

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MONDAY, September 22, 2014 6:00 PM
TOWN HALL – JUDGE WELSH ROOM**

Chairman Donegan convened the meeting at 6:05 PM, noting the following:
Board of Selectmen attending: Tom Donegan, Erik Yingling, Robert Anthony, Cheryl Andrews and Raphael Richter.

Other attendees: Acting Town Manager David Gardner, Finance Director Dan Hoort

Recorder: Dan Hoort

Without objection he will waive the reading of the consent agenda and without objection the Selectmen approve the consent agenda.

A. Parade Permit Application submitted by Brandon Motta, Director of the Provincetown Recreation Department, to be held on Friday, October 31, 2014, starting at 3:00 P.M. and ending at 4:30 P.M.

1. PUBLIC HEARING - NSTAR

Proposal by NSTAR installation of 4514' underground cable and conduit adjacent to Route 6 from the Truro line to Snail Road, including one new pole and fifteen new manholes.

The public hearing notice was read into the record by Selectman Yingling
Selectman Yingling read into the record letters by Seashore Superintendent Price and Lauren McKee.

The NStar representatives (Jerry McDermott, Jessie Elder, John Garver and BHP Consultant Randy Hart) mentioned they are working to set up a meeting regarding bicycle issues and then discussed the project which is to put underground two secondary source lines for Provincetown to provide a redundant source of power. The project involves one pole at Snail Road and eleven manhole covers within the Town of Provincetown. They are more than happy to work with the National Seashore.

Selectman Donegan asked about the benefits of this project?

Nstar representatives responded that the benefit of this project is to provide a second power line into town in the instance if the first line were lost, this second line would be available. Going forward they are happy to work with any group as they always do.

Selectman Richter asked if there manholes in the traffic lanes?

The Nstar representatives responded that none of the manhole covers would be in the traffic lane.

MOVE that the Board of Selectmen vote, pursuant to MGL C.166,§22, to approve the request of NSTAR to install and maintain underground cables, conduits, and manholes, as indicated on Plan No. 103815, WO# 1735508 dated August 7, 2014

submitted by NSTAR to service to provide redundant electrical service to the Town of Provincetown, MA subject to the following conditions:

- 1.) All conditions set forth in MassDOT permit for work performed in neighboring towns, a copy of said permit shall be delivered to Provincetown Public Works Director prior to commencing work within Provincetown.
- 2.) Any paved areas within the Route 6 layout that should become damaged or excavated as a result of this project shall be restored with full width pavement extending 5 feet on either side of said trench or damaged area. Satisfactory restoration of undisturbed areas shall including milling and overlaying with two inches (2") of hot mix asphalt modified top course. Disturbed (trench) areas shall be restored using 8" of gravel plus 4" dense graded crushed stone over it, 3" binder base course, 2" binder course, 2" modified top course, tack vertical pavement edges with RS-1 emulsion, all damaged pavement marking shall be restriped in-kind.
- 3.) Any damaged drainage structures shall be repaired in-kind and meet the approval of the Public Works Director.
- 4.) Any damaged drainage pipe shall be replaced in entirety with HDPE pipe of equivalent size between drainage structures and meet the approval of the Public Works Director.
- 5.) Staging areas during construction shall meet the approval of both Public Works Director and Police Chief at all times.
- 6.) Vehicular traffic must be maintained at all times during construction.
- 7.) Steel plates left overnight are not allowed and if required during the day their use should be very limited.
- 8.) Road shoulders shall be restored to their original conditions.
- 9.) The grantee(s) must adhere to the order of conditions issued by the Town of Provincetown Conservation Commission (D.E.P. #SE 58-0526).
- 10.) NStar shall make every effort of work with the Cape Cod National Seashore and Outer Cape Bicycle and Pedestrian Master Plan Steering Committee.

