



## Charter Compliance Commission

# Meeting Agenda

**The Town of Provincetown Charter Compliance Commission will hold a public meeting on Tuesday, February 9, 2021, at 1 PM.**

**NOTE: THIS IS A REMOTE PARTICIPATION MEETING**

In keeping with Governor Baker's Executive Order of March 12, 2020; "Order Suspending Certain Provisions of the Open Meeting Law" – All Participation in this meeting will be by remote access.

For this meeting, members of the public who wish to participate in the meeting may do so by dialing **(833) 579-7589**. **When prompted, enter Conference ID number: 269 958 603#**

When public participation is allowed on the agenda, the Chair will ask for public comment. Please give your name and announce your presence and wait to be recognized. Otherwise please keep your phone on mute to not disrupt the proceedings, mute all background noises like tv and computers. Please don't speak until recognized by the Chair.

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. If the audio becomes unavailable, the meeting will be paused until it can be restored, or the meeting will end.

Agenda items to be discussed [Votes may be taken unless otherwise noted]:

1. Public Statements
2. Review & Discussion of Charter Violation Complaint submitted by Mark Del Franco dated January 26, 2021 with interested parties. See additional pages attached for complaint and documentation.
3. Discussion by Commission in preparation of Opinion.
4. Any other business that may become before the Commission.

Posted: Town Hall [www.provincetown-ma.gov](http://www.provincetown-ma.gov) 2/3/2021 2:21pm EC

January 26, 2021

To: The Charter Compliance Committee (Julia Perry, Robert Klytta) via Town Clerk Emmett Catanese  
Fr: Mark Del Franco  
Re: Charter Violation Complaints

On November 29, 2020, Select Lise King filed a false harassment complaint with Acting Town Manager Charles Sumner against Finance Committee member Mark Del Franco which appears to violate the Town Personnel Rules and the Town Charter in several instances. Documentation of the investigation that followed are attached as Exhibits A. I am asking for a review of the situation and clarifying on the following points:

1. Finance Committee members are designated “Special Municipal Employees” in accordance with Mass. G.L. 268A. Select King filed her complaint under the Town’s Personnel Rules by claiming a equivalency between “Special Municipal Employee” and “town employee.”

This equivalency appears to be incorrect under Mass. G.L. 268A, which clearly defines “special municipal employee” as a designation for the Conflict of Interest law and no other reason—it does not define a special municipal employee in any other way as an “employee” of the town or a member of town staff.

Municipalities do not appear to have the authority to change or modify that state law definition.

2. Acting Town Manager commenced an investigation into Select King’s complaint. As noted repeatedly by the Select Board and the Charter, neither the Select Board nor the Town Manager has disciplinary authority over the Finance Committee under the Charter. The Appointing Authority for the Finance Committee is the Moderator, who did not request an investigation.

Select King herself has stated in public meetings that the Select Board has no authority over the Finance Committee. Select King’s attempt to discipline a Finance Committee member is a knowingly incorrect and abuse of a personnel process initiated intentionally for her own purposes.

Regardless as to the legitimacy of the investigation, the Acting Town Manager and the Select Board, and specifically Select King who participated in the investigation, proceeded as though they had proper authority and authorization. Within that context, several other Charter violations occurred.

3. Per the Town Charter, Chapter 3, Section 5(a):

*more*

(a)The Select Board may investigate the alleged misconduct of the Town Manager, any Town Board, or any member of a Town Board. The Select Board may direct the Town Manager to investigate the affairs of the Town, the conduct of any Town Department or Town Employee, and any claim against the Town.

As such, only the Select Board, meeting in quorum in public, can direct the Town Manager to perform an investigation. No such meeting, vote, or direction from the Select Board occurred. The Acting Town Manager, therefore, performed his investigation without official authorization from the Select Board but solely at the behest of Select King in her individual capacity.

