

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING – MONDAY, JULY 26, 2004

### JUDGE WELSH HEARING ROOM

Chairman Cheryl Andrews opened the meeting at 6:00 PM noting the following attendees:

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

Other attendees: Acting Assistant Town Manager Michelle Jarusiewicz (Town Manager Keith Bergman on vacation.)

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

#### 1A TOWN COUNSEL: LITIGATION STRATEGY

**& 1B** DeMarco v. Provincetown Police Department - MCAD Case - and -  
Mad Maxine's v. Provincetown Harbormaster

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B, clause 3, to go into executive session for the purpose of discussing strategy with respect to litigation; and to convene in open session thereafter. [Roll Call]*

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

**Sarah Peake - Yea**

**Richard Olson - Yea**

**Michele Couture - Yea**

**Mary-Jo Avellar - Yea**

**Cheryl Andrews - Yea**

#### 2. PUBLIC STATEMENTS

Robert Vetrick - FinCom - Lacking one person for a quorum therefore request to be put on the Board's agenda in two weeks. (August 9<sup>th</sup>). FinCom voted to pay \$15K and are very unhappy that we are asking for more - and that we are paying for Special Counsel when others are getting it pro-bono.

Heather Bruce - Wanted to mention that the Harbor Committee's vote on the mooring field was strictly procedural in order for the application to go before the Board of Selectmen and that their vote was not pro or con. Paperwork was brought to them at the last minute and they did not have time to absorb it.

Ada Hann - Street performer - read statement into record. (See attachment #1)

Peter Souza - Would like the Board of Selectmen to send a letter to CCNS re: Banning Hunting.

Bob Quido - Street Performer - working on a petition.

Jimmy Cooper - Re: Mooring fields, street performing and that he is homeless because of the mooring.

Arlen Oleson - Street Performer - basically no problems but certainly there could be a compromise. Street Performing is a part of Provincetown's culture.

#### 3. SELECTMEN STATEMENTS

Mary-Jo Avellar

**MOTION:** *Move that the Board of Selectmen vote to reschedule the joint meeting with the Finance Committee to Monday, August 9, 2004.*

**Motion by:** Sarah Peake      .....      **Seconded by:** Richard Olson      **Yea 5 Nay 0**

In response to Mr. Souza - I do not support the hunting ban.

Street performers - I enjoy them and look forward to them each summer. I thought that amplification was

not permitted.

MMA Trade Show for 2005 - I have my application completed. Reminder to everyone.

Received complaints about enforcement falling through the cracks because of reduced DRM staff. Need an update from the Building Inspector, this week, about the 'inspection crisis.'

**Michele Couture**

Thanks to Chief Meyer for convening special meeting to deal with Street Performers last Friday to explain the by-law. Maybe Chief should do additional outreach?

Special kudos to officer re: 'gun' incident on Commercial Street.

Receive letter from Health Inspector on number of dog bites and the problems with dog leash by-law. Needs to be looked into again.

***MOTION: Move that the Board of Selectmen vote to ask the Working Group members (Chief of Police, Dog Officer and Health Inspector) that created the leash by-law to meet with the Board of Selectmen at a future meeting.***

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

Cape Light Compact - needs a new representative from Provincetown now that Mark Latour is no longer with us.

Agree with Mr. Souza on banning hunting in the CCNS.

Request an update from John Fitzgerald on Old Reliable.

**Richard Olson**

Street Performers - even with outreach not everyone will be pleased.

Relative to the Harbor Committee's vote re: moorings - if it was simply procedural, then they need to review.

**Sarah Peake**

***MOTION: Move that the Board of Selectmen vote to notify the Board of Health that the Board of Selectmen are available to meet with them, if they so wish, at their convenience to discuss Board of Health issues and the potential charter change from appointed v. elected.***

**Motion by: Sarah Peake ..... Seconded by: Mary-Jo Avellar Yea 5 Nay 0**

***MOTION: Move that the Board of Selectmen vote have a future agenda item on sewer user fees for both short and long term trends and to invite the Water & Sewer Board to attend.***

**Motion by: Sarah Peake ..... Seconded by: Mary-Jo Avellar Yea 5 Nay 0**

Relative to Street Performers - heard from a number of shop owners re: volume.

***MOTION: Move that the Board of Selectmen vote to ask the Town Manager for a report on the status of the ongoing catering operation on the Provincia.***

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

**Cheryl Andrews**

Street Performers - The by-law on Street Performers is quite clear and has been in place for years.

**4. APPOINTMENTS**

Provincetown Public Pier Corporation Board of Directors

***MOTION:*** *Move that the Board of Selectmen vote, pursuant to section 4 of Chapter 13 of the Acts of 2000, to appoint George .J. “Chip” Bradish to a term on the Provincetown Public Pier Corporation Board of Directors which expires July 29, 2007; subject to Town Manager’s background check.*

**Motion by:** Sarah Peake       ..... **Seconded by:** Richard Olson        **Yea 5 Nay 0**

**4B        BOARD OF SELECTMEN APPOINTMENTS**

***Motion that the Board of Selectmen vote to appoint Peter Bez as an At Large member on the Visitor Services Board with an expiration date of June 30, 2007.***

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

**5A        MUNICIPAL PURPOSE GRANT ANTICIPATION NOTE #1042**

***MOTION:*** *Move that the Board of Selectmen vote to issue a Grant Anticipation Note #1042 in the amount of \$150,000.00 dated August 12, 2004 at 1.95% interest payable at maturity to BankNorth N.A. on November 12, 2004.*