Motion by Erik Yingling, Seconded by Robert Anthony. Motion passes 5-0-0

2. PUBLIC STATEMENTS

Duane Steele would like to make a suggestion to help the Selectman have more time to study issues and make better decisions. He would like the Selectmen to go further than the consent agenda. There are ways to shorten the agenda by having staff handle many of these items. He thinks it would be a good idea because it would give the Selectmen more time to interact with the public. The Finance Committee allows people to come up during the meeting and give comments. He'd like to see the Selectmen spend more time discussing and interacting with the public, he thinks they would enjoy it. He stated they would not be abdicating any of their responsibilities, the Selectmen would just be streamlining.

Kevin Comick, Nancy Marzilli and Sheila McGuinness of Seashore Point spoke regarding the letter sent by the Selectmen to Seashore Point regarding labor issues. They are very proud of the staff at Seashore Point. For three years in a row the staff has far exceeded the state requirements regarding care efficiencies. They have partnered with Outer Cape Health Services as well. They were in union contract negotiations for almost a year. Based on the Seashore financials they asked the staff to work with them. The nursing home lost \$600,000 last year and because of the healthcare law changes the trends were not good. The first proposal was to bring staff to the median Cape salary. The next step was to be at 130% of the median which would result in some salary cuts to staff and still result in an overall loss of a half million bucks next year. The total reduction on the non-management side totals about \$10,000. The Deaconess has now contributed about \$36M to Seashore Point.

Selectman Yingling requested the Selectmen suspend the rules and resolve this or begin to resolve this tonight. The Selectmen had no objection as long as no votes were taken.

Mr. Comick continued by saying the Seashore would take agree to a formula that would contribute 10% of any profit margin back to employees in bonuses. They also changed the rehab structure which provided more year-round employment. They also changed how they sold the condos in the second phase which generated up additional tax revenue to the town.

Selectman Yingling asked to be updated on the status of the negotiations.

Mr. Comick stated a mediator was brought in and a settlement was reached, but was voted down by the union by four votes.

Mr. Comick stated the Deaconess is a successful non-profit and has contributed greatly to the finances of Seashore Point by underwriting their losses.

Selectman Yingling asked what the average pay cut looked like.

Mr. Comick said it depends on the category and provided a sample of the pay rates. Seven or eight people are looking at a \$2 or \$3 an hour cut. All managers are at or below the average and two management positions have been eliminated and the Deaconess pays his entire salary. Their satisfaction surveys continue to be great.

Selectman Yingling mentioned Cape Cod is a very expensive place to live and would like to see this discussion as a future agenda item.

Ms. Marzilli stated the Deaconess Board has to be good stewards of their non-profit status and wants to keep a facility in Provincetown.

Mr. Comick said it is very expensive to live here, but you have a government that no longer believes we need nursing homes, especially one as remote as Provincetown. The push continues to be not to have people go to nursing homes. Hospitals are resistant to send patients to a remote location like Provincetown.

Selectman Anthony asked if they were affiliated with Deaconess Hospital?

Mr. Comick stated no, we are not affiliated with the hospital, but are affiliated with the Deaconess Abundant Life Communities.

Selectman Andrews said her parents have experience with extended care. Appreciates the interaction. She has two goals which are to continue the facility in Provincetown and the employees are treated properly. How many beds are in the facility?
Mr. Comick responded there are 41 beds with 38 occupied.

Selectman Andrews asked about layoffs.

Mr. Comick said if layoffs were needed it would come on the nursing home side. Their staffing levels are 10 to 15% higher than in a for-profit nursing home.

Selectman Andrews asked that the flow of information continue. If anything questions the model (of a Provincetown nursing home) the Selectmen need to hear about it.
Mr. Comick stated the big issue is the flow of patients. Last year they averaged 32 patients, that number is higher this year. They need to stay near 38 and sell the condos, at that point they think they can be near break-even.

There were no other public statements.

3. SELECTMAN STATEMENTS

Selectman Richter

None

Selectman Yingling

He appreciates the interaction with the staff of Seashore Point, he's heard a lot of swirl about it recently.

