

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

**REGULAR MEETING – TUESDAY – OCTOBER 11, 2011 6 PM**

**TOWN HALL – JUDGE WELSH ROOM**

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

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

Recorder: Vernon G. Porter

The following are meeting minutes, in brief:

## **1A PUBLIC HEARING: MCDBG 2012**

Community Development Strategy

Chairman Anderson read the Public Hearing Notice.

Secretary to Board of Selectmen Vernon Porter stated that no comments were received from the public. Grant Administrator Michelle Jarusiewicz also said she did not receive any comments at her office.

Grant Administrator Michelle Jarusiewicz gave a briefing on the FY 2012 MCDBG Grant Community Development Strategy that is due by Friday, December 16, 2011.

Public Comments – In Favor

Ted Malone, President Community Housing Development Resource (One of the developers of two of the Shank Painter projects) – Very supportive of several initiatives within the Community Development Strategy project.

Town Manager Sharon Lynn – Any grant funding available through this particular avenue for property acquisition such as the Grace Gouveia building? Answer: I think they would be more apt to do some money toward the rehab of that building.

Public Comments – In Opposition - None

Board of Selectmen

John Santos – Would the expansion of Maushope come under this? Answer – Possibly. They don't do new construction. They do rehab and they'll do site work. If a development needs a roadway or water main – that type of thing they would fund that but this program does not do new construction.

David McChesney – The 57% low moderate population in Provincetown - is that high or low compared to the Cape? Answer – It is high. We've always been high.

**MOTION: *Move that the Board of Selectmen vote to accept the Town of Provincetown's Community Development Strategy under the Massachusetts Community Development Block Grant's FY 2012 Community Development Fund program.***

**Motion by: David Bedard**

**Seconded By: John Santos**

**Yea 5 Nay 0**

**1B PUBLIC HEARING: NSTAR Pole Installation and Underground Cable**

Karen Corrveau – Representative from NSTAR present.

Chairman Anderson read the Public Hearing Notice.

Secretary to Board of Selectmen Vernon Porter stated that no comments received from the public. Town of Provincetown Electrical Inspector John Browne is in support of NSTAR's petition.

Representative from Outer Cape Health did not have the Certified Green Cards with them at this hearing, therefore the Board decided to postpone this agenda item until their next meeting in November 1, 2011.

**MOTION:** *Move that the Board of Selectmen vote to postpone the public hearing until November 1, 2011.*

**Motion by:** David Bedard      **Seconded By:** John Santos      Yea 5    Nay 0

*David Bedard recused himself as he is a direct abutter.*

**1C 83 SHANK PAINTER ROAD**

Affordable Housing Restriction & Other Documents

Town Counsel Shirin Everett, Grant Administrator Michelle Jarusiewicz and President of Community Housing Resource Ted Malone

Attorney Shirin Everett gave an overview of the material before the board and reasoning behind the motions before them.

Austin Knight - The \$150K is unsecured at this point and is based on the permit of the property? Answer – That's correct, it is an unsecured debt. It is on record. Even if they foreclose the comprehensive permit will continue to run the property and that is our basis and insurance that the property will be used for those purposes.

**MOTION:** *Move that the Board of Selectmen vote to approve and execute, in connection with the Town's grant of Community Preservation Act funds to 83 CHR, LLC, for the development of community housing on property at 83 Shank Painter Road, the following documents in the form presented by Town Counsel:*

*(a) An Affordable Housing Restriction, pursuant to which the Town will acquire a restriction requiring 83 Shank Painter Road to be used for community housing,*

**Motion by:** David McChesney      **Seconded By:** John Santos      Yea 4    Nay 0

*(b) A Master Subordination Agreement between 83 CHR, LLC, the Town, and private and public lenders, on the rights of the respective parties and the survival of the affordable housing requirements,*

**Motion by:** David McChesney      **Seconded By:** John Santos      Yea 4    Nay 0

*(c) Any other agreement or documents as may be necessary or convenient to effectuate the foregoing purposes, and*

**Motion by:** David McChesney      **Seconded By:** John Santos      Yea 4    Nay 0

*CHR 83 SPR, LLC, agreeing that the Town will provide the grant of \$150,000 in Community Preservation Act funds when the construction on the property has been completed and the conditions in said letter have been satisfied and to extend the CPA Grant Agreement terms through September 2012.*

