

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN**

**REGULAR MEETING – APRIL 11, 2011 6 PM**

**TOWN HALL – JUDGE WELSH ROOM**

Chairman Michele Couture convened the meeting at 6:00 PM noting the following Board of Selectmen attending: Michele Couture, David Bedard, Austin Knight and Elaine Anderson,

Excused Absence: John Santos

Other attendees: Town Manager Sharon Lynn, Assistant Town Manager David Gardner

Recorder: Vernon G. Porter

Swearing in of Tom Koumanelis as Sergeant of the Provincetown Police Department by Town Clerk and pinned by his father.

**1A PUBLIC HEARING: ECONOMIC DEVELOPMENT PERMIT**

67 Bradford Street, Brass Key

Chairman Couture read the Public Hearing Notice into the record.

Owner Tom Walter spoke on behalf of Brass Key Hospitality Group LLC.

In favor or opposition – None

Board of Selectmen

Austin Knight – Hours and months that you're open? Answer - Lounge is full time year round April – November and part-time December thru March.

Elaine Anderson – Can you explain your gallonage – it says you have 700 and in reality you're trading in some and only using 350. Answer: Yes, we are trading in some from Crowne Pointe and are giving 10 seats back to the town.

Austin Knight – Just to make it clear and there is no misunderstanding, we are not into trading gallons as there is no such thing as trading gallons. David Gardner – There is no transfer of gallons. What will need to occur is that at the time that they go before the Water and Sewer Board to increase their betterment at the Brass Key we will have them sign the abandonment of 350 gallons at the Crowne Pointe.

**MOTION: *Move that the Board of Selectmen vote to approve Economic Development Permit 11-07 for 67 Bradford Street, Attorney Eliot Parkhurst, applicant, on behalf of Brass Key Hospitality Group LLC, property owner, based on findings that the proposed use is consistent with the criteria set forth in Selectmen's Policy 2009-02-09, subject to the attached permit with conditions as submitted, with the condition that a reduction in use occur at the Crowne Pointe property.***

**Motion by: Elaine Anderson      Seconded By: Austin Knight      Yea 4    Nay 0**

**1B PUBLIC HEARING: ECONOMIC DEVELOPMENT PERMIT**

63 Shank Painter Road – SniffK9 Training

*David Bedard recused himself as he owns a business which abuts the only other kennel in Provincetown. Perceived conflict of interest.*

Chairman Couture read the Public Hearing Notice into the record.

Michael Canizales applicant and owner of SniffK9's gave a brief description of his proposal.

Public who would like to speak in Favor - None

Public in Opposition

Custodio Silva – No opposition except for the public kennel. Have petition from 85 residents presented to the Board.

Nancy Sirvent – Was surprised to hear that someone wanted to open a kennel 3 doors down from and existing business and still be able to survive.

Edna Holley – I feel the same way that Ms. Sirvent does. Two kennels year round – there is not enough business for each to survive. I don't think that is right to allocate water for a second business.

Chairman Couture read email from Candace Nagle into record.

The Board suggested that the applicant come back with a revised plan for 400 gallons.

**MOTION:** *Move that the Board of Selectmen vote to postpone this agenda item until the Board of Selectmen's April 25, 2011 meeting.*

**Motion by:** Austin Knight    **Seconded By:** Elaine Anderson  
Yea 2    Nay 1 (Michele Couture)

*David Bedard returned.*

**1C PUBLIC HEARING: ECONOMIC DEVELOPMENT PERMIT**

336-U2 Commercial Street #6 – Tiny's Restaurant

Chairman Couture read the Public Hearing Notice into the record.

Kristyn Samok, applicant, gave a brief presentation on the reasons for her application.

Public in Favor

Barbara Rushmore – Very much in favor and ask that the Board of Selectmen approve her application.

Ms. Carney – Also in favor of this application and praise her on her fresh organic food.

Tom Thompson – Support Kristyn and Tiny's Restaurant and her commitment to the community.

Rick Murray – Is there a formula or strategic planning of how many gallons are allowed or allocated for the town?

Chairman Michele Couture read email and letter received into the record.

Public Opposition – None

Austin Knight – How long are you open? Answer: We're open May 15<sup>th</sup> until the end of October.