He also appreciates the input from Mr. Steele for ways to streamline government.

Selectman Andrews

She appreciates hearing from the board of Seashore Point. Any change over there that threatens the existence of a nursing home raises a red flag for her.

As to 2020, it would be helpful to have a written invitation to all we would like to invite to the first meeting, she is willing to draft a memo to where we go from here.

This is the week where we have a meeting every day, here's to a productive week.

Selectman Anthony

He hopes the department heads look for budget cuts, he would like to see 5% cuts in the budgets. Department heads should look for fiscal responsibility. The way things are going with the capital improvement program we have to look seriously at what we spend.

Selectman Andrews asked if we would be looking at the ten year financial forecast prior to meeting with the finance committee. [Chairman Donegan said he would look at his calendar and see if we could schedule that.](#)

Selectman Donegan

Congratulations to the Hero Fund, the resolution was very well received. The firehouse that lost two firefighters was in town with their families.

The FinCom chair called Selectman Donegan to say they would not be bringing forward the article regarding the reporting structure for the police chief. He discussed a number of warrant articles coming from the Finance Committee, the Board of Selectmen and the Planning Board.

He reminds people that the Wounded Warrior ride is on Friday.

Congratulations to the Provincetown Police Department on the recent drug arrests.

Anything that restricts the flow of drugs is a good thing.

He voted no on the 2020, but he is very hopeful he is wrong.

Welcome back to acting town manager Gardner.

4. Joint Meetings

None

5. Appointments

None

6. Actions

A. Shellfish Season

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 Sunday, November 2, 2014 the shellfish area West of the breakwater will open to the public.

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

The days allowed are Sundays and Fridays through the end of March 2015, 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.

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 Erik Yingling, Seconded by Selectman Richter. Motion passed 5-0-0

Shellfish Warden Jackett explained the process for shellfish areas which are rotated every three years. Beds are opened on November 2nd and he requests that public be able to park around the rotary.

Selectman Donegan noted Mr. Jackett was appointed as the Truro Harbormaster/Shellfish warden in Truro and congratulated him.

B. – MassDocs for Stable Path Development

Housing Specialist Michelle Jarusiewicz invited Stable Path developer Ted Malone to join her. The MASSDOCS program should make the program simpler. The state developed the system to help streamline the process. It should result in a significant savings in legal fees to the town and it makes it simpler for the developer.

**MOVE that the Board of Selectmen vote to participate in the MassDocs program through the Massachusetts Housing Partnership, to sign the Joinder to the Global Participation Agreement and related documents and to participate in the MassDocs program for the Stable Path Affordable Housing development.
Motion by Erik Yingling, Seconded by Robert Anthony. Motion passed 5-0-0**

Selectman Yingling is excited that Stable Path is moving forward and asked when the shovel goes in the ground.

Mr. Malone said the target is in late November, early December. It's a 12 to 14 month process. All permits are in place.

Selectman Yingling is pleased that this will make the process go faster.

Selectman Andrews asked if there was any downside.

Ms. Jarusiewicz said it's less complicated, but is still complicated.

C. – Harbormaster Staff Letters of Commendation

Selectman Andrews agreed to draft these for the Selectmen and is bringing them forward tonight.

MOVE that the Board of Selectmen vote to approve the draft letters written to Assistant Harbormasters Dan DeGruttola, John DeMatteis, Luis Ribas and Dick Silva.

Motion by Erik Yingling, Seconded by Selectman Richter. Motion passed 5-0-0

D. – Community and Government Service Award – Barbara Rushmore

Selectmen Richter and Yingling recused themselves and left the room.

Selectman Andrews mentioned that she looked at video when we did it the first time. We need to explain what we are doing. The purpose of the award is specifically to recognize the contributions of long-standing residents specific to municipal work.