**Motion by: David McChesney      Seconded By: John Santos      Yea 4 Nay 0**

*David Bedard returned.*

## **1D      JOINT MEETING WITH ANIMAL WELFARE COMMITTEE**

Members Present: Chair Candace Nagle, Carol MacDonald, and Barbara Murphy

At their meeting on Monday, May 23, 2011 the Board of Selectmen unanimously voted in favor of requesting an annual joint meeting with each board and committee of the Town. The intention of this meeting is to become acquainted with any members the Selectmen may not have already had the opportunity to meet, and to discuss matters of mutual importance as well as common goals for the coming year. The Chair and a quorum of each committee must be in attendance.

Chairman Nagle gave a brief update of what the committee has been doing this year and the reason for apply for the grant applications. The funds from this grant will be used for pet emergency shelter supplies to be determined by the Animal Welfare Committee, Assistant Town Manager David Gardner and Assistant Deputy Emergency Manager, Brian Carlson.

Candice Nagel – Depending on how much comes back from the State and how the McGowan grant goes, we would like to also apply to the Petco Foundation for a grant for more crates, etc.

David Bedard – First, congratulations on the Emergency Shelter, it was a great success and very nice to see you out there. Question on the grant? Normally we would see the grant application in our agenda item and to look it over before its submission. Answer – We don't know what we're applying for until we hear from the state. The McGowan grant is not due until December 1<sup>st</sup> so we're waiting to the last possible moment to submit it. David – It think it great that you're going after these grant. Congratulations!

**MOTION: *Move that the Board of Selectmen vote to approve the submission of a grant by the Animal Welfare Committee to The Cape Cod Foundation, 259 Willow St # 5, Yarmouth Port, MA through the Thomas C. McGowan Animal Gift Fund in the amount of \$2500.00 and a future grant submission to Petco Foundation in an amount to be determined.***

**Motion by: David Bedard      Seconded By: Austin Knight      Yea 5 Nay 0**

David Bedard – A lot of animals are running off-leash on the beach in the West End and it is becoming a real issue and I am wondering how we can control that kind of a thing?

Candice – We do have off-leash hours and signage at every town landing. It's about enforcement. We don't have the resources to enforce any of our town by-laws including the off-leash hours.

Elaine Anderson – Do we have information from the police as to the effectiveness of the signs for dogs in vehicles this past summer? Did we do better without emergencies? Answer – There were a few emergency rescues. We're going to do some analysis at the end of the year and see how effective they were.

David Bedard – Besides the Pet Shelter is there anything else that your committee is working on that we should be aware of? Answer – We did discuss and our board did approve a potential article for town meeting regarding increasing fines for those failing to picking up after their dogs.

Carol MacDonald – Our wooden poop-bag stations are starting to rot real bad and need to be replaced. Anyone who can volunteer to help replace them would be greatly appreciated.

David Bedard – I notice that you have two vacancies on your committee, so if anyone is interested it would be great committee to be on.

## **1E JOINT MEETING WITH ART COMMISSION**

At their meeting on Monday, May 23, 2011, the Board of Selectmen unanimously voted in favor of requesting an annual joint meeting with each board and committee of the Town. The intention of this meeting is to become acquainted with any members the Selectmen may not have already had the opportunity to meet, and to discuss matters of mutual importance as well as common goals for the coming year. The Chair and a quorum of each committee must be in attendance.

Members present: Chair Stephen Borkowski, Vice Chair James Bakker, Georgia Coxe and Erna Partoll.

Chair Borkowski gave an update of what the commission has been doing and their planned projects for the future. Stating, one of the greatest challenges during the reconstruction of town hall was the care for the art work, having it cleaned, conserved where necessary and reinstalled in its new environment. They have made great strides utilizing the efforts of their members and contract labor to reduce costs. They recently installed artwork into the newly delivered CPC funded display cases in the hallway of town hall and are working on an art brochure and signage for the works on display.

Elaine Anderson – Do you get grants from anywhere to assist in the work you just mentioned? Answer – No. We've been encouraged to approach VSB.

John Santos – Want to thank you very much. Everything looks great. I commend you.