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

**5B1       MDPH HIV/AIDS HOME HEALTH GRANT**

FY 2005 Sub-Contracts

***MOTION:*** *Move that the Board of Selectmen vote to authorize the execution of the following sub-contracts for the provision of services as outlined in the Town’s grant agreement with the Massachusetts Department of Public Health for the period July 1, 2004 through June 30, 2005: (1) AIDS Support Group of Cape Cod, Inc. up to \$16,000, (2) Visiting Nurses Association of Cape Cod Private Services Dept. up to \$8,904.80, (3) Hospice & Palliative Care of Cape Cod, Inc. up to \$10,000, and (4) Visiting Nurse Association of Cape Cod, Inc. up to \$78,000.*

**Motion by:** Mary-Jo Avellar        **Seconded by:** Richard Olson        **Yea 5 Nay 0**

**5B2       MDPH HIV/AIDS HOME HEALTH GRANT**

FY 2006 - FY 2010 Application

***MOTION:*** *Move that the Board of Selectmen vote to authorize the submission of a grant application with the Massachusetts Department of Public Health for the period FY 2005 through FY 2010 for the HIV/AIDS Comprehensive Home Health program: (1) for up to \$1,125,000 for services for Cape Cod and the Islands, or (2) for up to \$750,000 for services for Cape Cod.*

**Motion by:** Sarah Peake        **Seconded by:** Richard Olson        **Yea 5 Nay 0**

**5B3       EMPLOYMENT CONTRACT**

Approval of Extension: HIV Grant Coordinator

***MOTION:*** *Move that the Board of Selectmen vote to, pursuant to Policy Statement No. 2002-01-28-A, to approve the Town Manager’s extension of the employment contract with HIV Grant Coordinator Patrick Manning through June 30, 2005, upon the same terms and conditions.*

**Motion by:** Mary-Jo Avellar        **Seconded by:** Sarah Peake        **Yea 5 Nay 0**

**5C        PARADE PERMIT: HOUSING ASSISTANCE CORPORATION**



P-Town Suds

**MOTION:** *Move that the Board of Selectmen vote to direct Town counsel to prepare an interim Laundromat Sewer Connection Permit for issuance by the Water & Sewer Board pursuant to Section 3, Chapter 157 of the Acts of 2000 for a period of 10 (ten) years, subject to an 8 (eight) year review, with sole proposer Hake Nominee Trust, Stephen J. Boggess, Trustee d/b/a P-TOWN SUDS for an interim Laundromat to be located at 291 Commercial Street.*

**Motion by:** Mary-Jo Avellar      **Seconded by:** Michele Couture      Yea 5    Nay 0

7.      **TOWN MANAGER/ACTING ASSISTANT TOWN MANAGER**

No items.

8.      **MINUTES OF BOARD OF SELECTMEN MEETING**

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of July 12, (Regular Mtg.) with changes so noted. (All Present).*

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

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of July 19, (Joint Mtg. w/Truro re: Water) as printed. (All Present).*

**Motion by:** Mary-Jo Avellar      **Seconded by:** Michele Couture      Yea 5    Nay 0

9.      **CLOSING STATEMENTS**

**Mary-Jo Avellar**

Group Health Benefits for On-Call Fire Department? Cheryl - I sent that off to Keith and he sent it to Town Counsel for a legal opinion.

Letter from Del Deo's about the Elm Tree - which is a water and sewer matter. I don't want to see the tree come down and the Water & Sewer Board said that it will not come down.

**Michele Couture**

Harbormaster - MOU with Coastal Studies to use our boat to do Whale entanglements. Seems as though there should have been some sort of policy statement that the Board of Selectmen makes. Michelle Jarusiewicz - Received a letter on this and it is only for a short term for a few weeks as they are waiting for their boat to arrive in August - and only if our boat was available. I'll get you a copy of the letter. Cheryl - this needs more of a policy statement for the future.

Report on the PAAM project. - Open discussion ensued.

Cheryl Andrews to Michele Jarusiewicz - what they are basically asking for is a report from staff (combination of DPW & Health Agent) requesting a simple explanation of facts so the Board can understand whether this property (PAAM) has the potential to sign and Administrative Consent Order (ACO) as opposed to installing a Title 5. If the answer is no - can they explain to us how they decided that. An ACO in lieu of concurrent Title 5 installation with their construction project.

**Sarah Peake** -

As we are appointing new members of the Pier Corp we need to focus on what their orientation is to their new position. What new materials they should have, what kind of relationships they are building with the Pier Manager, members of PROFISH, etc. How can we start the conversation going amongst the Town - PROFISH and the Pier Corporation so that we all get on the right track? Cheryl - I've already started emailing them basically saying that we are here to provide any information we can to help you and if you have a problem don't

hesitate to let us know. Sarah - We have to be thoughtful and pro-active in our approach to this - and if that means sooner rather than later that we facilitate the meetings between PROFISH and the Pier Corp, then so be it. Michele - I'm not trying to take away anyone's independence but we need to have a better understanding of what's happen - to facilitate. Cheryl - then we will wait until they have a full board before we have a joint meeting.

### **Cheryl Andrews**

I tried to get into my own pattern of working with Mr. Bergman and I wanted to let you know. What is working out now is that we are emailing each other constantly as opposed to me dropping in on him, which I can't do readily, I have been meeting with him every Thursday morning prior to the meetings to go over the agenda and to get the agenda closed for staff to act on - we've been doing that pretty well. So, if there are any ongoing concerns or issues about how we are organizing meetings, let me know. Certainly we can expand the meetings on Thursday morning to two anytime there is an issue you want me to be at. Just let me know.

Use of office computers - limit the use to machine games only - no web surfing.

### **Richard Olson - None**

- Motion to adjourn by Michele Couture at 9:40 PM.

Minutes transcribed by: Vernon Porter, Secretary  
July 29, 2004