

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MONDAY – OCTOBER 28, 2013 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, Erik Yingling and Tom Donegan.

Other attendees: Town Manager Sharon Lynn, Assistant Town Manager David Gardner and Finance Director Dan Hoort

Recorder: Assistant Town Manager David Gardner

The following are meeting minutes, in brief:

1. PUBLIC HEARINGS – RECOMMENDATIONS OF THE PARKING TASK FORCE

Public hearing notice was read into the record.

Recommendation 1: Establishing a policy whereas there shall be no on-street parking where the roadway width of Commercial Street, or the width between any curb and any obstacle, is less than 17 feet, At such obstacle, there shall be no parking with 25 feet on each side of the obstacle to allow clearance of vehicles to maneuver; and

Recommendation 2: Change the policy on towing vehicles within the street sweeping zones. First and second time violators will be ticketed, third time violators will be towed. Further, recommend an increase in the cost of the ticket to \$100 (\$25 currently) in order to provide the incentive to ensure that cars do move during posted street sweeping times.

Public comments:

Barbara Rushmore – Minimum width standards of the sidewalk for accessibility should be used as a guideline and should not be used as a reason to eliminate parking spaces. Fire Department does not need 17 feet width to get around. We should not take away parking spaces.

Alex Brown – Seventeen feet is not wide enough for the West End when we are trying to move a boat trailer. It is a safety hazard and it should not be allowed to continue.

MaryJo Avellar – Horrible idea, where will people park? It will lead to people requesting curb cuts. The cost of the proposed ticket is too large. Does not agree with the proposal.

Duane Steele – Concerned with reducing parking.

MOTION: Move that the Board of Selectmen vote, to approve Recommendation 1 of the Parking Task Force, to establish a policy whereas there shall be no on-street parking where the roadway width of Commercial Street, or the width between any

curb and any obstacle (i.e. power pole, sign post, etc...) on Commercial Street, is less than 17 feet, At such obstacle, there shall be no parking with 25 feet on each side of the obstacle to allow clearance of vehicles to maneuver.

Motion by: David McChesney **Seconded By:** Tom Donegan Yea 4 Nay 1 Erik Yingling

MOTION: *Move that the Board of Selectmen vote, to approve Recommendation 2 of the Parking Task Force, to direct town staff to change the policy on towing vehicles within the Commercial Street Sweeping Zones. First and second time violators will be ticketed, third time violators will be towed. Further, recommend an increase in the cost of the ticket to \$100 (\$25 currently) in order to provide the incentive to ensure that cars do move during posted street sweeping times.*

Motion by: Tom Donegan **Seconded By:** David McChesney Yea 2 Nay 3
Motion Failed.

2. PUBLIC STATEMENTS

Michael Rogovsky – Comments on the article in the Cape Cod Times regarding an uncivil discourse in Provincetown.

Jim King – What is the rationale of having a police vehicle and detective on the Pier at this time of year.

Michael Canizales – Comments on the Cape Cod Times article, thinks that the debate in town is healthy. The fact that more people are participating is a good thing. Social media should be used more. We all need to learn to communicate better. We need to practice civility. Much of this talk about civility has undertones of classism. We should encourage participation.

Hazel Everett – was bullied on the internet as a child. When I was bullied, I felt defenseless, functioning adults should be able to defend themselves.

Mary-Jo Avellar – Had the First Amendment on the screen at the Town Meeting. When you participate in politics, you should expect to get criticized. Public discourse is more valuable than no public discourse.

Peter Petas – Urged everyone to not co-opt the language of hate when they participate in the public process. I would also like to thank John Goodrich for the police public forum.

3. SELECTMEN STATEMENTS

Elaine Anderson – regarding the Marine Patrol Program, we need a public safety presence on the Pier. We should allow the Harbormaster to do his job by concentrating on the maintenance of the pier. The MPO program was intended to be a 3-year trial program. We should allow the program time-frame to continue and then evaluate once we have the necessary data.

David McChesney – The PPPC management agreement will be expiring, we are in the process for negotiating that contract. We should consider whether we need to have a PPPC Board of Directors or turn the management back to the town.