Austin Knight – Travelling shows – people who are watching may not be aware of that.

Chair Borkowski – We have three pieces in the New Britain Museum that will close next Sunday and then will travel to three other locations.

Austin Knight – People who visit town hall are blown away by the collection we have out for everyone to see.

Elaine Anderson – I especially love the new display cases we have. Very professional.

David McChesney – How much artwork will not be displayed. Answer – We have about 30% of what we own on display and the rest is stored in Freeman Street building.

## **2. PUBLIC STATEMENTS**

Dory Seavy - Handled out packet for the Board of Selectmen and encouraged citizens to oppose Article 13 (Telecommunication Bylaw) at the upcoming Special Town Meeting.

3. **SELECTMEN STATEMENTS**

**John Santos** - We should put signs on crosswalks instead of on the streets as they keep getting hit on the streets.

**Austin Knight** - I will respond to Ms. Seavy once I get to read her package. There will be a public hearing on this article next week.

**David Bedard** - Had a great tour of the DPW Garage and Transfer station. Concerned that the new equipment at the DPW garage will be outside all winter.

Walking Mall Group needs to be reconvened.

**David McChesney** - When will the Licensing Board come back with the licensing fees?

We should pursue the CCNSP to locate a solar facility on the capped landfill. (Town Manager will pursue this with George Price on Thursday.)

Parking tickets are paid through Plymouth and it takes a long time for the payment to clear. (Parking Dept to respond regarding the benefit of contracting this service out.)

DPW needs to be congratulated on water reduction.

**Elaine Anderson** – None

4. **BOARD OF SELECTMEN'S APPOINTMENTS** - None

5A **COMMERCIAL STREET UPDATE**

**MOTION:** *Move that the Board of Selectmen vote to table to future meeting.*

**Motion by:** John Santos      **Seconded By:** David Bedard      Yea 5    Nay 0

5B **OPEN THE SHELLFISH SEASON – PUBLIC SHELLFISH AREA**

Annual Open Shellfish Season (Shellfish Constable Tony Jackett)

At their meeting on Wednesday, October 5, 2011, the Shellfish Committee unanimously approved the opening of the shellfish beds with the conditions so stated in the motion.

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.130,§52 and the Selectmen's Recreational Shellfish Regulations, to approve opening the public shellfishing areas as follows:*

*On Friday, November 4, 2011 the shellfish area west of the west end breakwater will be open to the public.*

*The days allowed are Sundays and Fridays through the end of March 2012, with a ten-quart limit per week. Licenses, gauges, and a copy of the regulations will be available at the Town Clerk's office. Fees are \$15.00 for residents and \$50.00 for non-residents. Residents or taxpayers shall be issued a free shellfish permit at age 65 or older.*

*The proposed dates are subject to the results of both shellfish and water quality testing at the state lab.*

*If Bay Scallops are abundant the Shellfish Constable will post the days and location of their taking and the recreational limit shall be two pecks per week.*

**Motion by:** David Bedard      **Seconded By:** Austin Knight      Yea 5    Nay 0

## 5C WATER QUALITY MONITORING PROGRAM UPDATE

### Overview of Data 2003 through 2011

Health and Environmental Affairs Manager Brian Carlson presenting. At the Board of Selectmen's meeting on August 22, 2011, Selectman David McChesney requested an update on this matter. Water quality data from the State Bathing Beach Program from 2003 through 2011 presented. The analysis is of single count failures only. A single count failure occurs when the bacteria count is above 104 cfu/100 ml. The bacterium that is tracked for the purposes of the State Bathing Beach Program is *Enterococcus*, which is an indicator bacterium for general water quality.

Brian went over the following material from his attached charts in the material attached to the agenda packet.

#### **Figure 1: Pie Chart- Total Number of Marine Single Count Failures Per Testing Location 2003-2011.**

This pie chart shows the total number of single count failures for each of the testing locations from 2003 through 2011. Generally, the failures over this span of time appear to be pretty evenly distributed. The testing locations that stand out due to their high single count failures over the past 8 years are: Ryder Street Left (22), 593 Commercial (18), and Atkins Lane (17), and West of Coast Guard Station (17).