4. Given the distinction between the Finance Committee, which is appointed by the Moderator, and all other committees, which are appointed by the Select Board and/or the Town Manager, it raises the questions of whether the Charter can empower the Select Board to act against Finance Committee through sanctions, reprimands, or removal.

The Charter itself establishes a separate process for removal of Finance Committee members and reserves that authority to the Moderator. Further, it has been clearly demonstrated and discussed that the Select Board and its appointed board members and the Finance Committee have distinct codes of conduct. It follows, therefore, that the Select Board likely does not have clear—if any--authority under the Charter or the Charter under state law that allows it to apply punitive measures against Finance Committee members up to, but not including, removal.

Either the Charter is unclear on this matter in its compliance with state law through its definition of “Town Boards” by including the Finance Committee in that general definition or it is incorrect in its application of empowering the Select Board to interfere with the governance and management of the Finance Committee by the elected Town Moderator.

5. Per the Town Charter, Chapter 3, Section 5(d):

- d. The individual who is the subject of an investigation shall be informed in writing of the investigation and shall have the right to a Public Hearing.

The Acting Town Manager never informed Mark Del Franco of the complaint nor his investigation. Since Finance Committee member Mark Del Franco was not informed, he was also not given his right to a Public Hearing. The Acting Town Manager and/or the Select Board, therefore, were in violation of the above.

6. Per the Town Charter, Chapter 3, Section 5(f):

f. A report of the investigation shall be posted on the Town's website by the Town Clerk after review by Town Counsel for any matters protected by the State's privacy laws, which shall be deleted prior to posting. A summary of the investigation shall be printed in the next Town Report.

No report of the investigation was posted to the Town's website at the direction of the Select Board and/or Acting Town Manager in violation of the above. In fact, no report of the conclusion of the investigation exist.

To date, neither Select King, Select Venden, nor the Select Board have retracted their false accusation against Mark Del Franco, nor have they made any attempt after more than two months to correct the public record. As evidence by their silence in response to continuing public comments during Select Board meetings, they continue to allow the lie to propagate through the community, inherently damaging Mark Del Franco's character and reputation.

7. Per the Town Charter, Chapter 3, Section 6(c):

c. Except as otherwise specified in this Chapter, the Select Board shall be subject to the same rules as apply to all other Town Boards, including that members have no authority in their individual capacities except as delegated by majority vote of the Board.

As evidenced by the attached, Select King directed her complaint to the Acting Town Manager in her individual capacity as a Select Board member without the authorization of the Select Board. The investigation that followed by town staff and herself occurred as a direct result of her complaint.

In addition, also without authorization of the Select Board, Select King participated in the investigation personally, gave specific direction to the Acting Town Manager on how to proceed, and unilaterally declared the matter concluded, all actions in her individual capacity. All these actions are in violation of the above since she had no authority to act without the authorization of the Select Board.

8. During the Select Board meeting of December 14, 2020, Select King, in response to the escalation of the controversy she and Select Venden caused by the false accusation against Mark Del Franco stated it was internal matter but it got out in public due to a FOIA request from the press."

By characterizing her intentional character smear as an "internal matter," King presumptively continues to make the claim that Finance Committee members are subject to the Personnel Rules under which she made her false accusation. If that is true, then the Town is in violation of the FOIA law by releasing such information since personnel matters are exempt from the law. If the Charter Compliance Committee decides Finance Committee members are not subject to the Personnel Rules, then Select King is guilty of knowingly lying to the public that her complaint was ever an "internal matter."

Further, Mark Del Franco submitted an FOIA request asking for copies of any and all FOIA requests on this matter, which are public records, to be produced. The Town's official response is that no such FOIA requests exist at all. Select King's assertion otherwise is another direct lie to the public as a sitting Select Board member and should be addressed by the Select Board, if not the Charter Compliance Committee.

I would appreciate the Charter Compliance Committee's review and opinions of these actions and recommended actions in response to them.