David Bedard - Concerned that the applicant does not meet the conditions of the Selectmen's policy on Economic Development.

**MOTION:** *Move that the Board of Selectmen vote to approve Economic Development Permit 11-05 for 336-U2 Commercial Street #6, Kristyn Samok, applicant, Gov William Bradford Realty Trust, property owner, based on findings that the proposed use is consistent with the criteria set forth in Selectmen's Policy 2009-02-09, subject to the attached permit with conditions that the establishment stays open six (6) months; however no expansion may occur until the completion of the East End Redirect Sewer project.*

**Motion by:** Michele Couture      **Seconded By:** Austin Knight  
Yea 3    Nay 1 (David Bedard)

**1D    PUBLIC HEARING: STOP SIGN AT RYDER STREET AND BRADFORD STREET**

Chairman Couture read the Public Hearing Notice into the record.

**Barbara Rushmore** – Hate to see more stop signs. Traffic is slow in that area.

**Mary-Jo Avellar** - Opposed to this and feel that the neighborhood should have been advised.

**MOTION:** *Move that the Board of Selectmen vote to approve the installation of a three way stop sign at the intersection of Ryder Street and Bradford Street based on the improvement plan as submitted; with a review at the Spring 2012 Traffic Hearing.*

**Motion by:** David Bedard      **Seconded By:** Austin Knight  
Yea 3    Nay 1 (Michele Couture)

**1E    WATER AND WASTEWATER UPDATES**

DPW Director David Guertin, Mark White of Environmental Partners, Rob Adams of AECOM and Facilitator John Goodrich

David Guertin - We will be back on April 25<sup>th</sup> for numerous change orders.

Facilitator John Goodrich

We have summarized a lot of new information for the Board in this month's Water and Wastewater Report. I will give you a very brief summary of the key points, and Mr. Mark White of Environmental Partners and Mr. Rob Adams of AECOM are here tonight along with DPW Director David Guertin to answer any questions that you may have.

First, for the grant-funded water projects, we have a recommendation tonight for a contract award for the demolition of the Winslow 1 storage tank. As previously discussed with the Board, the plan is to do this demolition while school is out this summer.

We also have some very good news concerning the USDA-funded North Union Field project. Mark White of Environmental Partners has reviewed the modeling results and recommendation for the approvable pumping rate with MassDEP, the data support a safe yield at the higher end of the anticipated range, and this means that North Union Field may be much closer to a fully redundant well field for South Hollow than previously expected. Mr.

White can explain the importance of these findings if the Board wishes, including their analysis of the Zone II area and the next steps, which will include Truro's peer review of their work and the submission of the Source Final Report to MassDEP.

In addition, as described in your report, the preliminary discussions with the Truro Central School and the attorney for the Walsh Brothers concerning the cost-saving alternative utility alignment have been very encouraging and the Water Team welcomes any guidance from the Board as to the best way to proceed with the next steps.

Significant progress has also been made over the past two months for the water treatment plant. Siemens completed the membrane pilot activities and we are on track to have substantially utilized all of the MCDBG funds by the end of April. Preliminary design work on the treatment plant itself is nearly complete and the team is looking to schedule the neighborhood public information meeting that has been requested by the Truro Administration and their Board of Selectmen for sometime later in May.

Environmental Partners prepared the Invitation to Bid for the relocation of the water main through Truro Vineyards and the Water Team is planning to bring a recommendation for an award to the Board at the April 25<sup>th</sup> Meeting. A copy of the contract documents and the invitation to bid were provided to the Town of Truro Administration, as per the commitment to communicate with them on all work that will occur in Truro. The Water Department will be receiving an unsolicited grant for \$5,000 from MassDEP for a drinking water survey and infrastructure needs assessment. The Town was chosen for this grant due to the success of the 2010 MassDEP Water Conservation Grant effort, managed by Woodard & Curran. The grant will allow the Department to review its infrastructure needs and thereby update the 5-year capital plan.

And, finally two-thirds of the water accounts have now been inspected by Woodard & Curran's inspectors and they continue to find a consistent 83% of the services are non-compliant in one way or another. We expect that all of the accounts will have been inspected by the end of the summer and that there will still be a substantial amount of grant funds available for the repair and replacement programs described in your report. Compliance with the notices for taps before the meter has been excellent, due to the diligent notification and follow up by the DPW and the inspection team. The team will prepare a comprehensive report and set of follow up recommendations this fall once all of the inspections and data analysis has been completed.