#### **Figure 2: Bar Graph- Marine Beach Single Count Failures Per Testing Location Per Year from 2003-2011.**

This bar graph shows the relationship between each of the testing locations over the span of 8 years from 2003 through 2011 and the number of failures at each of these locations per year. Of obvious note is the Ryder Street Left testing location taking the lead this year for total single count failures followed by 593 Commercial Street and Atkins Land and West End Parking Lot.

#### **Figure 3: Rain Event Date & Marine Beach Single Count Failures Per Testing Year with Total Failures By Geographic Area 2003-2011.**

This bar graph shows the possible relationship between rain events and single count failures. The data has also been distributed based on three geographic locations (East End, Center, and West End). The "East End Area" is between the Winston Ave and the 451 Commercial Street testing sites. The "Center Area" is between the Johnson Street and Court Street testing sites and the "West End Area" is between the Atlantic Ave and Ptown Inn Rotary tests sites. There are a total of 19 tests sites. (See attachment).

Generally, it appears that the East End testing area and the Center testing areas are similar with the East End testing area having the most overall failures with a total of 112 over the past 8 years. The West End testing areas had 49% less failures then the Center testing areas and 43% less failures then the East End area.

#### **Water Quality Working Group**

The Water Quality Working Group will be meeting Wednesday, October 12<sup>th</sup> to discuss a grant application to the Mass Bays Program to seek funds for additional testing and analysis that specify addresses how sources of human pathogens will be tracked down and addressed

through a bacteria management plan (or pathogen management plan). In other words, the bacterial tracking study should lead to pathogen management actions that will reduce pathogen loading.

### **Next Steps**

Additional testing was conducted on October 5<sup>th</sup> by our partners at Mass DEP and the EPA. They collected samples for E.Coli, nutrients, detergents and pharmaceuticals to further explore evidence of human indicators and influence. The additional testing locations include the area around 29 Commercial Street, West End Parking Lot, 333 Commercial Street, 593 Commercial Street, Breakwater Motel, and Winston Ave.

David McChesney – Since we’ve had many beach failures this summer wouldn’t it behoove us to run a DNA test to find out what it is we’re specifically dealing with? I’m just surprised that people are not reacting stronger. Maybe I am over reacting. But the water is so important to the town, between the beaches, bathing, fishing, clamming, boating and whaling. Yet we don’t know why these closing are occurring. I know the sources vary from dogs, birds, boats, seaweeds, storm runoff, raw sewerage and then we learned tonight that even red dot delays on the water side of Commercial Street may be a cause. Am I over reacting?

David Bedard – No. I agree with you.

Brian – DNA test can be done but it is expensive.

David McChesney – We can always get the money from somewhere. We need to find out what the causes are.

Elaine Anderson – Brian, thank you, you’ve done a great job. This is a wonderful report. We need to stay on this and see if we can’t get something going down there to continue to make an impact, in a good way. We have lot to think about.

## **5D MEMORANDUM OF UNDERSTANDING – DISEASE MONITORING**

Barnstable County Department of Health & Environment

Health Inspector Brian Carlson related that the Board of Health voted 5-0-0 on August 22, 2011 to recommend the approval of this Memorandum of Understanding (MOU). It has been signed by the Chair of the Board of Health and that the Disease surveillance is conducted by the Health Department via the State Mass Virtual Epidemiologic Network (MAVEN) system. Assistant Town Manager David Gardner informed the Board of Selectmen that this MOU will allow the County Health Department to assist the Town in conducting case management and follow-up for the required reporting and surveillance of reportable disease as required by the Mass Department of Public Health and 105 CMR 300.000.

***MOTION: Move that the Board of Selectmen vote to approve the signing of a Memorandum of Understanding with the Barnstable County Commissioners and the Barnstable County Department of Health & Environment for supplementary disease surveillance services for the Town in a professional and timely manner effective September 1, 2011 until such time either party desires to end this service.***

**Motion by: David Bedard                      Seconded By: Austin Knight                      Yea 5    Nay 0**

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

Provincetown Business Guild – Holly Folly

Executive Director Provincetown Business Guild Erin Atwood introduced himself to the Board as this is his first presentation before the Board of Selectmen in his new position at the PBG.

