

TOWN OF PROVINCETOWN – SELECT BOARD MINUTES
MEETING MINUTES – REGULAR MEETING
MONDAY, JULY 9, 2018 6:00 PM
TOWN HALL – JUDGE WELSH ROOM

Chair Venden convened the open meeting at 6:00 pm noting the following:

Select Board Members attending: Chair Venden, Robert Anthony, Vice Chair Tom Donegan, and Cheryl Andrews

Excused: Lise King

Other attendees: Town Manager David B. Panagore, Assistant Town Manager David Gardner, Finance Director Josee Young, Conservation Agent Tim Famulare, and Temporary Board Secretary Linda Fiorella

Recorder: Linda Fiorella

Consent Agenda – Approval without objection required for the following items:

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- A. **Removed for consideration.**
- B. *Treasurer’s Transfer – AIDS Memorial Gift Fund – Approve the use of funds to pay for concrete installation service*
- C. *Parade Permit – CASAS Pet Parade*
- D. *Parade Permit – PanMass Challenge bicycling event*
- E. *Parade Permit – Family Equality Council Family Pride Parade*
- F. **Removed for consideration.**
- G. *Police Vehicle – Declare Police Vehicle Surplus*
- H. **Removed for consideration.**
- I. *Treasurer’s Transfer – Library Trust Fund: Flores Trust Fund – Approve the use of funds to pay for Ingram Library Services for books*
- J. *Treasurer’s Transfer – Library Gift Fund – Approve the use of funds to pay for The Gay & Lesbian Review for advertising expenses.*
- K. **Removed for consideration.**
- L. *Treasurer’s Transfer – Public Fountain Gift Fund – Approve the use of funds to pay for Flying Plumbers Town Hall Fountain maintenance.*

Select Board Member Andrews requested to pull F and H. Vice Chair Donegan requested to pull A and K. Chair Venden assigned them to be heard under 4B, C, D, and E.

Without objection Chair Venden considered B, C, D, E, G, I, J, L to be approved unanimously by the Select Board.

1. Public Hearings:

- A. **Curb Cut - Application by Nicole Barnum and Sophia Lee, requesting approval to install an 18 foot driveway for one parking space on the front of the property located at 259 Bradford Street, Provincetown, MA in order to access the property**

for parking. (Assessor's Map 15-2, Parcel 012).

Vice Chair Donegan read the public hearing notice.

Exhibits/Documents: Public Hearing notice, application dated May 20, 2018, and staff comments, abutters' comments

Attorney Christopher Fiset – there is no off street parking and the applicants are asking for a single parking spot. They are not removing the tree and want to relocate the hedge or replace. They are sensitive to keeping the area green and attractive.

Staff Report by Assistant Town Manager Gardner noted that staff supports off street parking. Chief Golden is concerned that they will be backing out and not parallel parking but the applicant does not have the intention to back out.

Assistant Town Manager Gardner -- Not sure what material you are using.

Attorney Christopher Fiset – asphalt

David Gardner noted that the Fire Chief, Building Commissioner and DPW Director all approved. It is a safety improvement.

Public Input

Vice Chair Donegan read into the record letters of support

Select Board Input

- Robert Anthony
- Tom Donegan
- Cheryl Andrews
- Chair Venden

Vice Chair Donegan MOVE that the Select Board vote, pursuant to Provincetown General By-Law Section 11, § 6-2, to approve the request Nicole Barnum and Sophia Lee, for a curb cut at 259 Bradford Street as presented with approval of tree warden. (Assessor's Map 15-2, Parcel 012)

Select Member Anthony second the motion

Select Member Andrews stated she will vote no because the Chief of Police disapproved the application.

VOTED

In Favor: 3

Opposed: 1(ca)

Abstain: 0

B. Curb Cut - Application by William Casey, requesting approval to install an 18 foot driveway for one parking space on the front of the property located at 15 Center Street, Provincetown, MA. (Assessor's Map 12-1, Parcel 123).

