or other funds, to specifically authorize the Board of Selectmen and/or the Open Space Committee and/or other boards or commissions to apply for and accept funding under the PARC grant program (formerly, Urban Self-Help) (G.L. c. 132A, Section 11) and enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition and grant; or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE RECOMMENDS: 7-0-0
OPEN SPACE COMMITTEE RECOMMENDS: 4-0-0

Mary-Jo Avellar moved that the Town vote to approve Article 7 as printed in the warrant.
Motion Passed.

Article 8. Add Alternate Member to Animal Welfare Committee

To see if the Town vote to amend Article 27 of the 2005 Annual Town Meeting, to include one (1) alternate member on the Animal Welfare Committee, to be appointed by the Board of Selectmen, to a three year term; or to take any action relative thereto.

[Requested by the Animal Welfare Committee]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION

Candace Nagle moved that the Town vote to approve Article 8 as printed in the warrant.
Motion Passed.

Article 9. Waterways Capital Reserve Fund

To see if the Town will vote to give the Provincetown Public Pier Corporation all the mooring fees that now belong exclusively to the Town, and that such mooring fees in their entirety must continue to be deposited in the Waterways Improvement and Maintenance Fund and shall be expended only with a majority vote of the Town Meeting for harbor and pier-related expenses as outlined in *M.G.L. Chapter 40, Section 5G; Municipal waterways improvement and maintenance funds*; the Waterways Fund shall be used exclusively as a capital reserve for extraordinary and large capital expenditures for waterways improvements and maintenance. The Provincetown Public Pier Corporation shall continue to fund a maintenance reserve of \$50,000 a year, as required by the Special Act (Chapter 13 of the Acts of 2000) under which it was established. Because all the funds in the Waterways Fund shall be used exclusively for the Pier Corporation's maintenance and improvement projects, the Town shall no longer be required after June 30, 2009 to subsidize the Pier Corporation for collecting mooring fees and for other harbormaster services; or to take any action relative thereto.

[Requested by Duane A. Steele and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 4-0-1
FINANCE COMMITTEE DOES NOT RECOMMEND: 7-0-0

Duane Steele moved that the Town vote to approve Article 9 as printed in the warrant.
Motion Does Not Pass.

Article 10. Home Rule Petition: ½ % Real Estate Transfer Fee

Whereas: Provincetown is a unique community with a summer population ten times the year-round population, requiring us to provide water, garbage disposal, police, ambulance, health and building inspections, etc. for 40,000 to 50,000 people rather than 4,000 to 5,000.

Whereas: Since Provincetown has had overrides in 2007 and 2008, we have reached our 2½%

limit. Now we need more revenue to repair our Town Hall, meet contractual obligations to Town employees and keep up maintenance of our buildings and grounds and streets.

Whereas: Real Estate Transfer Fees are widely used and are common across the nation. They are used in states from Alabama to Vermont. They are used by counties and cities. In New York State, the fee is 1% over a million dollar value. Nantucket assesses a 2% Real Estate Transfer Fee.

Therefore: Section 1: I move to see if the Town will vote to instruct its Senator and Representative in the General Court to file a Home Rule Petition for a Real Estate Transfer Fee equal to 0.5% paid for by the purchaser (s) on the sale of all real property, payable to the Town of Provincetown Capital Project Stabilization Fund, up to \$250,000 per year, with the remainder going to the Provincetown General Fund.

Section II: The following transfers shall be exempt from the Real Estate Transfer Fee:

A: Transfers to the Government of the United States, the Commonwealth, the Town of Provincetown and any of their instrumentalities, agencies or subdivisions, such as the Provincetown Housing Authority.

B: Transfer made to a Purchaser who, or whose spouse at the time of transfer, has at no time prior to said transfer owned or possessed any real property, either within or without Barnstable County: Provided that the purchaser shall make the Real Property Interest which is the subject of the transfer the Purchaser's actual domicile within two years of the Time of Transfer: provided further that in the event of a subsequent transfer within five years of the transfer exempted from the fee under this subsection, other than the transfer of a mortgage to an Institutional Lender, the Fee exempted shall become due, together with the accumulated interest and penalties, and in addition to any Fee otherwise due as a result of the subsequent transfer. The Purchaser shall certify as to the foregoing, and the Commission shall attach to the deed a certificate which shall recite the fact that "There is running with the land a lien equal to the amount of the Fee exempted plus accumulated interest and penalties until such time as all conditions of this subsection have been met."

C. Transfers without additional consideration to confirm, correct, modify or supplement a transfer previously made.

D. Transfers of convenience with consideration under \$100.00 which include name change, into trusts, out of trusts, etc.

E. Transfers to any charitable organization as defined in clause Third of Section Five of Chapter Fifty-nine of the General Laws, or any religious organization, providing that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purpose.

F. Transfers between family members, marriage partners, parents and children, step-parents and step-children, brothers and sisters.

Section III: A: The fee imposed shall be due at the time of transfer of real property interest at the Barnstable County Registry of Deeds.

B: The Purchaser shall pay interest on any unpaid amount of the fee at the rate of 14% per annum.

C: The Town shall notify a Purchaser by Registered or Certified Mail of any failure to discharge the amount in full of fee due.

D: All fees and interest required to be paid under this act shall constitute a personal debt of the Purchaser and may be recovered in an Action of Contract.

The General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the

general public objectives of this petition or take any action relative thereto.

[Requested by Barbara Rushmore and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 3-2-0

FINANCE COMMITTEE RESERVES RECOMMENDATION: 5-0-1

Barbara Rushmore moved that the Town vote approve Article 10 as printed in the warrant.

Motion Does Not Pass.

Town Moderator Irene Rabinowitz motioned to dissolve the June 22, 2009 Special Town Meeting at 7:54 p.m. **Motion Passed.**

June 22, 2009 Special Town Meeting dissolved at 7:54 p.m.