

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, AUGUST 23, 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, Michele Couture, Sarah Peake, Richard Olson

Excused Absence: Mary-Jo Avellar

Other attendees: Keith Bergman Town Manager

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

1A LONG -RANGE PLANNING ISSUES

Joint Meeting with Planning Board, LCP Implementation Committee

Discussion ensued.

MOTION: Move that the Board of Selectmen vote to request the Town Moderator allow the Planning Board to sit in the FinCom's place during their presentation during Town Meetings.

Motion by: Michele Couture Seconded by: Sarah Peake Yea 4 Nay 0

Town Manager will develop a timetable with Planning Board & LCPIC for zoning initiatives this year, including for the October STM.

1B PUBLIC HEARING

NSTAR Pole Installation - 60 Race Point Road

No comments from Public.

MOTION: Move that the Board of Selectmen vote, pursuant to MGL C.166, §22, to

a) Approve the request of NSTAR to install one pole 31/24.5 to provide service to 60 Race Point Road. The installation of the pole shall be of sound timber and reasonably straight, and shall be set substantially at the points indicated upon the plan No. 103432 dated July 13, 2004 filed with said petition.

b) And to request that NSTAR provide an as-built plan to the property owner showing actual location and depth after installation.

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

2. PUBLIC STATEMENTS

Tony Jackett - Urge the Board of Selectmen to send a follow-up letter to the Massachusetts Division of Marine Fisheries requesting some dialogue between the Town and the State about restoring the shellfish habitat off Herring Cove Beach back to the Town.

Gregory Howe - Representing COA Board of Directors - re: 26 Alden Street. Main concerns are two screens in the 2nd floor exercise room. 2nd Floor women's restroom is in deplorable condition. Kitchen is of concern to us and we are committed through the Friends of the COA to major repairs on the kitchen stove this fall but we would hope for some assurance from the Town in turn that something will be done relative to plumbing and waste issues.

Rachael White - re: Reconstruction work to be done by National Seashore in the Province Lands area. I attended that meeting - and this situation needs to be monitored (intersection of Route 6 near Herring Cove.)

David Nicolau - Re: 26 Alden St., septic system. Thinks it may be premature to allow this hookup until we find out if we are going to have enough gallons for a 2nd phase and if we do we still want to stick to the plan that there are many other residents that may need those gallons first that don't have room to put in a septic system.

Maurice Grunberg - 87 Bradford Street. Re: replacement of doors and had permits to do so. Was told by the Historical Committee that I had to remove the front glass panels from the door and cover up the sidelight that it came with because the panels were historically incorrect and my home was a fisherman's cottage and that fishermen would not put up a door with that kind of glass. Their request was honored. However, other neighbors have new glass doors - and I request that the powers-to-be afford me the opportunity to replace this glass back in my door.

Susan Rohrback (District Aid to Senator Robert O'Leary) - Here to listen to tonight's meeting and to talk about Prescription Advantage (MA. Prescription Drug Insurance Program). Open enrollment from September 1st through September 30, 2004. It is a drug insurance plan that makes prescriptions more affordable for people over 65 years of age; low income people; and families with children who have disabilities and has an annual out-of-pocket spending limit. Call 1-800-243-4636 or State website @ www.ma.gov or call Senator O'Leary's office in Hyannis or Boston.

Rachel White - Maybe some of the people on the Historic Committee should do a little more research. Doors are exactly the way it looked years ago.

3. SELECTMEN STATEMENTS

Richard Olson - Carnival was a wonderful success and congratulations to PBG and the Police and security services for making Thursday a fabulous day that everyone thoroughly enjoyed.

I'm sure others will speak about the sewer issues that arose over the weekend so I will pass over them.

With regards to the Cape End Manor - the fact that the Department of Health descended upon them without warning and caught them with their pants up - is such a tribute to the management and staff. I just couldn't be more proud.

Sarah Peake - Re: Letter to Dept. of Marine Fisheries - public hearing is now scheduled for September 2, 2004.

MOTION: Move that the Board of Selectmen vote to have the Town Manager draft a letter to be sent to Mr. Paul Diodati, MA. Division of Marine Fisheries asking him to keep the matter of returning ownership of the Herring Cove bar back to Provincetown on the September 2, 2004 Public Hearing Agenda and also reassert our interest in having a dialogue and conversation with the Division of Marine Fisheries on this topic and to how it can be achieved.

Motion by: Sarah Peake Seconded by: Michele Couture Yea 4 Nay 0

Update report on the sewer back-up issue when will it be available. When will we have that. Answer: Keith Bergman - whenever you would like to discuss it tonight. We have staff here that can talk to you about that. (Board of Selectmen decided to hear the report now instead later.)