Barbara Rushmore has served on many boards and is one of the most active participants at town meeting. She has brought countless petitioned articles forward to town meeting with over 30 to 40 approved at town meeting. It is amazing how many times she has been groundbreaking in her ideas. She was active in banning cigarette machines before it became popular to do so. She did a great deal of her work by citizen petition bringing them forward to town meeting. Selectman Andrews is thrilled to nominate her for this award.

Selectman Anthony said she has been a staple in Provincetown for years and years. They would have conversations every year prior to town meeting. He recalls the tree on Standish Street when Barbara chained herself to the tree. He wishes her a very happy birthday.

Selectman Andrews mentioned that for anyone who missed it two members of the Board of Selectmen are her grandchildren. That says a lot about her passing on her ideals.

Selectman Donegan remembered when the FinCom was going to not recommend one of her articles and he was sent to tell her. Agree or disagree you always know where she stands and we are all still residents of Provincetown.

MOVE that the Board of Selectmen nominate Barbara Rushmore for the Community and Government Service Award to recognize her efforts over many years to improve the quality of life in Provincetown.

Motion by Cheryl Andrews, Seconded by Robert Anthony Motion passed 3-0-0

Selectmen Richter and Yingling rejoined the meeting.

E. – Town Manager Search Follow-up

Selectman Donegan provided an update on Town Manager Search.

Tuesday morning the candidates will have a light breakfast with town staff and after the breakfast will meet with the department heads and other senior staff.

On Tuesday afternoon the candidates will meet with committee chairs and individually with each Selectman which will be followed by a 5:30pm community event at the library.

The public interviews by the Selectmen with each finalist will be on Wednesday afternoon.

Selectman Donegan will be sending out survey for staff and department heads to provide opinions.

Selectman Donegan stated all meetings are open to the public and although some will not be televised they are part of an open process.

Selectman Andrews questioned if that was different than previously planned.

Selectman Donegan stated each Selectman has the option of having it open or not, it is not required to be open to the public under the open meeting laws as long as Selectmen do not deliberate amongst themselves.

Selectman Andrews asked if the candidate interviews from the last town manager's hiring could be made available.

Acting town manager Gardner will check with PTV.

1. Special Town Meeting Actions

A. Zoning Bylaw Amendments Referrals

Selectman Richter asked about the process.

Acting town manager Gardner explained the process is a procedural process with zoning bylaw articles, not general bylaws to refer articles to the Planning Board in that the Selectmen refer the amendments to the Planning Board. The Charter requires the planning board have a public hearing.

MOVE that the Board of Selectmen vote, pursuant to Massachusetts General Law Chapter 40A Section 5, to submit the attached proposed Zoning Bylaw amendments to the Planning Board for review and public hearing in October 2014 in order to be placed on the October 27, 2014 Special Town Meeting Warrant. Motion by Raphael Richter, Seconded by Erik Yingling. Motion passed 5-0-0

B. Special Town Meeting Warrant Articles

Acting town manager Gardner explained that tonight the Selectmen vote to insert their articles into the warrant. On Friday the vote is to finalize the warrant.

Selectmen Yingling brought up the plastic bag article and how it had changed since the last meeting.

Mr. Gardner mentioned several other communities have brought up and passed this article.

Selectman Donegan mentioned this article would essentially ban grocery plastic bags.

Selectman Richter asked if the Selectmen would also bring forward this article. He was concerned that an effective date of April 15th does not allow businesses to use up their current supply of bags.

Selectman Andrews asked about the advantage of doing article 1.

Finance director Hoort stated if we did not do it we would raise \$150K more in taxes than we actually need.

Selectman Andrews questioned the lighting bylaw proposal (article 10) and the potential for many holidays if it is not defined more clearly than that.

MOVE that the Board of Selectmen vote to approve Articles #1 – 12 for the October 27, 2014 Special Town Meeting as presented by the Town Manager and to insert said articles into the October 27, 2014 Special Town Meeting Warrant forthwith.

