

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, FEBRUARY 23, 2004

JUDGE WELSH HEARING ROOM

Chairman Mary-Jo Avellar opened the meeting at 6:00 PM noting the following attendees:

Board of Selectmen members: Mary-Jo Avellar, Cheryl Andrews, Michele Couture, Sarah Peake, Richard Olson

Other attendees: Town Manager Keith Bergman, Acting Assistant Town Manager Michelle Jarusiewicz

Recorders: Vernon G. Porter

The following are meeting minutes, in brief.

1 PUBLIC HEARING; COMMUNITY HOUSING REPORT

Affordable Housing Task Force Goals & Strategies

Chairman Avellar read the Public Hearing Notice into the record.

Town Manager Keith Bergman gave a brief synopsis of the report.

Public Comments

Margaret Carroll-Bergman - Chairman of PHA. PHA voted to support the efforts of the Affordable Housing Task Force and petition drive to get the Community Preservation Act as ballot question on the upcoming town election. Ask Selectmen to join with them in supporting warrant articles.

Morgan Norwood - Feels 144 units is very low. Task force needs to come back with more representation.

Steven Roderick - Supports the idea of the Community Preservation Act.

Arturo Alon on behalf of the Local Housing Partnership - Vote to support the ballot question and the three articles before you this evening and ask for the Board of Selectmen's support as well.

Steve Melamed - Concerned that the goal is too low.

Christine Hopkins (Community Housing Resource Housing Advocate) - Absolutely too low. Have over 400 people households that are in desperate need of permanent affordable housing.

Martha Williams - 10% is not enough.

Michael Bunn - (Resident and works for Community Housing Resource) - Ask that you not accept the report as a whole but to accept 1) the Community Preservation Act, 2) the Amnesty accessory by-law and the Growth Management Reallocation of save gallons per day - to be put forward at the Annual Town Meeting. Urge the Board not to support the 40B waiver and limited number of units.

David Nicolau - We've worked hard on this and we have a commitment to come up with something that will work for affordable housing. 40B is working parallel . By the time we are done there will be a lot more than 10%.

Bill Dougal - Member of task force. I view this plan as a theoretical plan. It will be 2006 before we see any building of affordable housing. In the meantime its going to be a continued production of affordable housing units though our regular mechanism that are currently going before the zoning board. And Chapter 40B can continue to be evoked at any point and we can have all the affordable housing we want. We have a long way to go and I am confident that the current market forces that are currently in this community that are

doing a very good for producing affordable housing are going to continue. CPA funding will be an additional avenue for this.

Hattie Fitts - Urge the Board of Selectmen take a look at how Chapter 40B is used in town.

BOARD OF SELECTMEN'S COMMENTS

Cheryl Andrews - There are two things we have to deal with - 1) three actual proposals and 2) the other is the report itself. And congratulations to all of you - you did the work and showed me how we could use the funds and set up a plan to have it be worth our dollars.

Open discussion ensued and Selectmen responded to comments made by the general public.

MOTION: Move that the Board of Selectmen vote to amend Community Housing Report s.4.1 to include reference to Growth Management By-law's existing allocation amount: Category 2 - 1,870 gpd per year; Category 3 - 1,100 gpd/year; Category 4 - 700 gpd/year.

Motion by: Cheryl Andrews Seconded by: Michele Couture Yea 5 Nay 0

Michele Couture - would fight any attempt to seek a waiver to Chapter 40B. Get away from the 10% idea.

On Affordable Housing - People get amnesty and it is now an affordable unit. Who monitors these units to make sure they stay affordable? Keith - through deed restrictions and staff resources to review compliance with the income eligibility documents.

Richard Olson - Share Mr. Bunn's frustration.

Sarah Peake - The LCP proposal - was that not reviewed by the Housing Task Force because of the timing glitch? Jon Gilmore - There was never a joint meeting with the LCP and the Affordable Housing Task Force.

Restrictions - what do we have in mind for enforcement for those people who are buying or renting and continue to be income qualified? Answer: Will be deed restricted in perpetuity or as long as the law allows.

Cheryl Andrews - I will be thrilled to file a waiver. In order to be eligible to file a waiver we have to prove to the State two things: 1) That we have done the work 2) That we have the units and the plans to finish the project. If we can accept the challenging of doing everything we want to at the same time - have the affordable housing but keep the kinds of environmental protections we expect everybody to have - and take care of our water system. In other words these folks are challenge us to do it all. I think we can do it.

