

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING - MONDAY – OCTOBER 22, 2012 6 PM

TOWN HALL – JUDGE WELSH ROOM

Chairman Austin Knight convened the meeting at 6:00 PM noting the following:

Board of Selectmen attending: Austin Knight, Elaine Anderson, David McChesney, John Santos and Erik Yingling

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

Recorder: Vernon Porter This meeting is being recorded by Provincetown Television.

The following are meeting minutes, in brief:

1A JOINT MEEETING – CULTURAL COUNCIL and ART COMMISSION

Cultural Council Members Present: Brian O'Malley, Chair Tina Trudel, Vice Chair Grace Ryder-O'Malley, Robert Speiser, Cherie Mittenthal and Francine D'Olimpio.

This is a follow-up meeting to their Public Hearing on October 10, 2012.

Slide presentation material used during their Public Hearing on October 10, 2012, is attached to the agenda item. Chair Trudel said the meeting was well attended with wonderful public support for multiple options. No one attended from the Art Commission or presented opposition to the Town Hall site, one of three preferred by the participants (also the Library and Suzanne's Garden). Preferred sites were Library, Town Hall and Suzanne's Garden with the recommendation to the Board of Selectmen that the Library be the final location.

The Council would like the Municipal Finance Director to recheck as to where all the funds are and to have all funds for this project remain in the account.

Question and Answer period between Board of Selectmen and the Cultural Council

MOTION: *Move that the Board of Selectmen vote to approve the request of the Cultural Council to locate the Aids Memorial at the Provincetown Public Library.*

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

1B JOINT MEETING – PROVINCETOWN PUBLIC PIER CORPORATION

Pier Corporation attendees: Lee Ash, Carlos Verde, Scott Fraser, Richard Wood and Harbor Master Rex McKinsey.

See attachment #2 – handout to Board of Selectmen on Adequacy of Capital Asset Replacement Reserves.

Each member gave a separate report.

Discussion on Marine Patrol Officer Pilot Project - Great learning process and valuable additions to the Pier. Schedule of Marine Patrol officers start in mid April 2nd shift or 3rd shift basis. Time of officers on duty – MPO's at the change of shifts are critical so as to relate

previous shift information. Working on areas of communication between the pier and the harbor. Secure additional radios. Computers need to be upgraded in order to communicate with the Harbormasters office and the police station. Working on enforcement regulations. Positive attributes to this program and we have resolved any issue on a timely basis.

Chief Jaran - Overall assessment of this program has been quite successful – enhancing public safety at the Pier.

Coast Guard Chief John Harker - Our mutual responsibility to this pilot program has been extremely advantageous for us both. We work hand in hand with the Marine Patrol Officers.

Lee Ash – PPPC would like to continue program with the Police Dept.

Survey input received was favorable for the MPO program. General input received regarding traffic and parking, staff, maintenance and MPO Program. (30 responses)

Budget discussion: Capital Improvement and Maintenance Programs needed are very costly. MPO program freed up approximately \$26,000. \$9000 of which was expended to extend the MPO program staffing into the shoulder season.

Capital Asset Replacement Reserve is estimated at \$220,000. CIP and Maintenance requirements will far exceed funds on hand. Need to consider other means of financing future maintenance and capital items.

Rex McKinsey gave an update of the MPO program. MPOs and Harbormaster's office need to continue to improve communication. Chief Jaran agrees there are some growing pains with the MPO program but public safety has been improved and overall the program has been a success. USCG Chief Harker supports the MPO program as a partnership with the USCG and improves the overall operational ability of the CG.

PPPC Board recommends that the program continues for another year in partnership with the PPPC Board and the Town Manager to ensure ongoing input and refinement in the program.

Austin Knight – I need more details on the Pilot Program.

John Santos - What was the cost of the program? Answer – Approximately \$26K or less.

David McChesney – Your reserve fund – do you have to maintain \$50K each year. Answer – It varies from year to year.

Erik Yingling - Have you looked into Mooring Fees? Is it possible to raise them? Answer – Mooring fees go to the town not the Pier. Rex – Harbor Committee is looking into this and will have Public Hearings and then come back to the Board of Selectmen.

Wave attenuator – We need to take a good look at this for the future. More information on MPO's would be helpful.

Austin Knight – What do we need to do to make it more successful next year? We need you to provide us with more information and recommendations as to what is necessary in order to run the program along with Capital Improvement needs over the next 5 – 10 years.

Elaine Anderson – I need more numbers to make it clearer to me. Factor in the shoulder season next time. I'm very proud that we are a model for the nation to look at.

David McChesney – Do you have any data on beach raking. Answer - Harbor Committee should have full report by December or January.