Erik Yingling – Thanked all who attended Special Town Meeting, which was well attended thanks to grass roots social media campaigns. We need to understand the difference between bullying and cantankerous debate. Article in Cape Cod Times was interesting, but at the end of the day, we all came together and agreed at town meeting.

Tom Donegan – Town Meeting was very successful, thanks to all those who worked to make it happen. Police Forum was very successful and turned out very well. When it comes to discourse, we should be careful with our vocabulary, and we should not say things about someone that we would not say to their face.

Austin Knight – Thank you all for coming. Was torn when I saw the article in the Cape Cod Times, because I don't think the Town is torn apart. I think there are many things going on in town and we don't all agree, but we are addressing those issues and we have a process for considering these issues. In regard to the Pier Corp, we should consider what type of leadership we need at the Pier moving forward. The public needs to weigh in on that conversation.

4A. POLICE SERVICES PUBLIC FORUM FOLLOW-UP

John Goodrich, Senior Affiliate Facilitator present.

Report of the Massachusetts Office of Public Collaboration regarding police services.

Three months ago, the Massachusetts Office of Public Collaboration at the University of Boston contacted the Town of Provincetown with an offer to provide the community with conflict intervention and civic engagement assistance that included three steps: 1st, an initial conflict assessment that included an online survey that almost 600 people responded to, 2nd, the facilitation of a public forum in September attended by over 100 people that included table discussions facilitated by Cape Mediation and opportunities for public comment, and 3rd MOPC's Assessment Report and Process Recommendations that the Board has received and that was posted on the Town's website last week.

As is our customary practice, we will be asking the Town to post an evaluation survey on the website next week. Your feedback will help MOPC to continue to improve upon the conflict intervention and civic engagement services that we can offer to municipalities in the future. We encourage everyone to read the report and to think about the process recommendations. I am not going to go through the recommendations in detail, but rather I would like to focus on why we feel these four process recommendations are important for the community at this time.

Throughout this three-month process that the Office of Public Collaboration has facilitated for the community, we have stressed the need for both conflict intervention and civic

engagement. Why? Because over the past six months, the level of concern, distrust, and emotion has grown far beyond what a town board or an administration could be expected to deal with on their own. This is an issue that affects the entire community and the community needs to come together to work on and to resolve the problems.

The normal approach of town government in a situation like this is to take a number of specific actions in response to public concerns and requests, and your board and town meeting have already taken a number of steps. But our assessment shows that the magnitude of this situation would benefit from a more comprehensive and coordinated community response and that is what MOPC has tried to address in our process recommendations.

We see that there are two steps that the town should consider taking as soon as possible: the workplace climate assessment for the police department and the formation of an advisory committee that can be trusted by the community to be open, fair and balanced in the way that they advise both town government and the community as a whole on the best way forward to resolve these problems. The implementation of our other recommendations can benefit greatly from having such an advisory committee in place, and the members of your police department shouldn't have to wait any longer for the kind of support that the workplace climate assessment can provide them.

Our other recommendations include both conflict intervention and civic engagement processes that are designed to address the bigger picture long-term, aimed at building the capacity of town government and the community as a whole to deal with major issues like this more effectively in the future. They include an assessment of how town government tackles issues like this, how to effectively implement and coordinate all of the community policing suggestions that have been made, and how to engage the entire community in effective problem-solving and communication, in person, in meetings, in formal statements, and through social media.

Whereas we recommend that the Town government consider funding the workplace climate assessment for the police department and the formation of an advisory committee as soon as possible, you may want to consider applying for grant support to implement the other recommendations, and MOPC would be pleased to provide assistance to you in the preparation of grant requests. The deadline for one grant source that may be appropriate is in November – the state's Community Innovation Challenge grant program administered by the Executive Office of Administration and Finance.