MOTION: Move that the Board of Selectmen vote to insert the following article on the warrant for the April 7, 2004 Special Town Meeting as follows: General By-law Amendment: Community Preservation Committee.

Motion by: Cheryl Andrews Seconded by: Sarah Peake Yea 5 Nay 0

MOTION: Move that the Board of Selectmen vote to insert the following article on the warrant for the April 7, 2004 Special Town Meeting as follows: Zoning By-law Amendment, Add Section 4800, Affordable Housing By-Law.

Motion by: Cheryl Andrews Seconded by: Sarah Peake Yea 5 Nay 0

MOTION: Move that the Board of Selectmen vote to insert the following article on the warrant for the April 7, 2004 Special Town Meeting as follows: Zoning By-law Amendment: Growth Management Reallocation for Affordable and Middle-Income Community Housing Units, provided that the Selectmen shall annually make a finding of substantial compliance with DEP water permit [i.e., less than 950,000 GPD annual average] and further vote, pursuant to MGL C. 40A, § 5, to refer the two proposed zoning amendments to the Planning Board for its review.

2. **PUBLIC STATEMENTS**

Barbara Rushmore - Commercial business are paying a lower tax rater and I agree with the two-tier tax rate. Public Statements - would like the Board of Selectmen to put them on earlier.

Rachel White - Hear about rumor of having town insurance cost and cuts and appealing to the Board of Selectmen to give it serious consideration when you hear all of the information that may come before them. (Read statement into record. See attachment #1)

Robert Henrique - Re: Article in Provincetown Banner by Peter Souza and Sheila Benzer re: Hunting in the National Seashore. Urge Board of Selectmen not to support any article at Town Meeting regarding the elimination of hunting.

Sue Rohrbach (Senator O'Leary's District Aid) - Explained the program "Circuit Breaker Tax Credit" for people over 65 years of age.

Bob Palheiro - Provincetown Police Dept. - Concerned about staffing issues. Not enough help and officers working the amount of hours that is required. Use to be an 8-hour day now it is 12 hours a day and many times longer. Have been told that we're going to get help - but I can't see any light at the end of the tunnel. We don't need any more sergeants or chief - what we need is more Indians in order to make the department click and run day-to-day. Would like to see the Board of Selectmen back the Police Department and give us more personnel so that I can feel comfortable leaving my house - go to work and enjoy doing it. Continues to be concerned about safety issues.

Judy Rapose - PPD - also spoke of safety issues. Been with PPD for 19 years. Many people are thinking of leaving PPD and going to Truro. More money and less hours. We are desperately in need of staffing. All we're asking for is two police offices per shift.

Rachel Peters - PPD -An officer since 1982. We are absolutely desperate. More people are a must .. we're in tough shape. In the last two days I've worked 29 hour. This not safe and a serious liability issue for the town. Bike patrols are definitely a must. We need help - please give us the help that we need.

Steve Roderick - PPD - How can we get the number of people that is needed for the Police Dept. Use VSB monies to support the Police Department and the Fire & Rescue.

Marty Menangas - PPD - We came to you once before and nothing was done. Your help is desperately needed ... and now. Feel like I'm being forced to leave Provincetown.

Doug Allan - PPD - Look at the figures when the annual report comes out -- the salaries are high due to excessive overtime and mandatory coverage. Emotions are beginning to fray.

Tom Steele - These shortages have been since 2002. The Town of Provincetown said in 2001 that we need 13 patrolman to run the Department safely - then why are we not funding enough patrolman that was made in the beginning of the contractual agreement? Demand on Police safety is horrendous. We need the funds to hire the people that are needed to do what the system was designed to do.

Glen Enos - Also issue of outdate firearms and police vehicle. We're here to help you have a safe town.

Steve Melamed - Support the PPD to loose any of them would be a shame. May want to consider diverting some VSB funds towards the PPD instead of Wastewater.

3. SELECTMEN'S STATEMENTS

Cheryl Andrews

Addressing the concerns of the PPD - you certainly have all of our attention. It's a disappointment that we are meeting with you now - after the budgets cycle as opposed to before. Regardless, it is our job to take the actions needed. Out of all the issue that have been raised this evening, one that causes great concern is the concept of overtime and mandatory overtime. I put this first on our list of concerns.

Information request - from both the Town Manager and the Chief of Police prepare a report addressing the concerns you heard raised tonight and specifically educate the Board of Selectmen to the best of your ability as to the issue of overtime - how many overtime hours did we actually pay for last several years so that we can get a sense of what we are asking the officers to do.