David Guertin & Staff - We have ascertained the cause of the backup. We hooked up the Ice House - which was to be off-peak flow. The Plant Operator determined that off-peak flow (times that allow the pumps to come on during an off-peak period, i.e. at night during periods of low flow) - and he made the judgment to not install them until this September - for whatever reason. He made this decision as he felt it was within his power to do so - however, he has been informed that he did so without the advice of the engineering requirements and in the absence of a dialogue with Metcalf & Eddy. Timers will be installed first thing tomorrow morning and I expect Woodard & Curran, their Vice-President to arrive here tomorrow. Metcalf & Eddy has been served notice via Certified Mail and via email. I expect a timely response from them and disappointed they didn't arrive at our doorstep today. I think Jane & Sandy did a fantastic job over the weekend. I think the protocols in place are adequate. We challenged ourselves, and have conveyed it to the Town Manager, that we feel in the near term that there should be a presence on Saturday - not someone available with a beeper or a radio. That's at not cost to us. I think that would go a long way as a faith and

trust builder. I want someone at the treatment plant available. We want to examine, where we can within the system, to have additional alarming - so we can have advance notice of 'potential' water problems. And done at no cost.

Sarah Peake - Clearly one of the issues is - "how do we have faith in his system and how do we know that this is the fix that is going to work and what is going to happen next?" There are expenses to this town that are associated with this failure, that we calculate and determine what those expense are and I would hope that we re-coop these expenses from the operator. (Police, DPW and Health Agent) An apology is not enough - there are actual cost associated with it.

Thank you for the report.

Michele Couture - I find this totally unacceptable - the 2nd discharge to the system. I agree with you on one-half of what you said. Good system - yes. Well managed - not ! Is the protocol acceptable? No - is isn't. This went on for 9 ½ hours. The fact that our town employees are put out on a system that is - Design-Build & Operate - is totally unacceptable. I want a meeting with representative from Metcalf & Eddy and Woodward & Curran and I want it within the next two weeks. Thanks to staff for doing a tremendous job.

Cheryl Andrews - It's time for a pow-wow. I will ask you Mr. Guertin to talk with Mr. Bergman how many heads need to roll at that table and you decide whom you want to invite. In terms of Boards, I think Water & Sewer, Board of Health, Staff and those members of Metcalf & Eddy and Woodward & Curran that you think is appropriate. The sooner we can set up this meeting - the better. I agree, completely, with what has been said. It has reached a point to where we've all had enough now.

MOTION: *Move that the Board of Selectmen vote to have the Town Manager arrange a meeting with Metcalf & Eddy and Woodward & Curran.*

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

Back to Sarah Peake's Selectmen's Statements.

DPW - did a great job cleaning up after the Carnival Parade. Thank you.

Timeline reminder jog - Selectmen's Goals #2 - Fiscal Management revise and update 10 year plan by August 1st to establish achievable goals for future property tax levy increases by labor day. Regular briefings updates for the Board of Selectmen throughout FY 2006 budget planning process. I urge us to move forward with this. There are a lot of financial balls in the air and I would like us to take a hard look at this very soon, so that if we have to do some course correction that we have the time to do that and don't let it slide and that we also move forward with what our 10 year plan is going to be. Cheryl Andrews to Keith Bergman - can we plan to have that as an agenda item on our next meeting. Answer: Yes

Cheryl Andrews

Mrs. Josephine Del Deo's letter re: Heritage Museum Collection - I will draft a letter of response to her.

As department head - Mr. Guertin - would send us an email - and let us know repairs the Council On Aging is looking for and possibly some cost estimates.

The Board of Selectmen and the Town of Provincetown received recognition from the National Gay & Lesbian Task Force this weekend.

Re: Historical Commission comments this evening. Keith will look into getting a report to the Board.

Michele Couture

MOTION: *Move that the Board of Selectmen send a letter to the State Troopers who were here to lend assistance during Carnival.*

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

Also, special thanks as well to our DPW, Police Department for an excellent job. And to Robert McCandless for being our driver and to Donna Vaillancourt for loaning us her car. And thanks to everyone else that helped out during Carnival - and to the PBG as well.

Also, the suggestion of getting rid of some of those cars on side of street. We talk about it every year. Maybe someday very soon we can talk about no parking between the hours of such and such. Cheryl Andrews - to Chief Meyer - put it on the agenda for the March Traffic Hearing.

MOTION: Move that the Board of Selectmen vote to send a letter of congratulations to Officer Enos for his successful "Click-It or Ticket Campaign".

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

Letter received re: 11 Bangs Street - Private residents discharge that went into two catch basins. Bill Burke was called to the scene. My question is why was Bill Burke called to the scene? At who's expense for the clean-up? If the system was inspected why wasn't it noticed that the cesspool wasn't filled - which is one of the requirements? These are my questions and I would dearly like those answered.

Correspondence on August 10th from Department of Revenue, Bureau of Accounts - find it distressing. Is this the thing that always holds us up for setting our tax rate. Keith- Yes, that's a continuation of the requirement the DOR's have for completing the audit before they'll approve of the tax rate. And we do feel that we can get the audit done in time so that will not delay the issuance of the 3rd quarter tax bill; which it has the last two years.

AT&T Wireless Agreement - Town Counsel (Rick Holland) is reviewing the AT&T lease.

MOTION: Move that the Board of Selectmen vote to send a letter of congratulations to Dr. Leonard Alberts on his "physician of the year" award.