Update on Safety Life Rings – Harbormaster Rex McKinsey and Pier Corp Board Member Carlos Verde – Relate information attached to the agenda item.

Next joint meeting with Board of Selectmen scheduled for Tuesday – November 13th.

Detective Chovanec – Will work with Harbormaster during the off season.

Update on Safety Life Rings - Carlos Verde gave a brief overview of the material attached to the agenda item. These units are used by the Coast Guard at the Provincetown Coast Guard Station.

Total cost is approximately \$6400 made of plexiglass and are completely enclosed.

Coast Guard Chief John Harker – There were several incidents this summer and there is concern that there is no equipment assessable or identifiable. There needs to be some life saving devices available at the Pier.

Austin Knight - What funding source do we have for this? Answer: Town Manager Sharon Lynn – Pier budget for maintenance and capital items.

Elaine Anderson – Share cost with Coast Guard? Identify source of funds. Safety on the Pier has got to be a priority.

Erik Yingling – Greatly needed. Possibly split the cost within the different departments.

2. **PUBLIC STATEMENTS** - None

3. **SELECTMEN STATEMENTS**

Erik Yingling – Inquiries from several people about Commercial Street project but I assured them that it will move right along.

John Santos - None

Elaine Anderson – Compliment Adam at the Wastewater Treatment Plant who gave a wonderful and informational tour to me the other day. The plant is kept in immaculate condition.

Encourage everyone to read or view our meetings so that you get all the information you need for the upcoming Special Town Meeting.

David McChesney – Citizens have expressed concerns about behavior from certain town board members being disrespectful towards staff and others. We all need to cooperate and work together. Leave personal agendas and politics at the door.

Austin Knight - Open Cape – how are they doing? Answer – They are progressing.

Telecommunications – Mr. Gardner is working with Town Counsel on this. How can we make the town more accessible for Wi-5?

4. **BOARD OF SELECTMEN APPOINTMENTS**

At the Board of Selectmen's meeting on Tuesday, October 9, 2012, Ms. Meads was appointed as the Board of Selectmen's Representative. It has since been determined that Susan Avellar did not resigned as the Board of Selectmen's Representative on the Insurance Advisory Commission. Therefore, Ms. Meads is applying for the vacant Alternate position.

MOTION: *Move that the Board of Selectmen vote to rescind their October 9, 2012 appointment motion.*

Motion by: Erik Yingling **Seconded By:** Elaine Anderson Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to appoint Kathy Meads as the Board as an Alternated on the Insurance Advisory Commission.*

Motion by: John Santos **Seconded By:** Elaine Anderson Yea 5 Nay 0

5A1 **AIRPORT COMMISSION**

FAA Memorandum of Agreement for access to FAA Navigational Aids

This agreement will continue to allow FAA technicians access to and from the FAA Navigational Aids located on the Airport grounds. The MOA has been approved as to form by Town Counsel.

MOTION: *Move that the Board of Selectmen vote to execute a Memorandum of Agreement (MOA) with the Federal Aviation Administration (FAA) for the continue access of FAA technicians to FAA Navigational Aids at the Provincetown Municipal Airport. The MOA is a no cost or payment agreement.*

Motion by: John Santos **Seconded By:** Erik Yingling Yea 5 Nay 0

5A2 **AIRPORT COMMISSION**

Stormwater Pollution Prevention Plan and Spill Prevention Control and Countermeasures Plan.

This project includes the preparation of a Stormwater Pollution Prevention Plan (SWPPP) and a Spill Prevention, Control and Countermeasures Plan (SPCC) for the Airport. The last SWPPP was last prepared in 2002 and the last SPCCP was prepared in 2007. The preparation of these plans will update the Airport records with EPA to allow the airport to be in compliance with the latest regulations. This grant has been approved as to form by Town Counsel.

Funding Breakdown: FAA 90%, MassDOT 7.5%, Provincetown 2.5%

MOTION: *Move that the Board of Selectmen vote to execute a contract in the amount of \$59,640.00 with Jacobs Engineering Group for the Stormwater Pollution Prevention Plan (SWPPP) and Spill Prevention Control and Countermeasures Plan (SPCCP) at the Provincetown Municipal Airport.*

Motion by: John Santos **Seconded By:** Erik Yingling Yea 5 Nay 0

5B **68 RACE POINT ROAD UNIT #3 RESALE**

Housing Specialists Michelle Jarusiewicz does not recommend purchase. This is extremely time sensitive as the town has limited time to act.