MOTION: *Move that the Board of Selectmen vote to have the Chief of Police and the Town Manager prepare a report, within seven (7) days, addressing the issues that you heard raised this evening and specifically providing background as to how many overtime hours for last year and the year before and what we are expecting this year and maybe some strategies that we can do to reduce that.*

Motion by: Cheryl Andrews **Seconded by:** Sarah Peake Yea 5 Nay 0

Discussion: Sarah Peake - Dr. Andrews did you anticipate in that report that we would see an analysis of the cost of overtime hours as compared with hiring the 12th and 13th officers. The analysis of having overtime versus having regular staff. Answer: Absolutely.

Mary-Jo Avellar - Perhaps if we had know the overtime situation - what kind of overtime and mandatory overtime that members of the department are having to endure - we might have thought about your budget a little more differently. But, I will say, in defense of the Chief that he tried his best to get you up to the full capacity and we voted otherwise.

Cheryl Andrews

Concerning the budget cycle - welcome to our world. It has not been a fun year and I am afraid it's going to be tough for the next couple of years. Health & retirement increased \$750K this year. Every time you spend \$100K you add 1% to the tax levy. These are expenses built into the budget and this is something we cannot cut. I look forward to any suggestion you folks may have in how we can meet the town's needs and at the same time have a tolerable tax rate

To Mr. Henrique, I appreciate your comments and will support his right to hunt as long as I am on the floor of town meeting. Also have been have been asked what our intentions are for the finger pier area during the summer?

MOTION: *Move that the Board of Selectmen vote to discuss the Finger Piers at the next regular meeting on March 3, 2004 at 7 PM.*

Motion by: Cheryl Andrews **Seconded by:** Sarah Peake Yea 5 Nay 0

Want to read a quote from the Town Report by the town manager, page 3 of 3 - Wastewater System - as it's easy to understand. "Provincetown system is growth neutral and does not fuel growth by simply building a sewer system but instead limits connecting properties to the greater of their current legal use or title 5 design capacity whichever is greater." I'm glad Keith wrote this and not town counsel as it is simple and easy to understand.

Metcalf & Eddy letter to property owners dated February 19, 2004 was poorly done.

MOTION: *Move that the Board of Selectmen vote to request Metcalf and Eddy resend the letters to the property owners using the addresses provided by Sandy Turner and also that they be sent via certified mail and present the green cards back to Sandy Turner.*

Motion by: Cheryl Andrews

Seconded by: Michele Couture

Yea 5 Nay 0

Letter from Stephen Borkowski regarding the Lipton Cup.

MOTION: Move that the Board of Selectmen vote to schedule an agenda item for anytime after March 8, 2004 with the Art Commission to discuss the Lipton Cup and the Art Commission.

Motion by: Cheryl Andrews

Seconded by: Michele Couture

Yea 5 Nay 0

MOTION: Move that the Board of Selectmen vote to have staff send a letter to the owner of the Gulls Nest notifying them that they have the option of removing it within seven (7) days - if not the Town will remove it.

Motion by: Cheryl Andrews

Seconded by: Michele Couture

Yea 5 Nay 0

Cape Cod Business Round Table - Proposal to tax every property owner to build a Regional Wastewater Authority. No one has come to Provincetown to discuss it with us. Would like a report on the meeting that town officials went to. The Blue Ribbon Commission - we are not in favor of it. Provincetown has managed to build a sewer and managed its environmental concerns and has a growth management program. Two issues that I am concerned with: 1) to let you all know that I am concerned and to find out if you are too and to share that with Senator O'Leary's office and 2) to raise with the Town Manager - I saw one of our staff's names listed on one of their meetings and I cannot recall what the end result was. Can you give us a report on that issue and any other meetings that any town officials are invited to.

Sue Rohrbach (Senator O'Leary's District Aid) - Senator O'Leary did, last year, file 'place holder legislation' on this issue in terms the potential for creating some sort of method of funding regional wastewater in some way. He is waiting to hear from people on what exactly that should be. Clearly there are several groups that are working on this and I would encourage you to make your feelings to known to them as well as your County Commissioners.

Cheryl Andrews - I will prepare a paper with some points and we will see what we can agree on, in the near future. Mary-Jo Avellar - I don't need to see any paper, I agree with you now.

