

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
SPECIAL MEETING MINUTES
THURSDAY, APRIL 02, 2015 5:00 PM
TOWN HALL – JUDGE WELSH ROOM**

Vice Chairman Yingling convened the meeting at 5:00PM noting the following:

Board of Selectmen attending: Erik Yingling, Cheryl Andrews, Raphael Richter, and Robert Anthony.

Excused: Tom Donegan

Other attendees: Acting Town Manager Gardner and Assistant Acting Town Manager Michelle Jarusiewicz.

Recorder: Loretta Dougherty

Erik made a brief announcement that at this meeting public comments will not be allowed, but to please be assured that the BOS has received your emails and letters regarding 350 Bradford St. We are going to have a public forum at some point. Today we will only have an update from staff. Erik introduced Housing Specialist and Assistant Acting Town Manager Michelle Jarusiewicz.

1. Update on 40B Site Eligibility Request Comment Period – 350 Bradford Street.

Michelle stated that the comment period has been extended by the state from 4/15/15 until 5/15/15. On March 16, the Town received a letter that the state had received a request for Site Eligibility under 40B statute at 350 Bradford Street; 24 units of which 6 would be affordable. Mass Housing came on Tuesday for a site visit; there was staff and a small crowd who came. She wanted everyone to know that this is a private action; not a Town action.

The proposal is from Christopher J. Wise on behalf of BPJC LLC. The site was formerly Michael Shay's restaurant. The state will make the decision as to whether this is feasible to do under 40B. If they get the letter, they get up to two years to formally submit the proposal, but Michelle feels it should take less time than that. There will be a site visit on Saturday, April 18th. She will get the time to the BOS. Anyone can drop by and the developer will be there to answer any questions.

Our Town Planner Gloria McPherson will be involved as well in this process. We want to do a public presentation to the BOS. Anyone can go online to the Town's website and look at the application that we have received: <http://www.provincetown-ma.gov/documentcenter/view/4808>

Michelle is the contact person as far as the general public, boards, and BOS is concerned and she will pass any comments along to the developer. This is the design part of the proposal and comments may have some impact as far as the design, density, sewer, affordable vs market; height, etc. There will be a mixture of 1, 2 & 3 bedroom units of which 6 are affordable. 40B is a state statute and allows developers to potentially be able to get waivers and zoning relief that encourages affordable housing. If the site is eligible, they will then submit the 40B application; it goes to zoning board of appeals. The maximum amount of time should be about 8 months, but it could be less. If other boards/committees have needs to be addressed it would go before the zoning board. She made a reference to the 10% that everyone talks about; we are at 8.67% and if you add Grace Gouveia and Stable Path we will still need 8 more units after that to make the 10%. When you hit the 10% people can submit a 40B application which would give the Town more leverage to accept or reject. 40B inventory includes what is allowed by state; most of our deed restrictions are on the list, but not all of them. Housing rehabs are no longer allowed to be added to the list. The number is always changing.

BOS Comments:

Cheryl is curious about the Cape Cod Commission; does 40B circumvent any role? David stated that it does not. Based on density it does not meet threshold of DRIs.

Cheryl wanted to know if this does not trigger it.

David stated that is for a mandatory DRI. We have various town boards that might request or do a referral to the CCC. For the 2 Commercial Street property this was done. We argued that the impact was worthy of the consideration.

Cheryl wanted to know which board.

David said ConCom or the Planning Board or both. He was not sure.

Cheryl noted that this is the first 40B of its kind; we are not the property owners or developers. She will keep asking questions. She said that folks are sending us emails and asked whether they should send them to the state?

Michelle said that at the site visit she told everyone that they could channel comments through her and then she will let the BOS know. They can also submit any comments directly to the state.

Cheryl stated that anyone who wishes to comment can do so until 5/15 or to the BOS or Zoning Board in the future.

David stated that it would be best for the Zoning Board to get the application first. We would go through the BOS with all comments before that.

Cheryl wants to go through the application and make sure that it is correct. She made reference to the picture which appears to be airbrushed.

David told her it is just an illustration.

Cheryl wants to know the types of issues that the state is looking at now.

Michelle has made a list of items the state will look at. One is financial feasibility; they have a letter from the bank re: potential financing; pro forma (min. profit thresholds). They look at the big picture such as the site, technical issues, the flood plain, etc.

David stated that the state will be looking at if this is viable and feasible and worth the time to move forward.

Erik commented that the rendering does not fit the neighborhood. He wants to get a lot more information. We should all go to the site visit on 4/18 and have a public forum after that. He would like to see a tentative special meeting (public forum) at 5pm on Wednesday 4/29.

David will verify with the developers to make sure that works for them.

Michelle wants to make clear that this is not an approval process. She would prefer more affordable units. The BOS can weigh in and hear from others.

David commented that there is enough time to turn around the comments and the BOS will have a regular meeting after the forum so we can do what needs to be done.

Cheryl wants to look at the traffic question and give that some attention and the number of included parking spaces included.

2. Engineering Report on Wave Attenuator and Finger Pier Replacement.

Harbormaster Rex McKinsey gave a report on the wave attenuator with a Power Point presentation. PPPC Chairman Kerry Adams was attending as well.