MOTION: *Move that the Board of Selectmen vote to exercise its right to locate an eligible buyer to purchase the property at 68 Race Point Road Unit #3 under the deed restriction encumbering such property (but not its option to purchase the property), and to send a letter to that effect to the owner of the property.*

Motion by: Erik Yingling **Seconded By:** Elaine Anderson Yea 5 Nay 0

5C INTERMUNICIPAL AGREEMENT WITH TRURO

Emergency Shelter Program – Veteran’s Memorial Community Center

Public Health & Safety Officer Morgan Clark - Provincetown and Truro emergency planners have been meeting to collaborate on emergency planning and response, most notably on emergency sheltering. Currently Provincetown alone operates a “satellite shelter” in the Barnstable County Regional Emergency Planning Committee plan at the Veteran’s Memorial Community Center. The closest regional shelter is at the Nauset Regional High School in Eastham. Provincetown is seeking to have its shelter become a regional shelter and Truro would like to have a shelter that is closer than Eastham. By working with Truro, the Provincetown emergency shelter will begin to operate as a regional shelter, and emergency planners from both towns will continue to seek regional shelter resources through the Barnstable County Regional Emergency Planning Committee.

The Intermunicipal Agreement (IMA) would formalize the collaborative relationship between Provincetown and Truro’s emergency planning and response resources.

MOTION: *Move that the Board of Selectmen vote to approve the Intermunicipal Agreement between the towns of Provincetown and Truro with respect to the operations and management of the Emergency Shelter program at the Veteran’s Memorial Community Center in the Town of Provincetown.*

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

5D1 TREASURER’S TRANSFERS – John A. Henry Trust Fund

This payment is supported by a contract between the Town and the Cape Cod Children’s Place. The contract authorizes \$15,000 (est) to be expended from the John A. Henry Trust Fund in FY13 to assist less fortunate children leaving a remainder for FY13 of \$10,547.75. The Estate of John A. Henry has a balance after this award of \$502,024.86

(est) – amount estimated as income from the John A. Henry Trust Fund for FY13.

MOTION: *Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$4,452.25 from the John A. Henry Trust Fund for the payment of the attached invoice(s).*

Motion by: Elaine Anderson **Seconded By:** Erik Yingling Yea 5 Nay 0

5D2 TREASURER’S TRANSFERS – Captain Joseph F. Oliver Scholarship Fund

Minutes and payment authorization from the John Anderson Francis Scholarship Committee in support of this request totaling \$10,000.00 is attached to the agenda item. After payment this leaves a remaining balance in the Captain Joseph F. Oliver Scholarship Fund of \$491,120.72.

MOTION: *Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$10,000.00 from the Captain Joseph F. Oliver Scholarship Fund for the payment of scholarship(s).*

Motion by: Elaine Anderson **Seconded By:** John Santos Yea 5 Nay 0

5D3 TREASURER'S TRANSFERS – John Anderson Francis Scholarship Fund

Minutes and payment authorization from the John Anderson Francis Scholarship Committee in support of this request totaling \$11,000.00 are attached to agenda item. After payment the remaining balance in the John Anderson Francis Scholarship Fund will be \$1,128,180.21.

MOTION: *Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$11,000.00 from the John Anderson Francis Scholarship Fund for the payment of scholarship(s).*

Motion by: John Santos **Seconded By:** Elaine Anderson Yea 5 Nay 0

5E EXECUTIVE OFFICE OF PUBLIC SAFETY

Public Safety Answering Point and Regional Emergency Communication Center Support and Incentive Grant.

MOTION: *Move that the Board of Selectmen vote to authorize the Chief of Police to submit a Public Safety Answering Point and Regional Emergency Communication Center Support Incentive Grant application to the Executive Office of Public Safety in the amount of \$17,747 for Telecommunicator personnel costs and equipment.*

Motion by: Elaine Anderson **Seconded By:** John Santos Yea 5 Nay 0

5F1 CONFLICT OF INTEREST DETERMINATION – Ellen Battaglini

Attorney Lauren Goldberg for Kopelman and Paige states in her email attached to the agenda item that M.G.L. c.268A, §20 applicable only to small towns and that “I understand that the 2010 Census determined there is slightly less than 3,000 people in Town. For that reason, in my opinion, the Board of Selectmen may act under that paragraph of G.L. c.268A, §20 to permit appointed persons to hold more than one position with the Town.”

The last paragraph of that section provides in its entirety:

“This section shall not prohibit an employee in a town having a population of less than three thousand five hundred persons from holding more than one appointed position with said town, provided that the board of selectmen approves the exemption of his interest from this section.” (emphasis added)

MOTION: *Move that the Board of Selectmen vote, pursuant to the last paragraph of G.L. c.268A, §20, to exempt from the prohibitions of that statute the financial interest of Ms. Ellen Battaglini, who currently serves as the appointed minute taker for the Conservation Commission, and Zoning Board of Appeals, in appointment to the additional position of Building Department Administrative Assistant, which position is paid at the hourly rate of \$25.00.*

Motion by: John Santos **Seconded By:** Erik Yingling Yea 5 Nay 0

5F2 CONFLICT OF INTEREST DETERMINATION – Amy Germain

Erik Yingling recused himself and left the room.