Implementing these recommendations can have a number of important benefits, including improving the way in which:

- 1st The police department interacts with the community,
- 2nd Town boards and departments work together to resolve major issues,
- 3rd Town government engages the community in important decisions,
- 4th Information and recommendations from the independent investigation, the police staffing study, and the town's continuing discussion of public safety facility needs are used to make important decisions, and
- 5th Improving the way in which the community engages in discourse once again as you

have done in the past, including this time through the emerging uses of social media. The town is at a crossroads. This is an opportunity for Provincetown to develop new and innovative community processes that can help you deal not only with this critical issue but with other important community issues that may come up in the future, whether they be financial management, or economic development, or affordable housing, or the Town's Pier or some unforeseen issue. Provincetown has been leading the way in civic engagement and serving as a model for nearly 400 years, and this is another opportunity to do so.

Tom Donegan - Discussion on how to move forward. What would the advisory committee look like? Needs to have representation of the community. Should consult with previous Police Chiefs in Provincetown, who instituted community policing back in the 90's. Consider Community Innovation Challenge Grant application to help facilitate next steps. We need to ensure that we follow-up with the recommendations.

Elaine Anderson – Report is very comprehensive. We have an officer on-staff that has experience with community policing in another police force. We need to identify the funds needed to move forward with implementation of the recommendations.

David McChesney – Staffing analysis and investigation are ongoing. We need to ensure that we do not just let this report sit on the shelf, we need to follow-up with the recommendations.

Erik Yingling – The process has helped the town and I think we are working in a positive direction. Not sure where to begin to implement. We should consider asking the Finance Committee for funding from the Emergency Fund.

Place an item on November 12 agenda to consider next steps for implementation.

4B. CAPE LIGHT COMPACT UPDATE PRESENTATION

Assistant County Administrator Maggie Downey and Meredith Miller of the Cape Light Compact both present.

Provided an update of the work of the Cape Light Compact. Cape Light Compact is a power supplier. Administers the Energy Efficiency Program for residents, business and towns. Funds of the Cape Light compact are received by the rate payers.

Main Street Initiatives is a pilot project that we are starting in Provincetown. The program will reach out to small businesses to promote energy audits and efficiency measures.

LED light replacement program is moving forward with much consultation with the local energy committee. Mapping is currently being done, another demonstration fixture will be installed to allow an option in fixtures. Installation of the replacement is scheduled to occur in March.

Compact also acts as a energy consumer advocate on behalf of rate payers. The Compact should look into the impacts of energy efficiency on historic properties in

historic districts and provide the resources to help property owners respond to district concerns.

5. BOARD OF SELECTMEN APPOINTMENTS – continue to next meeting.

6A. COMMERCIAL STREET RECONSTRUCTION UPDATE PHASE 2 and APPROVAL OF CONTRACT WITH GHD INC FOR COMMERCIAL STREET RECONSTRUCTION PHASE 3

Deputy DPW Director Richard Waldo present.

Update on progress of construction of Phase 2. Reconstruction work starts tomorrow west of Franklin Street. Water work and drainage work will be completed this week. Parking ban on Commercial Street is in effect in the construction zone.

Phase 3: In August 2013 the Town of Provincetown was awarded a grant in the amount of \$73,946.00. This grant was awarded by Department of Environmental Protection 604(b) grant program. The project entitled “**Provincetown Harbor – Commercial Street Reconstruction – Phase III, Project #2013-02/604**” consists of preparing a 50% design plan using porous pavement on Commercial Street from Howland Street to Johnson Street.

The service agreement would include a 50% design plan and provide 604(b) Grant reporting and deliverables.

MOTION: Move that the Board of Selectmen vote to *approve a contract agreement between the Town of Provincetown and GHD, Inc. 1545 Iyannough Road, Hyannis, MA, for engineering design services associated with Phase III reconstruction of Commercial Street in the amount of \$73,946.00.*

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

6B. HOUSING SUMMIT UPDATE

Housing Specialist Michelle Jarusiewicz present.

Gave an update on the Community Housing Council’s planning for the Housing Summit. We have been working diligently on getting a facilitator. The CHC proposed that we establish a working group to move forward with a local conversation in the meantime while we are looking for a facilitator. John Ryan, the facilitator from 2006, has since submitted a proposal, and is available in January. In the meantime, we can work on updating the affordable housing flyer, update the Housing Action Plan.