Turning now to the wastewater project update: Your report summarizes both the on-going sewer construction work and all of the planned engineering and construction work to be undertaken over the next year and a half, including the work needed to increase the capacity at the Treatment Plant, which was approved last Monday at Town Meeting.

Despite all of the planning and notification efforts of the Sewer Team and the contractors over the past year, there have been a number of major inconveniences to certain neighborhoods because this construction involves a significant amount of dewatering for the pump stations, deep sewer mains, and therefore a lot of road closures. The DPW apologizes for these inconveniences and will continue to do everything possible to minimize the disruptions and to keep the affected neighborhoods informed. As was the case last year, all construction work will cease at the end of the day on the Wednesday before the Memorial Day weekend, and the less disruptive clean up and paving activities will not resume until the day after Memorial Day. The contractor will make sure that all construction areas are cleaned up before leaving

town. Also, as was the case last year, work will cease for the summer before the end of June. Although most of the paving for areas where construction has occurred this spring will be done during the month of June, this paving will begin this week now that the asphalt paving plants have reopened for the year. Because final paving cannot be done until each construction area has had sufficient time to settle, some of the final paving will not be done until the fall and, therefore, only patch paving will be done in these areas this spring. Those areas that have had major construction for both sewer and water mains will receive curb-to-curb paving, funded by the grant from the USDA.

Your report includes an updated map and tables which show when each segment of the sewer construction will be completed and the Sewer Team's recommendations as to when new users can hook up, based on when the sewer will be available in each area and when the additional capacity will come on line at the Treatment Plant. The report also summarizes the status of all MassDEP permit approvals, as well as when different change orders will be brought to the Board for the upcoming work, including the funding sources for those change orders. This is a large complicated project with numerous components and funding sources, so we want to provide the Board with this type of update whenever there is a major change, as is the case with the \$3.9 million Supplemental Borrowing Authorization approved by the voters last week. We will be bringing a number of change orders related to both the Phase 3 construction and the Treatment Plant to the Board at your next meeting, as we have explained in your report. We will be pleased to answer any questions tonight that you may have on these topics. And finally, your report recommends a number of planning tasks that we propose to undertake between now and the fall to both finalize the interest for Phase 3 and to plan for the best way to utilize the very important resource that the additional capacity at the treatment plant will provide for future town priorities, including economic development. The tasks that we recommend involve public outreach and we will be preparing a more detailed plan for this effort to review with the Board at your next meeting. We welcome your feedback and guidance at this time on what we have outlined in your report.

We are also recommended providing an incentive to property owners to sign up this year for a sewer connection so as to avoid the additional costs and disruption associated with "late comer" hook-ups particularly after the streets have been paved. This incentive involves re-opening the sign-up period for Phase 3 until right after Labor Day and then increasing the betterment rate thereafter to reflect the additional cost of "late comer" hook ups.

David Bedard – Questioned patching of West End instead of paving. Thistlemore Area - think we can do a better job in letting residents know what is going on in that area.

Elaine Anderson – I live in that area and have received many florescent flyers letting us know what is happening. Since I cannot be blocked in I have to know when I have to move my car to park it on Commercial Street. There's a lot of engineering work going on there.

Michele Couture - Encourage people to call DPW if they have any concerns. People in that area have been very patient and understanding.

**MOTION:** *Move that the Board of Selectmen vote to approve the award of \$47,980.00 from the USDA Water Program grant to J. R. Vinagro Corp. of Johnston, RI for the Winslow #1 Storage Tank Demolition.*

**Motion by:** Austin Knight      **Seconded By:** Elaine Anderson      Yea 4    Nay 0

## 2. PUBLIC STATEMENTS

Dennis Cole - Owner of Dexter's Inn. Wants the hedges to remain on Railroad Avenue.

John Quaglia - Hedges were cut back and that was recognized and approved by the Town Manager and Police Chief last August.

Bob O'Malley – represent the buyers of Dexter's Inn and concerned about the loss of the hedges. If the sale does not go through then the property will become condos and the town will loose more rooms. There is no plan for improving the shoulder if the hedge is removed.