Vice Chair Donegan read the public hearing notice.

Exhibits/Documents: Public Hearing notice, application dated May 31, 2018, staff comments

Applicant William Casey's partner Andrew Torres stated that they don't currently have any parking spaces on that side of the house.

Assistant Town Manager Gardner presented the staff report saying that all town staff approved the application. He noted that the existing parking entrance on Bradford Street would have to be abandoned, but since there is no public parking on Center Street there would be no loss of public parking.

Select Board Input

- Robert Anthony – Then they will be abandoning the curb cut on Bradford St?

DG – that is our recommendation and we would encourage the Select Board to condition that.

RA – It's a two way street. I know all of the public officials signed off on it, but I have reservations in regards to the public safety aspect of it.

- Tom Donegan – I'm inclined to grant it. Not thrilled about more traffic on already busy Center but it seems like it's best way to handle it
- Cheryl Andrews – could you write out the motion as you're requesting that would be helpful for our consideration.

DG I think we could just condition that the curb cut on Bradford be abandoned and removed. You can require that it be landscaped if it makes you comfortable that it would not be utilized.

TD – move the hashtags that says no parking and allow it to become a parking space on Bradford.

DG - We need to make sure we can fit a vehicle there. We painted lines there because of concern of cars being parked over the shoulder. Where the hedge is broken you could get a vehicle there.

- Chair Venden – How would we state that and how particular and specific would we be in terms of timing?

DG --You could request that it be done at the same time and we could ensure that the building commissioner confirm that it has been done and we would paint in next year.

Further discussion covered when the Applicant planned to make one curb cut and abandon the other and when they felt they would have a plan to make the changes. And Chair Venden noted that even when it says no parking people will park and it is dangerous due to limited visibility.

Public Input - Vice Chair Donegan read a letter, that came in late, into the record that requested the Select Board deny due to concerns about the congestion of the intersection and lack of visibility coming up the hill toward Bradford.

Vice Chair Donegan MOVE that the Select Board vote, pursuant to Provincetown General By-Law Section 11, § 6-2, to deny the request of William Casey, for a curb cut at 15 Center Street as presented. (Assessor’s Map 12-1, Parcel 123)

Select Member Anthony second

VOTED

In Favor: 4

Opposed: 0

Abstain: 0

2. Public Statements:

- Brenda Heywood – I am the town representative for the Barnstable Human Rights Commission. I would like to establish a better working partnership with the organizations that are established here for civil and human rights. There is a human rights commission already established in this town.

3. Select Member’s Statements:

- Robert Anthony- I appreciate the comments for the previous speaker. Back 26 years ago we started this road to equality so I appreciate your comments. Hopefully at the end of this meeting we can see the board to start moving on and doing town biz. We have to get back to even keel and move on to other issues we have going on in town.
- Tom Donegan – Thank you Brenda Heywood for your comments. I had the opportunity to go on a Center for Coastal Studies whale watch it promoted the idea of going to visit the campus on Hollway Avenue and visit the whale skeleton. Its remarkabe and if you have houseguests perhaps on a rainy day looking for

something to do go up to Coastal Studies. I'm on board of Fine Arts Work Center and we're celebrating our 50th anniversary and people like the co-founder Sal Del Deo is being honored. I've gotten a lot of feedback and questions on the Arthouse theater space. How do we decide the process what is the property owner's decision what are the regulatory boards' roles and how to include the proper amount of public input. I've had reservations about the DCI process it sounds like it might be something to engage the town in. I've also heard lots about Facebook how the town and members of public body and how people interact with town hall has changed. People watch us on PTV and call us the next day. When I first joined the finance committee meeting and it surprised me that people would comment on it because I always thought it was like watching the grass grow. We have a lot of thinking to do and competing interests and I hope my colleagues will help us think that through. And Michelle Randazzo on the team to help us as well as David Gardner and David Panagore.