Mary-Jo Avellar - Our PPD doesn't have a Breathalyzer. They have to go to Truro to have it done?
Rachel Peters - Ours was down as it was not connected to the lead terminal and we're in hopes of having this done within the next few weeks.

I hope that we are going to be able to work things out with the PPD.

Michele Couture

At the PPD budget meetings I was correct in my arguments about not cutting staff. I look forward to having this matter take care of very shortly.

Pier Corp. - Invite ProFish to our March 3, 2004 to have a discussion with them.

MOTION: Move that the Board of Selectmen vote to send a letter to the Staff of the Water Department to extend our thanks for all the incredible work they have done during this crisis. Also send a letter to Sean O'Brien, the Board's of Selectmen Towns of Brewster, Dennis, Harwich and Yarmouth.

Motion by: Michele Couture

Seconded by: Sarah Peake

Yea 5 Nay 0

Hiring Police Officers - there is a timeline when hiring Civil Services. Would like to know what the timetable is in the report.

Richard Olson

Statements about Police staffing were very disturbing and powerfully made and how impressed I was and how articulately the members of our force put their case before us. Congratulations.

Public Statements - Do we have a ground rule or procedure that when people are making public statements - it should be out of order to make a specific personal reference to other fellow citizens who have availed themselves during this time to make public statements.

Sarah Peake

Relative to the police matters. I echo the sentiments of my colleagues. I came tonight with a prepared statement focusing on the summer officers and I would like to included in what we look at when we get our report from the Chief.

MOTION: Move that the Board of Selectmen vote to reconsider Budget #210 (Police Department) for discussion at our next scheduled meeting on March 3, 2003.

Motion by: Sarah Peake Seconded by: Michele Couture Yea 5 Nay 0

Issue of split-tax rate. I would like more information on this: a) with the top 20 businesses, I would like to see the information as to what the average trend is, if we look at the commercial properties in town. B) I would like clarification as to how we are defining commercial property.

In response to Mr. Henrique's concerns about hunting. I can tell you tonight, or at any public hearing, that hunting in the Cape Cod National Seashore is a traditional use and that was guaranteed at the time the land was turned over to the CCNS. I will always support the right for people to hunt there - as well as to clam and gather berries and all the other traditional uses. Dune shack owners to have the use of their dune shacks - I think it goes across the gamut and I see hunting as no different from those issues.

4A BUILDING COMMITTEE

Library Construction Project change Orders #1 - 4: +\$10,858.23

MOTION: Move that the Board of Selectmen vote to table this agenda item to March 8, 2004 meeting.

Motion by: Sarah Peake Seconded by: Cheryl Andrews Yea 5 Nay 0

4B LIBRARY GRANT APPLICATION

Massachusetts Cultural Council - Operating Grant \$3,500

MOTION: Move that the Board of Selectmen vote to authorize the submission of a grant application for approximately \$3,500 under the Massachusetts Cultural Council grant program for a three-year operating support grant for cultural programming.

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

4C VISITOR SERVICES BOARD

Proposed Town Tourist Enhancement Grant Program

Open discussion ensued.

MOTION: Move that the Board of Selectmen state as a matter of policy that beginning in FY 2005, unused tourism funds will be carried over into the next fiscal year; and the Visitor Services Board shall prepare a draft proposal for how these funds will be allocated.

Motion by: Sarah Peake Seconded by: Michele Couture Yea 5 Nay 0

Mary-Jo Avellar left the room.

4D REQUEST: LOCAL COMPREHENSIVE PLAN COMMITTEE

Proposed Amendment to Article 6 of the Zoning By-laws

MOTION: Move that the Board of Selectmen vote to table this request and ask the LCPIC to revisit their proposal in light of the Board of Selectmen's vote tonight on the growth management bank proposal in the

Community Housing Report.

Motion by: Cheryl Andrews

Seconded by: Michele Couture

Yea 4 Nay 0

Mary-Jo Avellar returned.