Attorney Lauren Goldberg for Kopelman and Paige states in here email attached to the agenda item that *“the Board of Selectmen may approve the appointment of even a “regular” municipal employee to a second or third (etc.) paid position with the Town.”* (emphasis added)

MOTION: *Move that the Board of Selectmen vote, pursuant to the last paragraph of G.L. c.268A, §20, to exempt from the prohibitions of that statute the financial interest of Ms. Amy Germain, who currently serves as an appointed member of the Zoning Board of Appeals, in appointment to the additional position of minute taker for the Airport Commission which position is paid at the hourly rate of \$25.00.*

Motion by: John Santos **Seconded By:** Austin Knight Yea 4 Nay 0

Erik Yingling returned.

6A **OCTOBER 29, 2012 SPECIAL TOWN MEETING**

Consideration of Town Meeting Articles Continued

STM-4 Prior Year Bills - take up at town meeting.

Remaining free cash - \$366,220.00

MOTION: *Move that the Board of Selectmen vote to recommend that \$250,000 of the remaining \$366,220 free cash to be moved to the STM-6 Stabilization Fund*

Motion by: David McChesney **Seconded by:** Elaine Anderson Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to reconsider STM-7 Capital Improvements for Provincetown High School so that Selectman Yingling can vote as he was absent at the last meeting.*

Motion by: Elaine Anderson **Seconded by:** John Santos Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to recommend STM-7 Capital Improvements for Provincetown High School*

Motion by: David McChesney **Seconded by:** Erik Yingling Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen RESERVE RECOMMENDATION STM-13 General By-Law Amendment; Yard, House or Garage Sales.*

Motion by: Elaine Anderson **Seconded by:** John Santos
Yea 4 Nay 1 (Erik Yingling)

MOTION: *Move that the Board of Selectmen vote to withdraw RECONSIDER STM-13 General By-Law Amendment; Yard, House or Garage Sales.*

Motion by: Elaine Anderson **Seconded by:** David McChesney
Yea 4 Nay 1 (Erik Yingling)

MOTION: *Move that the Board of Selectmen vote to recommend STM-13 General By-Law Amendment; Yard, House or Garage Sales*

Motion by: Elaine Anderson **Seconded by:** David McChesney
Yea 3 Nay 2 (Erik Yingling / John Santos)

6B TOWN MANAGER FOLLOW-UP

School Committee voted to proceed with a contract for the playground at the Grace Hall Parking Lot.

Boiler in the Community Center is being installed.

6C OTHER - None

7. MINUTES OF BOARD OF SELECTMEN'S MEETINGS

MOTION: *Move that the Board of Selectmen approve the minutes of:
October 9, 2012 (Regular Mtg.) as printed.*

Motion by: John Santos **Seconded By:** Elaine Anderson Yea 5 Nay 0

8. CLOSING STATEMENTS

Erik Yingling – None

John Santos – Toured the Veteran's Memorial Community Center today with Rich Waldo. Would like to have a report to identify all needed repairs for the building.

Elaine Anderson – None

David McChesney - Would like an LED replacement project update.

Austin Knight - None

Motion to adjourn by John Santos at 8:32 PM.

Minutes transcribed by: Vernon Porter, Secretary to Board of Selectmen
October 30, 2012

Bosbury 10/22/12
 #1B attached #1


Adequacy of Capital Asset Replacement Reserves

Current Situation

- Capital Asset Replacement Reserve has improved steadily over the last three years
- Operating performance has also improved, but PPPC has incurred losses in the last three years
- CIP estimates of required pier maintenance expenses for 2012 -2016 are significantly above past levels of expenditure

	FY 09	FY 10	FY 11	FY 12**
	\$102,402	\$159,763	\$186,037	\$220,000
	FY 09	FY 10	FY 11	FY 12**
	\$857	(\$59,698)	(\$48,738)	(\$13,001)

	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16
	\$39,410	\$43,401	\$32,097	\$52,156	--	--	--	--

CIP Maintenance Plan Estimates	\$123,775	\$95,550	\$84,450	\$69,450	\$64,450
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PPPC needs to address the adequacy of its capital reserves and the implications of future maintenance expenditures on the corporation's financial performance

** Note: FY 2012 Capital Asset Replacement Reserve and Net Income are estimates and subject to revision during annual audit.