- Cheryl Andrews – Mr. Donegan I'm guessing you haven't seen the post online from Mr. Ben DeRuyter. Everything happens real fast on Facebook. It was intriguing for me to watch. There is a case up in Boston right now in the North End and Starbucks wanted to open a new store and the Mayor got involved and when you talk about process I thought does the Mayor really get to say and it turns out yes because Starbucks changed their mind. As to the property being of interest to the DCI I think you're quite right. I want to recognize our town depts. – Pier Corp, Recreation Department, DPW, Police Department, Fire Department, Staff, Admin, and anyone else I'm missing the Fourth of July this year was exceptional. It was just different and for me the parade was nicer than I've seen in years. The Pier Corp made an announcement that said all drinkers that you're not welcome on the pier. The difference in the crowd was palpable. As far as the issue of the banners and flags over Commercial Street I don't think we have seen a memo baseline report back from staff on what the facts of the case are. Did we ask for one?

DP – You did, and there was discussion about whether there was need for further conversation and in agenda setting the Chair and the Vice Chair decided it was not needed. But I can provide it again or write another memo. It appears that the private sector can handle this and is able to.

CA- as far as Open Meeting Law complaint I said what I wanted to to the banner but a few sentences were cutoff and will be in next week's paper. One of our citizens mentioned previous work done in this town. I lived here before Bob was Police Chief and I was there the night of the riots and we were on the news. We had a change in our Police Department and Chief Anthony became our chief. He is a nationally recognized award recipient and he went to wash dc in the early 90s to be recognized for the work he did on hate crimes and civil rights and human rights. A lot of people come and go in this town but I was here some in the audience were here but some of our neighbors A lot of our neighbors and friends don't know this history. When the PBG opened the Shack a few weeks ago it was

clear they didn't know it either. There's a lot to be learned about what happened here in the 80s and early 90s and some of those stories are awful and some are wonderful and the chief has a lot to be proud of and should be recognized for that.

- Chair Venden – I'd like to address the Human Rights Commission as well and to assure Reverend Heywood and the other interested parties in the Town that we will be taking up the issue again. My hope is we would invite the police chief and other orgs in the community including you rev Heywood who could come and help provide some additional information. I know Select Person King is going to refine her proposal. We didn't vote because we weren't sure she had finished figuring out how she wanted formulate this. We need to be careful so we incorporate the right number of diverse people in it and that we follow guidelines to ensure that its successful and that it includes the organizations that are already working on these issues in town. We will be moving forward on that issue. My statement that was quoted in the banner last week was accurate but not in context. My message really was I believe that Select Person King may have made a mistake inadvertently because she didn't understand and know the obscure and easy ways to violate it without realizing it. I had a complaint lodged when David Gardner was acting town manager. It did not move forward. I learned a lesson about being very careful and the implications for going on social media or any non-public space and discussing an issue that's been talked about on the agenda. Lise learned that lesson as well. Hope that the board moves forward and work more collaboratively and reach consensus, listen better, and move forward. I was really surprised that 15 Center Street looked like a parking lot and I asked the Town Manager. There is no maximum for parking spaces. I'd like to see the Planning Board address how much of your yard you can turn into a parking area.

Discussion involved how to determine the area and initially deciding whether or not any limit on parking would be retroactive.

Assistant Town Manager Gardner added that the Planning Board recently took up the issue when two applications where owners had created commercial lots on their properties by creating more parking than supported by the use of the property. The Planning Board is currently reviewing the issue.

4. Joint meeting/Presentations:

A. Presentation by Tourism Director: Tourism Fund Marketing Grants – Criteria and Process

Exhibits/Document – Memo from the Assistant Tourism Director McCormack, Powerpoint presentation

Tourism Director Fuccillo introduced the presentation's purpose of describing the current grant program and ideas and suggestions to streamline and improve it.