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 4 Nay 0

4. APPOINTMENTS

Community Preservation Committee [General By-law §5-14-1]

MOTION: Move that the Board of Selectmen vote, pursuant to General By-law Section 5-14-1 to appoint David Nicolau to a three-year term on the Community Preservation Committee expiring August 23, 2007.

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

5A VISITOR SERVICES BOARD - FY 2005 TOURISM FUND

Approval of Promotional Projects

MOTION: Move that the Board of Selectmen vote to approve funding from the Tourism Fund of the following FY 2005 promotional projects as recommended by the Visitor Services Board: (1) \$4,000 - Provincetown Theater Co Playwrights Festival & Holiday Musical; (2) \$4,000 - PAAM "Alive"; (3) \$4,000 - Provincetown Rep "Irma Vep"; for a total of \$12,000.

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

5B1 WATER & SEWER BOARD

Interim Laundromat Sewer Connection Permit: P-TOWN SUDS

MOTION: Move that the Board of Selectmen vote to approve an increase of from 10 years to 15 years for the Interim Laundromat Sewer Connection Permit to be issued by the Water & Sewer Board pursuant to Section 3, Chapter 157 of the Acts of 2000 to 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: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

5B2 WATER & SEWER BOARD

Phase II Wastewater - Comprehensive Planning Services, \$8,500

MOTION: *Move that the Board of Selectmen vote to authorize execution of Contract Amendment No. 1 with Environmental Partners Group, Inc. of Hingham, Massachusetts in the amount of \$8,500 for comprehensive planning services for Phase II wastewater facilities planning.*

Motion by: Sarah Peake **Seconded by:** None

Sarah Peake withdrew her motion. Board decided to take no action and to table this item until their next meeting on September 23, 2004.

Cheryl Andrews left the room. Her father is a resident of the Cape End Manor.

6A1 **CAPE END MANOR CARE CAMPUS LAND EXCHANGE**

MOTION: *Move that the Board of Selectmen vote that the proposal of the Roman Catholic Bishop of Fall River submitted on August 16, 2004 in response to the Request for Proposals for Acquisition of a Parcel of Real Property to Facilitate the Development of a Cape End Manor Care Campus be accepted and that the land exchange describe therein, and in the included Land Exchange and Development Agreement be approved, subject to the approval of the Town Meeting at a Special Town Meeting to be called for such purpose.*

Motion by: Richard Olson **Seconded by:** Sarah Peake Yea 3 Nay 0

6A2 **CAPE END MANOR CARE CAMPUS**

MOTION: *Move that the Board of Selectmen vote, as a matter of policy, to approve extension of the sewer line to 100 Alden Street to serve the site of the Cape End Manor Care Campus, and to request that the Water & Sewer Board vote pursuant to Chapter 157 of the Acts of 2000 to amend the sewer district accordingly.*

Motion by: Sarah Peake **Seconded by:** Richard Olson Yea 3 Nay 0

Cheryl Andrews returned.

6B **GRACE GOUVEIA BUILDING**

Sewer Hook-up for 26 Alden Street

MOTION: *Move that the Board of Selectmen vote, as a matter of policy, to approve a sewer hook-up for 26 Alden Street; to request that the Water & Sewer Board vote pursuant to Chapter 157 of the Acts of 2000 to amend the sewer district accordingly; and to request that the Board of Health reconsider the flow determination for 26 Alden Street.*

Motion by: Sarah Peake **Seconded by:** Richard Olson Yea 4 Nay 0

6C **GRANT EXTENSION**

2003 Community Development Fund - Business Development Center

MOTION: *Move that the Board of Selectmen vote, to authorize the submission of an extension request through December 31, 2004, to the Department of Housing and Community Development, under its 2003 Community Development Fund, for the continuation of the Provincetown Business Development Center; and further, upon approval, to extend the subcontract with the Lower Cape Cod Community Development Center through December 31, 2004 under the existing terms and conditions.*

Motion by: Michele Couture **Seconded by:** Sarah Peake Yea 4 Nay 0

7. **MINUTES OF BOARD OF SELECTMEN MEETING**

MOTION: *Move that the Board of Selectmen vote to approve the minutes of August 9, 2004 (Reg. Mtg.) as*

printed. (MJA Absent)

Motion by: Michele Couture

Seconded by: Sarah Peake

Yea 4 Nay 0

8. CLOSING STATEMENTS

Michele Couture - None

Richard Olson - None

Sarah Peake - None

Cheryl Andrews - None

9A, B,C. STRATEGY WITH RESPECT TO LITIGATION

Johnstone, et al. V. Reilly, et al. -MGL C.39, §23B cl.3.

Potential Use of CPA funds for Housing - cl 6.

Preparation for Next Joint Meeting - Truro Water Negotiations - cl 6.

MOTION: Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B clause 6 & clause 3, to go into executive session to consider the purchase, exchange, lease or value of real property; and for the purpose of discussing strategy with respect to litigation and not to convene in open session thereafter. [Roll Call Vote]

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 4 Nay 0

Sarah Peake - Yea

Richard Olson - Yea

Cheryl Andrews - Yea

Michele Couture - Yea

The Board went into executive session at 9:30 PM.

Minutes transcribed by: Vernon Porter, Secretary
September 9, 2004