Sincerely,

Mark Del Franco

**Charter Compliance Committee – Supporting Documentation for Review and Enforcement letter dated January 26, 2021, from Mark Del Franco**

**Exhibit A**

**From:** Lise King  
**Sent:** Sunday, November 29, 2020 8:21 PM  
**To:** Charles Sumner <csumner@provincetown-ma.gov>; David Abramson <dabramson@provincetown-ma.gov>  
**Cc:** Elizabeth Paine <epaine@provincetown-ma.gov>  
**Subject:** File grievance against Mark Del Franco

Hi Charlie,

I would like to know how one would file an official grievance for harassment against Mr. Mark Del Franco for his comment during the Select Board meeting on Monday, Nov. 23 for uttering "f\*cking c\*nt" at the end of his public statement. As he is a Town Special Employee and he was making comments during an official meeting, I believe the Town Code of Conduct for employees would apply under Chapter 5, Article 6, as a form of "Harassment." This is the first time his behavior has occurred in the "workplace," and therefore the first time I have inquired about official sanction, but I have a file of disparaging commentary made by him and Mr. Hatch on social media and can demonstrate a campaign of harassment and intimidation.

Would this be a matter for you, Town Counsel, the USEEOC, and/or the Massachusetts Commission Against Discrimination?

I look forward to a prompt resolution of this matter.

Thank you,

Lise

Lise King  
Select Board Member  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
(617) 852-8600 m

*more*

**From:** [Louise Venden](#)  
**To:** [David Abramson](#); [Charles Sumner](#); [Elizabeth Paine](#)  
**Cc:** [lvenden@gmail.com](mailto:lvenden@gmail.com)  
**Subject:** November 23 Select Board meeting  
**Date:** Sunday, November 29, 2020 7:19:28 PM

---

Sadly, I must bring to the Boards attention a comment made by Mark del Franco at the end of his public comment during this meeting. He apparently did not mute his audio and said “fucking cunt” either in reference to the two women who had made statements criticizing FinCom leadership or Lise King who spoke up urging John Golden to call the time limit on Del Franco’s statement.

His personal attack is not likely covered by the first amendment, but more important further damages respect for all of us as public officials. The anger and hatred expressed by Mark Del Franco and a small group who stand like armed guards defending Mark Hatch shed light on the bullying, demeaning, arrogance proves the case many are making against them.

Please listen to the audio of that meeting starting at about 18:38. The words are unmistakable and the speaker should be ashamed. There must be some way for this board to stop this ugly street gang behavior, especially as this Town confronts challenges that require a higher level of collaboration and engagement.

Please send this email to the other members.

Yours sincerely,

Louise

Louise Venden  
Town of Provincetown  
Select Board Member since 2017  
Year Round Rental Housing Trust Board 2019 [lvenden@provincetown-ma.gov](mailto:lvenden@provincetown-ma.gov)  
Cell 617-694-1389

*more*

**From:** [Elizabeth Paine](#)  
**To:** [Charles Sumner](#)  
**Cc:** [John T. Golden](#); [Dave Abramson](#)  
**Subject:** Investigation of Profanity used during 11/23/2020 BOS Meeting  
**Date:** Monday, November 30, 2020 12:46:00 PM  
**Attachments:** [image001.png](#)

---

Hi Charlie,

As you requested per our conversation this morning, I listed several times to the November 23, 2020 Select Board meeting. Specifically during the end of the public statement when there was an exchange between public speaker Mark Del Franco, Select Board Member Lise King and Acting Chair John Golden.

At the end of the exchange, I hear a phone alarm going off and Acting Chair touching his phone in his attempts to silence the alarm. I then hear him mutter “fucking thing”. It was not in my opinion Mr. Del Franco nor did I hear the word “cunt” at any time during this segment of the meeting.

I would note that I listened to the Microsoft Teams recording of that meeting as it is much clearer than the PTV feed that is on the website. I am happy to share this link with anyone on the Board who wishes to hear this.