Assistant Tourism Director McCormack made the presentation which included changes that would make the process more streamlined and transparent. Fairness and educating the public on the process are key focuses. Discussion involved reimbursements, marketing and even grants, who can apply, what types of spending is covered, electronic applications, and the process of reviewing grant applications. Also discussed was the possibility of adding a rolling grant process, deadlines for reimbursement, how to determine the effectiveness of grants, and which for-profit organizations have applied.

B. Items removed from the consent agenda for discussion and comment:

PARC Grant Application – Hall Property at 387-395 Commercial Street

Susan Avellar of the Open Space Committee, Tim Famulare, Town Conservation Agent and Dennis Minsky, Chair of the Open Space Committee.

Mr. Minsky noted that there was an attempt in 2014 to make the same purchase and they believe the conditions have changed and this acquisition would allow more access to the beach and amenities including benches, restrooms, historic education elements and more. The Harbormaster has been included in the discussion and would be a gift to future generations.

Conservation Agent Famulare described the PARC Grant process. He reiterated the potential amenities such as restrooms, bike racks, kayak racks.

TD - I think applying for a grant is no risk.

RA I agree with Tom.

LV –There’s been complaints in that end of town that there’s no public restrooms. Not only that the Open space is very limited. You have to go quite some distance to have some access to the beach. So I think it’s a positive thing for you to apply and I concur.

Vice Chair Donegan MOVE that the Select Board vote to authorize the Town Manager to prepare and submit applications to the Commonwealth of Massachusetts’ Division of Conservation Services reimbursement programs, including the PARC Grant Program, for the FY 2019 grant round towards the acquisition of the 0.3-acre parcel at 387-395-A Commercial Street (Elena C. Hall).

Select Member Andrews second the motion

VOTED

**In Favor: 4
Opposed: 0
Abstain: 0**

Vice Chair Donegan MOVE that the Select Board vote to authorize the Town Manager to sign any contracts and provide any legal assurances and understandings to the Commonwealth regarding said applications and awards, and to serve as the Project Manager and primary local contact on matters relating to communications with the Division of Conservation Services regarding these applications, on behalf of the Town of Provincetown, and that his signature shall bind the Town regarding the intent of said documents.

Select Member Andrews second the motion

VOTED

In Favor: 4

Opposed: 0

Abstain: 0

Treasurer's Transfer – AIDS Memorial Gift Fund –Approve the use of funds to pay for police detail

Vice Chair Donegan expressed concern that this payment is coming out of donated funds for a memorial and suggested it would be preferable for the Town to pay for it. Discussion included whether or not the funds should come from the Gift Fund and if not, where would the funds come from.

Vice Chair Donegan MOVE the Select Board refer Agenda Item Treasurer's Transfer – AIDS Memorial Gift Fund –Approve the use of funds to pay for police detail to the Town Manager for recommendation

Select Member Anthony second the motion

VOTED

In Favor: 4

Opposed: 0

Abstain: 0

Approval of new Policy Statement – Prohibit Bullying

Discussion involved whether the policy was necessary, any legal liabilities or benefits from having the policy, what Town Departments have in place currently and staff review of the policy, and instruction and training for people who run the departments in how to use the policy including enforcability. Town Counsel stated that the schools are required by law to have these policies.

Select Member Andrews MOVE that the Select Board vote to approve Policy

Statement 2018-07-09-B

Chair Venden second the motion

VOTED

In Favor: 4

Opposed: 0

Abstain: 0

Treasurer's Transfer – Library Gift Fund – Approve the use of funds to pay for Whalley Computer Associates for wireless router

Vice Chair Donegan was concerned about the cost of the router and discussion involved the special properties of this particular router.

Select Member Andrews MOVE that the Select Board vote, as Commissioners of the Library Gift Fund (#1107), pursuant to MGL C44 § 53A, to approve the use of gifted funds to pay \$3,885.33 to Whalley Computer Associates for computer hardware (wireless router).