Motion by Tom Donegan, Seconded by Raphael Richter. Motion passed 5-0-0

C. Free Cash Discussion and Policy Update

Selectman Yingling suggested the Selectmen need to decide what to do with the free cash. Should it go into capital improvement stabilization fund, the affordable housing trust fund or other funds.

Mr. Hoort stated he would need to check with town counsel as to what is allowed or not allowed under Massachusetts general law.

Selectman Yingling asked about the balance in certain funds.

Mr. Hoort mentioned we have approximately \$1,100,000 in the general purpose stabilization fund, the affordable housing trust fund has between \$400,000 and \$500,000.

Selectman Yingling would like to set some priorities and decide for which priorities we would set aside money

Selectman Andrews she would not vote for anything until she sees the budget for next year.

Selectman Donegan suggested we may opt to use free cash to pay off debt.

Selectman Yingling asked if we had a policy on how we would use free cash. Mr. Hoort said we do not have a policy.

Selectman Yingling suggested we may want to have a policy on what we want to do with free cash.

Selectman Donegan stated this may be a part of looking at the 10 year plan. Mr. Hoort said the joint meeting with the FinCom on the 10 year plan could last all day, one of the issues would be what to do with free cash.

Selectman Yingling asked Mr. Hoort's opinion on free cash. Mr. Hoort understands Selectman Yingling's thoughts, but thinks the use of free cash may change dramatically from one year to the next so it's hard to set a policy when it may change the following year. Things are still so fluid at this time we may not want to set a policy.

Selectman Yingling said the policy may be aspirational. Mr. Hoort agreed that it is a conversation worth having.

Selectman Anthony agrees with Mr. Hoort that our uses for free cash are so fluid.

Selectman Donegan mentioned the ten year plan will give us a better understanding of where we are at, we may want to make that meeting a bit longer. October 14th Meeting was moved up to 4:30pm.

On Monday, October 6th at 5pm the Board of Selectmen will meet to review the 10 year forecast.

D. Town Manager Follow-up

Acting town manager Gardner discussed the schedule for the town manager candidates over September 24th and 25th. On Wednesday afternoon beginning at 12 noon the Selectmen will hold their interviews.

The Selectmen's Friday meeting conflicts with the Wounded Warrior event. If we moved the meeting to 11:05am the group could walk over to the event.

The Thursday meeting agenda is set, but may not be needed if deliberations are completed on Wednesday afternoon.

Selectman Andrews brought up the Board of Selectmen secretary candidates and requested the Selectmen interview the finalists as quickly as possible.

Selectmen agreed that Thursday at 5pm is the preferred time if the candidates are available.

Staff will reach out to the candidates to determine their availability for final interviews.

Mr. Gardner thanked Doug Johnstone, Elisabeth Verde and Dan Hoort for stepping up and covering for him during his vacation.

Selectman Donegan mentioned the need to follow up on the Grace Gouveia sale regarding the easement to the property. Mr. Gardner said town counsel has recommended a solution and he will follow up with them.

1. Minutes

MOVE to approve minutes of August 11, 2014 amended.

Motion by Raphael Richter, Seconded by Robert Anthony. Motion passed 5-0-0

2. Closing Statements

Selectman Yingling

none

Selectman Andrews

none

Selectman Anthony

none

Selectman Richter

The stop sign removed as of October 1st, he asked if there is a public safety plans for signage in place? He asked that the staff have a plan.

Selectman Donegan

He posted, but we do not need the town manager part of the executive session piece.

MOVE that the Board of Selectmen vote to go into Executive Session pursuant to MGL c30A Section 21 (a) Clause 6 - To consider the purchase, exchange, lease or value of real estate, if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body and not to convene in open session thereafter. The Chair did declare.

Motion by Raphael Richter, Seconded by Robert Anthony

Roll Call Vote:

Cheryl Andrews: yes

Raphael Richter: yes

Tom Donegan: yes

Erik Yingling: yes

Bobby Anthony: yes

The board went into Executive Session at 8:16pm.