

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
SPECIAL MEETING MINUTES
MONDAY, AUGUST 18, 2014 4:30 PM
TOWN HALL – JUDGE WELSH ROOM**

Chairman Donegan convened the meeting at 4:30 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

1. PUBLIC STATEMENTS

Mike Canizales – He was here again to request that rather than immediately reappoint the current Ad Hoc committee that the Selectmen take the time with staff to research a bunch of issues that have come up in terms of how the committee started and potential partisan politics that are playing a heavy hand. He doesn't have all the information, but has enough information that makes him very nervous. He's highlighting what he found so hopefully the Selectmen will push the pause button. He feels he is being distracted by this issue rather than working on finance committee issues. He referenced the Candace Nagle e-mails received through a Vincent Currier public records request. His opinion was that the ad hoc committee did not get its start by a request from the committee chair, but rather by a push from Ms. Nagle. He feels changes to the appointment of the finance committee have everything to do with people not liking Mary Jo and the need to change her powers. This is a once in a generation activity, it's not something we need to do in a year. He would like the Selectmen to bring up who is on the committee after the fall town meeting.

Mark Hatch – Read an e-mail that proposes the creation of a charter review committee. E-mail identified as sent from Candace Nagle to Sharon Lynn. From his perspective when he reads something like that it causes him to pause. He feels the whole process is suspect. He feels if we are dealing with something as important as this town's charter it should be above all suspicion. Everything that is done on that committee should be open and transparent and everybody should participate. There shouldn't be a pile of e-mails that is only circulated among four people. He does not feel this is the most pressing problem in the room.

John Paul Bianci – He is a resident at 83 Bradford Street. He is here to discuss the charter and the effect on part-time residents. It has been said it is unconstitutional to vote in two places. This is correct in national, state and local elections, however, it has no effect on their ability to participate and vote on

boards and committees. He had a conversation with a gentleman from Secretary of State William Galvin's office. There is no law that prohibits participation on committees and boards. He also spoke with a person in the attorney general's office who concurred with the Secretary of State's office. Another issue that concerns us is the ability to speak at town meetings. He read a regulation that limits non-resident's participation at town meeting. In our opinion this is discriminatory against part-time owners. Being banned from speaking at town meeting regarding issues that directly affects them flies in the face of freedom of the speech. They are proposing a limited number of property owners be allowed to speak at town meeting by simply providing the town moderator with their names. They would like the right to sign petitions, not initiate them. They are part of this town, no one is seeking to take power or change the way this town is run. A committee of four from their organization reviewed the charter and made some recommendations. He would like to publicly thank Mr. Richter and Mr. Donegan for their explanations at one of their meetings.

Public statements were then closed

2. **SELECTMENS STATEMENTS**

Erik Yingling – nothing other than to wish everyone a happy Carnival

Cheryl Andrews – She volunteered to be on the preliminary screening committee for hiring a new BOS secretary. The more she looked at the job description and some of the changes to the job that have occurred over the last five to ten years the more it seemed to her that maybe we jumped the gun by advertising the position without the five of us discussing it. The deadline is intended to close before our (screening committee) first meeting. The expectations of that position have been evolving over the last five to ten years. She would hate to see the BOS make a decision without considering the issues, the job description, who the person reports to, the parameters of the position, is it a 40 hours a week position. She doesn't have all the information and it's a critical position. She assumes we will get some temporary help and doesn't want to slow it down, but maybe we should take an extra two or three weeks to discuss these things. If we need a separate meeting she will be there. She'd rather see the Selectmen talk before the screening committee goes ahead with interviews.

She did a draft for Seashore Pointe. It's not on the agenda so it will come up at a future meeting. She was surprised to learn that employees who were in the AFSCME union when the transfer was made are still in the AFSCME union. There is a scheduled union vote tomorrow. She drafted a letter from the BOS that is ready to go.

She will hold her comments on ad hoc review until we get to item four.

David Gardner spoke to say the job description was included in their last packet, but was not discussed. The search committee wasn't scheduled to meet prior to the applications because he didn't think there was a need to do so, but the committee is certainly welcome to meet and he encourages them to do so. The job description is important, he doesn't know if there are a lot of changes, but we should be able to get it on next Monday's agenda.

Selectman Donegan mentioned that we changed the reporting structure last year so that the job is a direct report to the town manager for daily supervision. Both the BOS and town manager would do reviews jointly. He also stated it would be on Monday's agenda.

David Gardner stated it was a non-union, exempt, position.

Bobby Anthony – He referenced what was going on in Missouri. Being an ex-police officer twelve years ago when a uniform change was discussed he stated it would not happen on his watch. In the meantime the federal government had a lot of surplus equipment that local departments now have and don't know how to use. He feels this country would do well to limit the size of their arsenals and fill their communities with community policing, community involvement. It starts off small and gathers momentum.

There has been controversy regarding the arson case. There is a lot of stuff that is going on. He is requesting an update from the acting police chief and town manager.

Selectman Donegan said he would add it to the agenda on Monday.