Select Member Anthony seconded

VOTED

In Favor: 3

Opposed: 0

Abstain: 1(td)

5. Appointments: NONE

6. Requests:

A. Respond to Open Meeting Law Complaint – Approve Response Letter

Town Counsel Michelle Randazzo explained the way Open Meeting Law Complaints are processed and the options in responding. She spoke about the specific posts involved in this complaint and what went into her evaluation and that she did not see quorum activity on matters specific to matters within the jurisdiction of the Board and therefore she did not see a violation, while noting that the Attorney General may agree or not.

Discussion involved which posts in the timeline would be included with the letter, the Attorney General's presumption that public officials act in good faith, the use of caution in any arena where a quorum is gathered, concerns and suggestions for email communication, closed groups on social media, and the legality of posts on agenda

items. Edits to the response and the accompanying materials were made.

Town Counsel also reported that the Attorney General refrained from giving specific guidance per a previous request for such but the subcommittee formed to investigate the Open Meeting Law complaint.

Vice Chair Donegan Move that the Select Board vote to dissolve the subcommittee formed to review the complaint.

Select Member Anthony Seconded

VOTED

In Favor: 4
Opposed: 0
Abstain: 0

Vice Chair Donegan Move that the Select Board vote to ask Town Counsel to respond to the complaint drafted by Michelle Randazzo as amended.

Select Member Anthony seconded

VOTED

In Favor: 4
Opposed: 0
Abstain: 0

Agenda item 6C taken out of order

C. Social Media Policy

Discussion included the current social media policy and whether it applies to appointed and elected officials as well as when and how it was adopted. Several Board Members expressed concerns about the current Social Media Policy and who it applies to. Further discussion involved the lack of an enforcement mechanism for social media posts by people serving on Town Boards and Town Committees and concerns about making sure not to infringe on First Amendment rights.

The Board expressed agreement on an expected standard of behavior for appointed and elected officials and discussed the current and potential processes for complaints regarding social media posts as well as how to deal with complaints under the new Charter. Town Counsel Randazzo is working on new policies and Vice Chair Donegan and Town Manager Panagore expressed interest in saving online posts on

Official Town Social Media pages.

Chair Venden -- any organization or any group of people has to have a set of procedural rules, a code of conduct, expectations of how we deal with each other and the public.

Select Member Andrews-- as long as it's clear.

Select Member Anthony – I think you're correct.

Vice Chair Donegan – There are three parts to this. We need to revise this to make it clear and up to date for town employees, and understand the new rules and technology.

Town Manager Panagore – There is stuff to update but I'm not at this moment concerned about our town employees. When you work for the public there's an expectation of behavior.

Vice Chair Donegan – The second part is: what is the town's expectation of boards appointed by the Select Board? What are our expectations of our appointees and what standards are we going to hold them to? The third part is: we look at our rules of procedure what is the right thing for us to do, what is the right level of engagement. Town talk is where the principle conversations happen between the town and the public body. To be fair to our appointees should give them clearer guidance.

Select Member Andrews –I think our job is to set an example I haven't seen a lot online that concerned me from our appointees. If one is misbehaving then I hope someone will say something to us.

B. Consideration of new Policy Statement - Appointment Process.

Vice Chair Donegan MOVE that the Select Board vote to approve policy statement 2018-07-09-A

Robert Anthony seconded

VOTED

In Favor: 4
Opposed: 0
Abstain: 0

D. Review of the Strategic Plan and Town Wide Goals

The Board and Town Manager discussed how long the process would take and potential dates and times for a round table.

Select Member Andrews MOVE that the Select Board vote to schedule a Round Table on July 16 at 5pm to approve for public hearing the Strategic Plan and Town Wide Goals.

Select Member Anthony seconded the motion.