The storm in 2003 destroyed all fingers off of the concrete floating docks. He described the original wave attenuator and gave some statistics of its capabilities. When we got the new fingers back they were made of wood which allows us to do maintenance in-house. They have flexibility and do not have as much mass. There was storm damage in 2006 and 2007 and the storm of 2013 occurred and the dock was declared a disaster and covered by FEMA. Being considered now is a floating wave attenuator; which gets us away from the esthetic concern of marine growth 15' at high tide. This is a 65' long unit which is also being used at Plymouth. It has a skirt on either side; the wave gets trapped inside and loses energy before it continues on. It is designed for a 100 yr. storm. It protects the excursion floats on the west side and the near shore properties depending on the wind direc-

tion. It does require some maintenance. Engineer's project would be in 10-20 yr. timeframe for replacement of guides and connectors. He showed the wave study slide using wind data from the airport taking into consideration that the airport sits down in a hollow. He explained what happens when a wave bounces off of the wave attenuator and its effects on the wave heights. He stated that it protects docks and fingers as well. He is continuing conversations with FEMA. The project worksheet is divided into three parts: money already spent in 2013; contractual labor for that storm and then hazard mitigation and rebuilding.

Raphael asked about the engineering committee's selection of 6A.

Rex told him that these were scored as 2A, 6A, 3A, and 2B in order of preference.

Raphael wanted to know if these options are still something that can be considered at Town Meeting or are we locked in by this vote.

Rex said that we are not locked in. The next task is a public meeting then pre-application meetings with regulators. Then we will build up bid documents and move forward from there.

Raphael commented on one thing that comes to mind in a big Nor'easter is that these attenuator piers may get damages as well. Can we go back for the various options available to us? He does not suggest going back to old options. Some people do not want it; others want to make sure it works if we are going to have to spend money.

Rex spoke that the report points out that the wood is not as good as a concrete wall. But if you put up concrete, the steel pilings do not leave a lot of room between them. It is like what the Coast Guard has.

Raphael wanted to know if we are still going to be flexible and not locked into one plan. Hopefully, we do not have a 100 year storm.

Rex went back to first slide and talked about multiple points where it will be held in place. The whole facility will not dislocate and head toward MacMillan Pier.

Erik wanted to know how long it will last, if you do recommended maintenance.

Rex commented around 30 years.

Raphael is prepared to support this at Town Meeting. We will continue the discussion if we get FEMA money.

Rex stated that it is reimbursement money. If the facility costs \$6million they will cover 75%. If it is under they will cover 75% of the actual cost. Repetitive loss on docks is covered. FEMA said if we have a repetitive loss they will cover. In order for us to qualify they will have to do a cost benefit analysis. It works for us: commercial pier; economic basis. If FEMA will not participate we will need to reevaluate.

Cheryl commented that we still do not know.

Rex has completed and had approved the worksheet and it will go through Congress. The federal government has sets of laws in place; they will not argue it just gets funded. The wave attenuator will take a little longer in which to get the money from FEMA. We will not go to bid until we know from FEMA.

Cheryl noted that one image is not included in the packet re: eelgrass. She asked about the mooring lines.

Rex said that this is a conceptual drawing and will ask the engineers to fix that. He prefers steel piles.

Raphael wanted to know if there will be any dredging necessary.

Rex stated that there will be maintenance dredging; it has a footprint over 10 years and is starting to silt in. It needs to be floating in negative 6-7' of water and does not affect any eelgrass.

Robert questioned the FEMA 75% reimbursement.

Rex stated that is all that FEMA allows. Their regulation is for 75%.

Erik will support this; we should have done it decades ago.

Kerry thinks about what we deal with in the winter time. This will extend out the lives of the floating docks as well. The wind is the biggest issue and the waves as the result.

David stated the BOS had already voted to reserve recommendation. When we get all five members we can vote before Town Meeting.

Rex will be at Town Meeting at 5PM.

David asked Rex how much the original Wave Attenuator cost.

Rex commented that the records do not go back that far. Based on the engineers report today it would be approximately \$1million.

3. Other

None

4. Joint Executive Session with Conservation Commission

MOTION: Move that the Board of Selectmen go into Executive Session pursuant to MGL c30A Section 21 Clause 1,2,3,4,6,7, & 8 for the purposes of

Clause 3 – To discuss strategy with respect to 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. Update on Aqua King Fishery, LLC vs Town of Provincetown Conservation Commission, Massachusetts Superior Court Case #1572CV00064, and other potential litigation. Votes may be taken. The chair did declare.

and

Clauses 1, 2, 3, 4, 6, 7, and 8 – To consider the approval and/or release of Executive Session Minutes for 2014.

and not to convene in open session thereafter.

Motion: Raphael Richter

Seconded: Robert Anthony

**Roll Call Vote: Erik Yingling: Yes
Cheryl Andrews: Yes
Raphael Richter: Yes
Robert Anthony: Yes**

Yea 4 Nay 0 Motion passed.

BOS went into Executive Session at 6:00 pm.

Minutes transcribed by: Loretta Dougherty