4E1 HARBOR COMMITTEE

Municipal Harbor Plan Renewal Request

MOTION: *Move that the Board of Selectmen vote, as follows: WHEREAS, the Municipal Harbor Plan for Provincetown Harbor approved on May 4, 1999 by the Secretary of Environmental Affairs is set to expire on May 4, 2004 “unless a renewal request is filed by the Town of Provincetown prior to that date in accordance with 301 CMR 23.06(2)(a);” and WHEREAS, the Harbor Committee has voted to recommend that such a renewal request be filed; therefore, the Board votes to insert an article on the warrant for the April 7, 2004 Special Town Meeting for such a renewal.*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

4E2 HARBOR COMMITTEE

Municipal Harbor Plan Renewal Request

MOTION: *Move that the Board of Selectmen vote to table this agenda item until March 3, 2004; the General By-law amendment to add a second marked channel for Personal Water Craft, and revisit the draft language of by-law amendment .*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 4 Nay 0 Abstain 1 (Cheryl Andrews)

MOTION: *Move that the Board of Selectmen vote to schedule a public hearing for March 22, 2004 on the Harbor Committee’s recommendation to amend the Harbor Regulations, Appendix B, Harbor Fee Schedules, by adding the following: “Provincetown residents aged 65 years and older shall only be required to pay 50% of the fee for an individual mooring permit.”*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

5A DECOMMISSIONING OF WELL CCNS #4

Request from the Town of Provincetown Truro

Discussion ensued.

MOTION: *Move that the Board of Selectmen vote to take no action on this agenda item..*

Motion by: Michele Couture

Seconded by: Sarah Peake

Yea 5 Nay 0

5B 97 BRADFORD STREET SEPTIC SYSTEM REMOVAL

Authorize Agreement between Stan Klein and Board of Assessors.

MOTION: *Move that the Board of Selectmen vote take no action on this agenda item.*

Motion by: Cheryl Andrews

Seconded by: Michele Couture

Yea 3 Nay 2 (Mary-Jo Avellar/Sarah Peake)

5C AWARD CONTRACT: KNOWLES CROSSING

Material Handling Lift: Waterline Industries Corp. - \$32,677

MOTION: *Move that the Board of Selectmen vote to award a contract to low bidder Waterline Industries Corporation of Seabrook, NH in the amount of \$32,677 for the purchase and installation of a material handling lift at the Knowles Crossing Pump Station. and, further, to authorize execution of said contract by the Board upon receipt of all required bonds and insurance.*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 5 Nay 0
Cheryl Andrews left the room due to conflict. Her father is a resident of the CEM.

5D **CAPE END MANOR CARE CAMPUS**

Plan B for the Same-Site Scenario

MOTION: *Move that the vote to withdraw its January 29, 2004 request to the School Committee 2.0 acres of Motta Field for the Cape End Manor and to insert Plan B; and further to work cooperatively with the School Committee to establish a task force for implementation of Plan B.*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

Cheryl Andrews returned.

5E **APRIL 7, 2004 ANNUAL & SPECIAL TOWN MEETING**

Insert Articles on the Warrant.

MOTION: *Move that the Board of Selectmen take no action on this agenda item at this time and reschedule this agenda item at a special meeting on Wednesday, March 3, 2003.*

Motion by: Cheryl Andrews **Seconded by:** Michele Couture Yea 5 Nay 0

6. **BOND ANTICIPATION NOTE #1035**

MOTION: *Move that the Board of Selectmen vote to issue a Bond Anticipation Note #1035 in the amount of \$1,038,616.00 dated March 1, 2004 at 1.25% interest payable at maturity to Cape Cod Bank and Trust on January 14, 2005.*

Motion by: Michele Couture **Seconded by:** Sarah Peake Yea 5 Nay 0

7. **BOARD OF SELECTMEN APPOINTMENTS**

MOTION: *Move that the Board of Selectmen vote to appoint Cassandra Benson, 6 Johnson Street, Provincetown, MA as an Alternate member of the Licensing Board with an expiration date of December 31, 2005.*

Motion by: Michele Couture **Seconded by:** Sarah Peake Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to appoint Gregory S. Muse, 54 Bradford St., #1-2, Provincetown, MA as a Regular member of the Board of Assessors with an expiration date of December 31, 2006.*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 5 Nay 0

8. **MINUTES OF BOARD OF SELECTMEN MEETINGS**

MOTION: *Move that the Board of Selectmen vote to approve the minutes of January 22, 2004 (Reg. Mtg.) as printed. (CA Absent)*

Motion by: Michele Couture Seconded by: Richard Olson

Yea 4 Nay 0 Abstain 1 (Cheryl Andrews)

MOTION: *Move that the Board of Selectmen vote to approve the minutes of February 9, 2004*

(Reg. Mtg.) *with changes so noted. (All Present)*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to recess this meeting until Tuesday, February 24, 2003 at 5 p.m. at the Veterans Memorial Elementary School.*

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 5 Nay 0

Time of motion: 11:30 P.M.

Minutes transcribed by: Vernon Porter, Secretary

February 25, 2004