Barbara Rushmore – Beautification Committee met to discuss Railroad Ave and voted to support the hedges not be removed. Real Estate Transfer Tax, request the town create a task force to lobby for the passage of the tax at the legislature.

Mary-Jo Avellar – Wants the painting of Town Meeting currently in the Town Manager's conference room moved to the Judge Welsh Room. Was on the board when the Dexter hedges issues resolved the last time. There have been studies that identified the large number of encroachments all over town and it is not possible for us to remove encroachments all over town and therefore we should not single out Dexter's.

Pauline Richmond – Owns 7 Railroad Avenue and is opposed to the hedges being removed.

Kevin O'Shea – prospective buyer of Dexter's Inn. Is concerned about the impact the loss of the hedges will have on the success of the business plan. No plan for what will happen once the hedges are removed.

Gretchen Von Rosen – Owner on Railroad Ave. speaking for condo association. Wants to keep the hedges. Wants to see traffic management in the area that reduces the cut through traffic.

**MOTION:** *Move that the Board of Selectmen vote to take agenda item #5A out of order.*

**Motion by:** David Bedard    **Seconded By:** Austin Knight    Yea 4    Nay 0

## 5A DEXTER'S INN – 6 CONWELL STREET

Attorney Christopher Snow made opening remarks on behalf of Dennis Cole owner of the Dexter Inn, 6 Conwell Street concerning the surprising and unanticipated action of the Board of Selectmen taken at the 2011 Spring Traffic Hearing requiring all property owners on Railroad Avenue between Conwell and Upper Center Street to cut back bushes, remove fences and other obstructions on the public right of way. Most of all these problems have been caused by their neighbor at 4 Conwell who has installed what he feels is an illegal yellow pole as a personal vendetta. The pole was installed without proper permits. The parking was installed without curb cut approval.

Chairman Couture – read Chapter 13-2-11 and portions of the Cape Cod Commission report related to Railroad Avenue and Conwell Street.

**MOTION:** *Move that the Board of Selectmen vote that the owners trim the hedges to a height of 3 ft on the corner of Railroad Avenue to Johnston Street Extension - no Trucks.*

**Motion by:** David Bedard    **Seconded By:** Michele Couture  
- David Bedard withdrew his motion -

Michele Couture asked staff whether zoning or historical approval was required for the installation of the pole? David Gardner: According to the Building Commissioner the pole is not considered a structure and therefore does not require a permit.

Did the parking spaces require a curb cut? David Gardner: The parking is determined to be a pre-existing condition.

**MOTION**: *Move that the Board of Selectmen vote to rescind their motion on Item #1C from the Traffic Hearing on March 15 2011.*

**Motion by**: Elaine Anderson    **Seconded By**: David Bedard    Yea 4    Nay 0

**MOTION**: *Move that the Board of Selectmen vote to have the hedges at the intersection of Railroad Avenue and Conwell Street reduced to 3 (three) feet.*

**Motion by**: Elaine Anderson    **Seconded By**: David Bedard    Yea 4    Nay 0

David Bedard - Refer "No Trucks" on Railroad Ave and Johnson Street Extension to a future public hearing.

Austin Knight - Wants to include the possibility of 'one way' as well.

3. **SELECTMEN STATEMENTS** - Tabled to be included with Closing Statements.

4. **APPOINTMENTS** – None

5B **OUTER CAPE HEALTH SERVICES** – Parking Easement

**MOTION**: *Move that the Board of Selectmen vote, pursuant to April 2011 Annual Town Meeting Article 16, to grant the Parking Easement for Outer Cape Health Services, Inc. 3073 State Highway, Route 6, PO Box 1413, Wellfleet, MA, as approved to form by Town Counsel.*

**Motion by**: Austin Knight    **Seconded By**: David Bedard    Yea 4    Nay 0

5C1 **TOWN HALL AUDITORIUM – REQUEST FOR BEER & WINE SERVICE**

Provincetown Cares, Inc

**MOTION**: *Move that the Board of Selectmen vote to table this agenda item until our April 25, 2011 meeting.*

**Motion by**: Austin Knight    **Seconded By**: David Bedard    Yea 4    Nay 0

5C2 **TOWN HALL AUDITORIUM – REQUEST FOR BEER & WINE SERVICE**

ASGCC – Annual Silent Auction

**MOTION**: *Move that the Board of Selectmen vote, pursuant to the Regulations for Public Use of Town Hall, to authorize the consumption or sale of beer and wine service in the Town Hall Auditorium for the event Friday, September 2, through Sunday, September 4, 2011, subject to the following conditions:*