VOTED

In Favor: 4
Opposed: 0
Abstain: 0

7. Town Manager / Assistant Town Manager:

A. Town Manager's Report – Administrative Updates.

4th of July went smoothly and the town was busier thanks to marketing. Only 6 arrests. For the second time we used the new public event barricades. Pier Corp bag checking and no alcohol on the pier seemed to go very well. We will have a community aging in place analysis done under a grant and Chris Hottle will be back before the Board in September or October. It is a priority on a long term need that we need to be looking at this part of our sustainable plan. When we look at the need to be spending some of the marijuana dollars this may be a place for it.

We received a \$25,000+ grant for the state for climate change and flooding. More on the National Park Service, on the breach we'll be getting flyers into the shuttles for the CCRTA, signs posted, and outreach, warnings on ferries on Boston. Breach sections on the barrier beach. We're testing methods on how to reach people out there.

Wednesday will be before the Finance Committee on the Artemis If the owner pays for the cost of salvage he could have the boat. If he fails to pay it will be cut up for scrap. Pier Corp wanted to move quickly on this.

On the October 29 Town Meeting, I've been talking to John Giorgio about developing the draft warrant for the articles in the charter. We don't want to layer on a few extra things – we would like to avoid that.

The expansion of the sewer waste water operation we have tentatively set for August 13 but it may move off a meeting or so.

Within the week I hope to have something to report on Harbor Hill. We sat down with Senator Cyr's office, it was a meeting for practitioners, developers, and staff not for elected officials. We talked about zoning amendments that are up at State, and housing, we sent in comments outlining Provincetown's position. Also there's an Environmental Bond Bill so we submitted for the Ryder Street Outfall and on the Economic Development Bill out there pushed broad band for Cape Cod and we pushed something to support entrepreneurial effort at Creative

Commons.

Vice Chair Donegan - At Town Meeting we approved an addition of a parking management person-slash-emergency person. How's that hiring going?

Town Manager Panagore-- Have not been able to get to that, it's next on my list.

Vice Chair Donegan-- The parking lot feels like it's underperforming. On Saturday I walked through and the gate was down and the booth was empty and there were lots of spaces.

Town Manager Panagore – That's a management issue and I'll talk to Dominic.

Vice Chair Donegan-- were going to get a request from animal friendly people to investigate fireworks that don't go boom. Third is there's increasing citizens coming together on bike safety, there is still frustration in town. Finally on the marijuana stuff we talked about the recreational use gives us 3 percent and I'm investigating for my colleagues and for you what that can look like for social services and for addiction so I'm looking at other towns and what they're doing.

Chair Venden – those are great ideas and thank you David for your report

8. Minutes: Approve minutes of previous meetings.

Minor edits in clarification and spelling were given.

Vice Chair Donegan moved that the Board of Selectmen approve the minutes of: May 29, 2018 6:00 pm (Regular) June 4, 2018 5:30 pm (Special) June 16, 2018 12:45 pm (Special) as amended;

Robert Anthony seconded the motion.

VOTED

In Favor: 4
Opposed: 0
Abstain: 0

9. Closing Statements/Administrative Updates:

- **Robert Anthony** - nothing
- **Cheryl Andrews** – I'm continuing to enjoy serving you on the Cape Cod Commission. We had a retreat it was really good it was almost a primer for new members but a review for some of the older ones. We spent hours reviewing what the Cape Cod Commission does and they spent a lot of time on how the staff prepares decisions.
- **Tom Donegan** – I'm going to ask for a future agenda item to follow up on 2020

- **Chair Louise Venden** – In the future, Linda, I want to make sure we get this pending topics and work sessions in the packet with closing statements administrative updates.

Select Member Andrews – If you could give a nice thank you to Michelle Randazzo she taught me something. She brought a clarity to me and I had never heard her explain it that way. It was very helpful.

Without objection the meeting was adjourned at 10:17 pm

Minutes transcribed by: Linda Fiorella