

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING - MONDAY, NOVEMBER 27, 2006

JUDGE WELSH HEARING ROOM

Acting Chairman Sarah Peake convened the meeting at 6:00 PM noting the following attendees: Board of Selectmen members: Sarah Peake, Michele Couture, Richard Olson, David Nicolau

Excused Absence: Cheryl Andrews

Other attendees: Town Manager Keith Bergman

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

1A PUBLIC HEARING

Curb Cut Request 7 Browne Street (Conant Street Extension)

David Nicolau recused himself as his firm represents the abutters next door.

MOTION: Move that the Board of Selectmen vote to waive the reading of the Hearing Notice.

Motion by: Michele Couture Seconded by: Richard Olson Yea 3 Nay 0

MOTION: Move that the Board of Selectmen vote, pursuant to Provincetown General Bylaws 11- 6-2, to approve the request of Vincent H. Duarte, Administrator for the Estate of Henrique Duarte to establish a curb cut at the property located at 7 Browne Street (Assessor's Map 07-1-035) (Res 3 Zone).

Motion by: Michele Couture Seconded by: Richard Olson Yea 3 Nay 0

David Nicolau returned to the room.

1B SIXTH TOWN LANDING - DISCUSSION WITH ABUTTERS

Good Templar Place Drainage Improvements

DPW Administrator Sandy Turner, Russell Kleekamp, Project Engineer (Stearns & Wheeler), Noah Santos and Francis (Grassy) Santos.

Open discussion ensued re: drainage issues and storm/ tides issues.

Grassy Santos ... there's never been a drainage system.

MOTION: Move that the Board of Selectmen vote to direct the Town Manager and the Department of Public Works to include improvements for the Sixth Town Landing Alternative #3 in the proposed Capital Improvements Program for FY 2008, subject to development of a funding plan.

Motion by: Richard Olson Seconded by: David Nicolau for discussion.

Discussion

Sarah Peake - I want to make sure that when we are developing a funding plan it does not include asking these folks to write a check to the Town of Provincetown.

Chairman called for a vote. **Yea 4 Nay 0**

The Board agreed that it is the intent of the Board of Selectmen that the abutters not be assessed for any betterments.

2. PUBLIC STATEMENTS

Robert Cabral - Serious concerns over applicant to Harbor Committee (Heather Bruce) and of her conduct saying she represents the Harbor Committee and all the waterfront property owners ..and that she dislikes the Cabral's and would never vote for anything for the Cabral's. She is also giving DEP quite a hard time.

Barbara Rushmore - Shocked at what happened at the Town Meeting re: Number #2 Pumper House. Would like to have our Grant Administrator work on getting funds for this. Support's Boston City Councilman Tobin's idea of 1% of collected meals tax going back to town of origin. Anxious for our new State Rep to work on this.

Austin Knight - 1) Firehouse #2 - Agree with previous speaker. 2) The Town Manager Search Committee will be holding Public Hearings n December 13th and 14th and - for town employees and past employees and the general public - on what these groups are expecting from and would like to see in a new town manager. 3) I would hope that the room tax that we charge for the Hotels and Guest Houses, and maybe expanded to condos, be can be used for Economic Development which is in dire need now and certainly the money can be used in the future for comfort station for tourist relief and sewer relief for businesses that are having difficult times.

3. SELECTMEN'S STATEMENTS

Michele Couture

Thanked Town Manager and staff for Special Town Meeting.

Town Hall repairs - where are we on this? Keith - will get you an update.

Also on the Conservation Agent? Keith - will get an update

In response to Mr. Cabral's comments. I chose not to reappoint this particular applicant as I felt it she a conflict of interest .

Ms. Rushmore - thank you for your participation. I heard loud and clear what Town Meeting said about Firehouse #2 and we will continue to proceed with this.

MOTION: Move that the Board of Selectmen vote to schedule an agenda item regarding the development of a complete budget to rehab and reuse Fire House #2 as a Public Comfort Station, and to consider applying to the CPC for partial funding

Motion by: Michele Couture Seconded by: David Nicolau Yea 4 Nay 0

Letter from Town Clerk to Attorney General- Vernon's Dated Stamp 11/27/06 - Re: Statement going to Attorney General prepared by the Provincetown Planning Board explaining Article 12 Zoning By-Law Amendment. In reading this statement it seems to me that it looks as though it is attempting to circumvent Article 12 that was approved overwhelmingly by Town Meeting. To my memory, never have I ever known a Planning Board, after a Zoning Article that has been approved by Town Meeting, has the Planning Board interjected themselves into this discussion and then sent a report explaining to the Attorney General exactly what their position is on this article. Sarah Peake - Would you like to have a joint meeting with the Planning Board to discuss this and what the scope of the Board's authority is in general? Michele Couture - I really do believe they've exceeded their authority. This is the second time they have done it - with this article. I don't get it. They are trying to disenfranchise voters by saying that what Town Meeting passes was something that the Planning Board does not approve of - and to me it's like if the Panning Board has a problem with a By-Law that has been passed by Town Meeting and they don't approve of it - then you know what - then they shouldn't be on the planning Board then because their charge is to implement the By-Laws as approved by Town Meeting. I have a huge problem with this. Sarah Peake - Would you like to ask them to come in to our next meeting, which is December 11th? Michele Couture - Yes, I would because there are two Planning Board members who are up for reappointment and based on the last two decisions by the planning board, I have absolutely no intention of reappointing them. Sarah Peake - So, then why don't you make that as a motion.