Raphael Richter – nothing other than to wish everyone a happy Carnival

Tom Donegan – None

3. **JOINT MEETING WITH THE TOWN MANAGER SEARCH COMMITTEE**

Postponed.

4. **CHARTER REVISIONS PROCES/DISCUSSION**

Ad Hoc Charter Revision Chair Julia Perry was present and met with the Board.

Selectman Donegan updated status. A week from today we will look at reappointment. He asked the BOS if they wanted another work session or if they wanted to wait until chapters five through ten were brought forward. He recommends the BOS have another work session to provide the committee with the BOS input.

Selectman Andrews asked about sunset date for re-appointment. It is August 31st. Selectman Andrews was bothered that the members weren't appointed by the BOS. She feels you need quality in the beginning to get quality at the end. She would like everyone interested in being reappointed to fill out an application with the town clerk. She believes the truth will set us free, get all the e-mails out and town meeting will do the right thing. She wants us to be professional in our approach and be certain all appointments are legal.

Julia Perry asked to be allowed to give her understanding of charter review because it is different from what the BOS heard today. She was elected to charter enforcement in 2012. Shortly thereafter the Charter Enforcement Chair (CEC) chair brought up the idea of charter review. In June or July of 2012 the chair brought the recommendation forward to the BOS, but nothing happened. A year later they made the same recommendation. At that point the BOS met with the CEC in a joint meeting. At that meeting the BOS agreed that two members of the CEC would serve on the review committee. Ms. Perry and Ann Maguire were put on the committee, they were not given an agenda or a list of what they should look at, it was an open assignment to look at the charter. She was elected chair with her experience with the charter. They broke up the chapter and assigned subcommittees to review certain segments. It is news to her that she was considered ex-officio.

Selectman Donegan asked the BOS if they want another work session.

Ms. Perry stated the review committee would encourage that. They would like additional input on Chapter 6, should committees be listed in charter or bylaws. Selectmen Yingling and Richter agree that another work session is a good idea. Ms. Perry stated that perhaps it's more important to work on 7 – 10, leave chapter 6 for another time.

Selectman Donegan said it sounds like we have an agreement to have a work session. As to re-appointment, traditionally individuals don't appear before BOS for re-appointment. The size of the committee was determined by the number of applicants. Is there an ability to get technical and mechanical changes to the charter without the side issues? Don't want to throw baby out with bathwater. He will plan to include motions for reappointment in the next BOS packet.

Ms. Perry asked if the BOS would like the committee to separate clean-up issues versus big issues.

Selectman Donegan asked them to look at controversial vs non-controversial. The DOR wants town to look at non-controversial stuff. Selectman Andrews stated the previous BOS asked staff if they needed to create committee first. It didn't happen in that manner. Selectman Donegan stated that decisions of an appointed body or elected body should probably wait until after town meeting.

Ms. Perry asked the BOS for direction, what do you want to go to town meeting? Residency issue? If needed the CEC has a date selected for the required public hearing.

Selectman Donegan stated that acting town manager David Garner has preliminary draft of residency requirement change. Selectman Donegan and Ms. Perry will agree to a date for work group. Ms. Perry will send out documents in advance. Selectman Donegan suggested that Ms. Perry talk to Mr. Canizales about his public statement and respond. Selectman Donegan hopes the appetite for addressing the controversial stuff is sated.

Selectman Andrews recalls a goal at one time where the BOS intended to reduce the number of committees.

5. SEPTEMBER MEETING SCHEDULE DISCUSSION

Selectman Donegan stated he would like to have shorter, fewer meetings than in August. Schedule looks dense. He will try to put together preliminary agendas for relative to September, but some things must carry forward to October and November. Not ideal, but as a group we would like to limit meetings to four hours. Please remind him of any items you really want in September.

Selectman Andrews asked if the meetings would be Monday's only or other days.

Selectman Donegan stated that most likely only Monday meetings. Regularly scheduled Monday meetings would contain public statements; public hearings, alternate Monday meetings would not include those items, but would be more of a BOS work session.

6. OTHER – none.

7. EXECUTIVE SESSION - VOTE TO GO INTO EXECUTIVE SESSION - M.GL. C30A SEC 21 (A) CLAUSE 1, 2, 3, 6

The Board motioned to enter into executive session at approximately 5:34 pm and then voted as follows:

MOTION: MOVE that the Board of Selectmen vote to go into Executive Session pursuant to MGL c30A Section 21 (A) Clause 1,2,3,6 and 8 for the purpose of:

A. Clause 3 – To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. Discussion of threatened litigation with respect to dredging at MacMillan Pier. The chair so declared.

B. 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. The chair so declared.

C. Clause 1, 2, 3, 6, and 8 – To consider the approval and release of Executive Session Minutes for 2014; and not to reconvene in open session thereafter.

Motion by Tom Donegan Seconded by Cheryl Andrews

Roll Call Vote:

Cheryl Andrews yes

Robert Anthony: yes

Raphael Richter: yes

Erik Yingling: yes

Tom Donegan: yes

Yea 5 Nay 0 Motion passes

The Board went into Executive Session at 5:34 pm.

Minutes transcribed by: Dan Hoort