6C PROVINCETOWN COMMUNITY TELEVISION – AMEND AGREEMENT WITH COMCAST

Executive Director Beth O'Rourke and Board member Steve Roderick present.

Request that the agreement be amended to allow the funds to go directly to PTV. It is important to maintain a degree of independence from town government, as PTV is an independent non-profit and is not part of town government.

MOTION: Move that the Board of Selectmen vote, to designate PTV as the direct recipient of Comcast franchise fee pursuant to the Comcast Contract Section 6.4.

***Motion by: Erik Yingling Seconded By: David McChesney Yea 3 Nay 0
Abstain 2 (Elaine Anderson and Tom Donegan)***

6D CONSIDERATION OF QUITCLAIM DEED FOR 1 ATLANTIC AVENUE

Property Owner Dan McCurdy present.

MOTION: Move that the Board of Selectmen vote to approve the Quitclaim Deed for 1 Atlantic Avenue, pursuant to the vote taken under Article 11 of the October 21, 2013 Special Town Meeting.

Motion by: Tom Donegan Seconded By: David McChesney Yea 5 Nay 0

7A VOTE TO HIRE THE SELECTMEN'S SECRETARY – Announcement that at the 5pm meeting, the Selectmen voted to make an offer to Mary Timmons.

7B OPEN MEETING LAW COMPLAINT ACKNOWLEDGMENT

MOTION: Move that the Board of Selectmen vote, to acknowledge receipt of the complaint from Vincent Currier received October 11, 2013, alleging that the practice of the Chair meeting with the Town Manager for the purpose of preparing meeting agendas is a violation of the Open Meeting Law, and further that complaint be resolved as follows:

- ***The Chairman of the Board of Selectmen is specifically authorized by G.L. c.30A, §20(b) to prepare the agenda for meetings of the Board;***
- ***The Town Manager is charged under the Charter, including but not limited to Section 7-2, with managing the day to day activities of the entire Town;***
- ***In that regard, she is most familiar with the matters that must be brought to the Board's attention or that the Board may want to be aware of;***
- ***In light of the Chair's statutory authority to prepare the meeting notice, the Chair has authority to utilize staff to assist him in this regard, and to that end, may call upon the Manager or such other staff and administrative resources as needed for such purposes;***
- ***It is well settled in the case of Pearson v. Board of Selectmen of Longmeadow, 49 Mass.App.Ct. 119 (2000) that a single member of the Board of Selectmen cannot comprise a "subcommittee" for purposes of the Open Meeting Law, and the activities of a single member of a public body are not subject to the requirements of that law;***
- ***Further, where the Chair has statutory authority to set the agenda by virtue of his position, the Chair does not require nor has he requested a vote of the Board with***

respect to the manner in which he prepares meeting notices, and the Board has not created a subcommittee for such purposes, whether explicitly or implicitly;

- *Moreover, requiring the Board to act as a group at an open meeting on preparation of meeting agendas would be impractical, inconsistent with the plain language of the Open Meeting Law, and create insurmountable administrative issues, inconsistent with both the express language of the Open Meeting Law and established case law;*
- *For all of these reasons, the Board finds that the complainant has failed to allege any violation of the Open Meeting Law, and therefore, no remedial action need be taken;*

And further, to authorize Town Counsel prepare a response to the complaint and send the same to the complainant and the Attorney General.

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

7C UPDATE OF STAFF AND COMMITTEE TRAINING

Discussion of proposed training for staff and committee volunteers, including anti-harassment, customer service, family medical leave, and public records request.

7D. TOWN MANAGER SHARON LYNN FOLLOW-UP

VMCC open house is this Saturday, November 2nd.

We started a new section on the town's website called "spotlight" to inform the public of positive happenings in town government.

Connie Boulos hired as Town Treasurer.

7E. OTHER - None

8. MINUTES OF BOARD OF SELECTMEN'S MEETINGS – None.

9. CLOSING STATEMENTS

Elaine Anderson – None.

David McChesney – None.

Erik Yingling – None.

Tom Donegan – None.

Austin Knight – Best wishes to David Guertin on his retirement.

Motion to adjourn by Elaine Anderson at 9:35 PM.

Minutes transcribed by: David Gardner