**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 Provincetown Business Guild’s Holly Folly event from 7:30 pm – 9:30 pm on Saturday, December 3, 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.*

**Motion by:** Austin Knight      **Seconded By:** John Santos      Yea 5    Nay 0

**5F PARADE PERMIT – FAMILY EQUALITY COUNCIL**

LGBTQ Family Unity and Pride Parade

Staff recommendations from Lt. James Golden and approval by Police Chief Jaran provided. Parade route remains the same as the past two years with assembly at Bas Relief Park, then south on Ryder to Commercial Street. West on Commercial to Court Street to Bradford. East on Bradford to the Bas Relief Park to disassemble.

**MOTION:** *Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Andra Oshinsky on behalf of the Family Equality Council, 41 Winter St., 3<sup>rd</sup> Floor, Boston, MA 02108, to hold their Family Week GLUT Family Unity and Pride Parade on Friday, August 3, 2012, from 3:00 PM to 4:00 PM.*

**Motion by:** Austin Knight      **Seconded By:** John Santos      Yea 5    Nay 0

**6A OCTOBER 24, 2011 – SPECIAL TOWN MEETING**

Adoption of Board of Selectmen’s Recommendations on Articles

Charter section §2-3-11 provides that "Prior to a vote on an article submitted by a town board, the town board shall state the numbers of its members in favor of and opposed to the article, and its chairman, or his designee, shall explain the view of the majority to the meeting."

**MOTION:** *Move that the Board of Selectmen vote to recommend STM-1 Wastewater Optimization and Expansion – Supplemental Borrowing Authorization.*

**Motion by:** David Bedard      **Seconded By:** Austin Knight      Yea 5    Nay 0

**MOTION:** *Move that the Board of Selectmen vote to RESERVE recommendation STM-2 FY 2012 Budget Adjustments.*

**Motion by:** David Bedard      **Seconded By:** John Santos      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to RESERVE recommendation STM-3 Prior Year Bills.

**Motion by:** David Bedard      **Seconded By:** John Santos      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-4 Compensation to Volunteer Fire Fighters.

**Motion by:** Austin Knight      **Seconded By:** David Bedard      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-5 VMES/Freeman Street Building Renovations.

**Motion by:** David Bedard      **Seconded By:** Austin Knight      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-6 Establish Bicycle Committee.

**Motion by:** Austin Knight      **Seconded By:** John Santos      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-7 General By-Law Amendment: Yard, House or Garage Sales.

**Motion by:** Austin Knight      **Seconded By:** David Bedard      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-8 General By-Law Amendment: Obstructions within the Public Ways.

**Motion by:** David Bedard      **Seconded By:** John Santos      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-9 General By-Law Amendment: Stretch Energy Code.

**Motion by:** David McChesney      **Seconded By:** John Santos      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-10 Zoning By-Law Amendment: Section 2470 Parking Requirements.

**Motion by:** David McChesney      **Seconded By:** David Bedard      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-11 Zoning By-Law Amendment: Section 3200 Sign Regulations.

**Motion by:** David Bedard      **Seconded By:** Austin Knight      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-12 Zoning By-Law Amendment: Article 6 Growth Management.

**Motion by:** David Bedard      **Seconded By:** Austin Knight      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-13 Zoning By-law Amendment: Article 7 Wireless Telecommunication Towers and Facilities.

**Motion by:** David Bedard      **Seconded By:** John Santos      Yea 5    Nay 0

**MOTION:** Move that the Board of Selectmen vote to recommend STM-14 Zoning By-Law Amendment: Solar Photovoltaic Facilities.

**Motion by:** David McChesney      **Seconded By:** Austin Knight      Yea 5    Nay 0

**6B TOWN MANAGER SHARON LYNN FOLLOW-UP**

Library construction - retaining wall at the east side of the Library. Much cheaper and faster to use new granite at a cost savings of \$3500 than reusing the existing granite.

**6C OTHER** – None.

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

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

*September 26, 2011 (Regular Mtg.) as printed.*

*September 12, 2011 (Special Mtg.) as printed.*

**Motion by: David Bedard    Seconded By: Austin Knight    Yea 5    Nay 0**

**8. CLOSING STATEMENTS** - None

Motion to adjourn by David Bedard at 8:45 PM

**Minutes transcribed by: Vernon Porter, Secretary to Board of Selectmen  
October 12, 2011**