*Elizabeth Paine*

Secretary to the Select Board  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
ph:(508) 487-7003 fx:  
(508) 487-9560

Please remember that the Commonwealth of Massachusetts has deemed most email a public record.

*This electronic message could be confidential and is intended for the named recipient only. If you have received this message in error, please contact by return email or telephone, and delete the copy you received. Thank you.*

*more*



PROVINCETOWN 400  
1620-2020

**From:** [Charles Sumner](#)  
**To:** [Elizabeth Paine](#)  
**Subject:** FW: Investigation of Profanity used during 11/23/2020 BOS Meeting  
**Date:** Thursday, December 3, 2020 1:46:10 PM  
**Attachments:** [image001.png](#)

---

I suspect you didn't see this one

---

**From:** Louise Venden <[lvenden@provincetown-ma.gov](mailto:lvenden@provincetown-ma.gov)>  
**Sent:** Monday, November 30, 2020 3:47 PM  
**To:** Charles Sumner <[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)>  
**Subject:** Re: Investigation of Profanity used during 11/23/2020 BOS Meeting

Thank you for your efforts. I just listened to the PTV tape again using my headphones. I still heard a lower range voice state "Fucking Cunt". I would be happy to listen to the microsoft meeting version. I believe that it is unlikely that John G would have said "fucking thing" on tape....., but certainly not outside the boundary for Mr. Del Franco.

In any event, the Select Board is unlikely to take this matter up. The behavior and statements of public officials shall remain unencumbered by limitations that show respect for each other and the public we serve. Let the skirmishes continue....I believe these claims of free speech allowing insulting, bigoted statements threaten to undermine public confidence and create an atmosphere that will undermine recruitment of a new Town Manager or volunteers for Town Boards.

My only hope is that the Select Board will honor and respect the views and opinions of all members and try to reach compromise rather than simply pushing through whatever garners 3 votes. There is much work to do, and we each want to contribute to productive policies.

Yours truly,

Louise

*more*

Louise Venden  
Town of Provincetown  
Select Board Member since 2017  
Year Round Rental Housing Trust Board 2019 [lvenden@provincetown-ma.gov](mailto:lvenden@provincetown-ma.gov)  
Cell 617-694-1389

---

**From:** Charles Sumner <[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)>  
**Sent:** Monday, November 30, 2020 2:26 PM  
**To:** Louise Venden <[lvenden@provincetown-ma.gov](mailto:lvenden@provincetown-ma.gov)>  
**Subject:** FW: Investigation of Profanity used during 11/23/2020 BOS Meeting

Good afternoon Louise

I did ask Liz Paine to review the Teams recording of the tape from 11/23/20 SB meeting; the following is her understanding of the meeting. Additionally I listened to the PTV recording and, while it was a little difficult, have come to the same conclusion. Admittedly there was some background interference but that is our shared understanding of the recording at this point. Charlie

Charles L. Sumner  
Interim Town Manager  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)  
(O) 508-487-7000, Ext. 512  
(C) 774-353-7033

*more*

---

From: Lise King To: Charles Sumner; David Abramson Cc: Elizabeth Paine Subject: Re: File grievance against Mark Del Franco Date: Monday, November 30, 2020 1:13:17 PM

Hi Charlie,

Thanks for your call. I did go back and listen to the recording again, with headphones on, and as you mentioned I do agree that it could very well be John uttering in frustration to the phone alarm. I think it would be worth his explaining to the public at the next meeting so as to dispel any concerns, and I would consider this matter closed. Best, Lise Lise King Select Board Member Town of Provincetown 260 Commercial Street Provincetown, MA 02657 (617) 852-8600 m