1. *Provide copy of Commercial General Liability with a minimum limit of \$1,000,000 per occurrence / \$2,000,000 general aggregate with the Town named as "Additional Insured"*

2. *Provide copy of Liquor Liability Coverage with a minimum limit of \$1,000,000 per occurrence / \$2,000,000 general aggregate with the Town named as "Additional Insured"*
3. *Provide copy certificate of insurance showing that a Workers' Compensation policy in effect. The Town would NOT be an additional insured on this policy.*
4. *Ensure that all bar tenders are TIPS trained.*

**Serving Times:** *Friday – September 2<sup>nd</sup> - 5 – 9 pm*  
*Saturday – September 3<sup>rd</sup> – 5 – 9 pm*  
*Sunday – September 4<sup>th</sup> – 8 – 10 pm*

**Motion by:** Austin Knight **Seconded By:** David Bedard    Yea 4    Nay 0

**5D    RE-DISTRICTING**

The Secretary of the Commonwealth's Re-Precincting Division requires signature of the Single Precinct Release Form for any municipality whose population does not exceed 6,199 residents and who wish to remain a one precinct town. The 2010 U.S. Federal Census revealed a total of 2,942 residents in the Town of Provincetown. The Board of Selectmen will need to vote to remain one precinct and sign the Single Precinct Release Form. Once approved by the Local election District Review Commission, Provincetown will remain a one precinct town for up to ten years until the next Federal Census is taken in the year 2020.

**MOTION:** *Move that the Board of Selectmen vote to remain one (1) precinct.*

**Motion by:** David Bedard                      **Seconded By:** Austin Knight                      Yea 4    Nay 0

**5E1    PARADE PERMIT REQUEST**

Portuguese Festival Parade – Saturday, June 25, 2011

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade Permit application submitted by Susan Avellar on behalf of The Portuguese Festival Committee for the annual celebration of "The Portuguese Festival Parade" with the theme: "Sharing of Portuguese Culture & Heritage", to be held on Saturday, June 25, 2011 from 5 p.m. to 6:00 p.m.*

**Motion by:** David Bedard                      **Seconded By:** Elaine Anderson                      Yea 4    Nay 0

**5E2    PARADE PERMIT REQUEST**

Blessing of the Fleet – Sunday, June 26, 2011

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade Permit application submitted by Susan Avellar on behalf of The Portuguese Festival Committee for the annual celebration of "The Portuguese Festival Parade" with the theme: "Sharing of Portuguese Culture & Heritage", to be held on Saturday, June 25, 2011 from 5 p.m. to 6:00 p.m.*

**Motion by:** David Bedard                      **Seconded By:** Austin Knight                      Yea 4    Nay 0

**6A    TOWN MANAGER'S FOLLOW-UP - None**

**6B    OTHER – None**

**7.    MINUTES OF BOARD OF SELECTMEN'S MEETING**

**MOTION:** *Move that the Board of Selectmen vote to approve the following minutes as printed:*

*March 28, 2011 (Regular Mtg.) as printed.*

*March 29, 2011 (Sr. Town Mtg. Forum) as printed.*

*April 4, 2011 (Town Mtg.) as printed.*

*April 5, 2011 (Town Mtg.) as printed.*

**Motion by:** David Bedard      **Seconded By:** Elaine Anderson      Yea 4    Nay 0

**8. CLOSING STATEMENTS**

**David Bedard** - Special thanks to town staff especially to Town Manager Sharon Lynn, Assistant Town Manager David Gardner and Municipal Finance Director Dan Hoort for doing such a great job in preparation for town meeting. Also special thanks to the Beautification Committee for a great job at Grace Hall parking lot. Consider a memorial for Miss Ellie.

**Elaine Anderson** – None      **Michele Couture** - None      **Austin Knight** – None

Motion to adjourn by Austin Knight at 10:10 PM.

Minutes transcribed by: Vernon G. Porter, Secretary to Board of Selectmen  
April 13, 2011