*more*

**From:** Charles Sumner  
**Sent:** Tuesday, December 1, 2020 3:57:38 PM  
**To:** Lynne Martin <[lmartin@provincetown-ma.gov](mailto:lmartin@provincetown-ma.gov)>; David Gardner <[dgardner@provincetownma.gov](mailto:dgardner@provincetownma.gov)>  
**Cc:** Josee Young <[jyoung@provincetown-ma.gov](mailto:jyoung@provincetown-ma.gov)>; Elisabeth Verde <[everde@provincetownma.gov](mailto:everde@provincetownma.gov)>; John T. Golden <[jtgolden@provincetown-ma.gov](mailto:jtgolden@provincetown-ma.gov)>; David Abramson <[dabramson@provincetown-ma.gov](mailto:dabramson@provincetown-ma.gov)>  
**Subject:** FW: Statement

Hi Lynn,  
Attached is a statement from Select Board member John Golden that should be added to our Town Website, maybe under News & Announcements, as well as the Town's Facebook page.

Thanks Charlie  
Charles L. Sumner  
Interim Town Manager  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)  
(O) 508-487-7000, Ext. 512  
(C) 774-353-7033

---

**From:** John T. Golden <[jtgolden@provincetown-ma.gov](mailto:jtgolden@provincetown-ma.gov)>  
**Sent:** Tuesday, December 1, 2020 2:31 PM  
**To:** Charles Sumner <[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)>; Elizabeth Paine <[epaine@provincetown-ma.gov](mailto:epaine@provincetown-ma.gov)>; David Abramson <[dabramson@provincetown-ma.gov](mailto:dabramson@provincetown-ma.gov)>  
**Subject:** Statement

Get [Outlook for iOS](#)

*more*

---

**From:** Charles Sumner <[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)>  
**Sent:** Tuesday, December 1, 2020 7:37 PM  
**To:** Lise King <[lking@provincetown-ma.gov](mailto:lking@provincetown-ma.gov)>  
**Subject:** Fwd: Statement

Good evening Lise

This is John's statement, I have asked staff to post on Towns website and face page as of 4:30pm today. Probably would occur until the morning at this point. Would be appropriate for you you to add to the women's page to address citizen concerns and questions? Thanks Charlie  
Get [Outlook for iOS](#)

**From:** Lise King <[lking@provincetown-ma.gov](mailto:lking@provincetown-ma.gov)>  
**Sent:** Wednesday, December 2, 2020 2:31 PM  
**To:** Charles Sumner <[csumner@provincetown-ma.gov](mailto:csumner@provincetown-ma.gov)>  
**Subject:** Re: Statement

On Facebook there is now a debate raging about what the second word was. To me it is unclear what he says. Folks are saying the use of the "f-bomb" wasn't the issue, it was the use of the second word that makes it a slur. I find it interesting and unfortunate that John did not state what he said in this second word. Can you please ask him to clarify what the second word was so that we can have this issue resolved?

Thanks again. Sorry you have to deal with this.

Lise King  
Select Board Member  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
(617) 852-8600 m

*more*

**From:** Lise King <lking@provincetown-ma.gov>  
**Sent:** Wednesday, December 2, 2020 3:03 PM  
**To:** Charles Sumner <csumner@provincetown-ma.gov>  
**Subject:** Re: Statement

UPDATE:

I called John and we had a good chat. I apologized for calling "time" on Mr. Del Franco and adding to the tension. He stated that he doesn't recall what the "second word" was, but it was "phone" or "thing" or something innocuous.

He's frustrated and I asked him to see that we can use this as a moment of leadership to acknowledge the vitriol against some of the women in town, and both call on folks to be better, and help the women know they are being heard.

I did point out to him that there is a very good reason why a group of women are outspoken about the misogyny in town, and specifically about Mr. Hatch and Del Franco, and specifically mentioned their horrible attacks on me on Facebook. He didn't respond to this suggestion, but I believe this whole thing presents an opportunity for some reparation.

Lise King  
Select Board Member  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657  
(617) 852-8600 m