MOTION: Move that the Board of Selectmen vote to invite the Panning Board to a meeting with the Board of Selectmen at our next meeting on December 11, 2006 at 6:00 pm.

Motion by: Michele Couture Seconded by: David Nicolau

David Nicolau - Can we have Town Counsel let us know if they can do this before we have this meeting? Let us know what their purview is, etc.

Keith Bergman - Just so you are aware of what I have asked Town Counsel to do, and they have already alerted the Attorney General's office, - since we hire them to render legal opinions on behalf of the town and the statement that the Planning Board submitted looked like it was deigning to be a legal opinion and frankly that's Town Counsel's job to defend the actions that the Town takes and not to tear them down. I've asked Town Counsel to prepare a statement to submit to the Attorney General .. it doesn't purport to be anything more than the comments that the Planning Board .. which they are allowed to make under law. I was disturbed by seeing a legal analysis in there, which I think it is Town Counsel's job to do.

Michele Couture - Just a point of background - I called two members of the Planning Board after having looked at this letter and it appears that there was a general agreement between the Board - there was not motion made and this was written by one member and who, as far as I know, is no lawyer. It disturbs me and although statutorily they may have a right to do so - just like they have a right not to send it up to town meeting - the idea that anyone would do something like that - we certainly have a statutory right to not send things to the Planning Board, but we ever deign do that - I think not! Just because they have the power to do so, doesn't mean that sometimes circumventing the whole town is certainly not a good way of doing it.

Chairman called for vote. **Yea 4 Nay 0**

Richard Olson

Note that Truro Town Meeting gave positive action on our going forward with the North Union Field. Very good neighborliness of our good neighbors the Town of Truro.

MOTION: *Move that the Board of Selectmen vote to send a letter of thanks to Julian Popko of Springfield, MA for his design of the lobster traps display at Lopes Square.*

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

Thanks to the Cabral Family and particularly Vaughn. The other day we were filming a video for Provincetown through the Tourism Office and on a moment's notice Vaught met us at the pier and helped us create the scene, which I think will do the town justice. That is just my personal thanks.

David Nicolau

Thanks to Barbara Rushmore for bringing up the idea of tapping into the State for funds for the town. (Proposed by Boston City Councilor Tobin)

MOTION: *Move that the Board of Selectmen vote to send a letter to our State Senator and State Representative, supporting Councilor Tobin's proposal to earmark 1% of the total meals tax collected for return to each town of origin.*

Motion by: David Nicolau **Seconded by:** Michele Couture
Yea 3 Nay 0 Abstain 1 (Sarah Peake)

MOTION: *Move that the Board of Selectmen vote to invite all those that have term limits to the Board of Selectmen's meeting on Monday, December 11, 2006 at 6 PM. for presentation of a letter of thanks and a Town Pin.*

Motion by: David Nicolau **Seconded by:** Michele Couture **Yea 4 Nay 0**

MOTION: *Move that the Board of Selectmen vote send a letter of thanks Hunter O'Hanian and Marian Roth for their many years of service to the town.*

Motion by: David Nicolau **Seconded by:** Michele Couture **Yea 4 Nay 0**

Sarah Peake

MOTION: *Move that the Board of Selectmen vote to invite Mr. Niedzwiecki, Assistant Town Manager of Barnstable, to our first meeting in January to discuss ideas on increasing affordable housing incentives.*

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

Sarah Peake

My intentions for my tenure on the Board of Selectmen. - I plan to keep my seat until we find a new Town Manager and will pass on my resignation letter to the Chair and the Town Manager sometime in the middle of March in ample time so that at the Regular Elections in May there can be a special election for the remainder of my term for one year.

4. BOARD OF SELECTMEN APPOINTMENTS

MOTION: *Move that the Board of Selectmen vote to appoint Noah Taylor as a Regular Member of the Local Housing Partnership with a term to expire on June 30, 2009.*

Motion by: David Nicolau **Seconded by:** Michele Couture **Yea 4 Nay 0**

5A TREASURER'S TRANSFER

John F. Oliver Scholarship Fund

MOTION: *Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$1,250.00 from the John F. Oliver Scholarship Fund for the payment of awarded scholarships.*

Motion by: Michele Couture **Seconded by:** David Nicolau **Yea 4 Nay 0**

5B BOARD OF LIBRARY TRUSTEES

Heritage Museum Collection Permanent Loan: Peter Hunt Furniture

MOTION: *Move that the Board of Selectmen vote, to approve the request of the Board of Library Trustees for the permanent loan of a Peter Hunt green painted open shelf cabinet from the Heritage Museum Collection.*

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

5C CCNS GMP IMPLEMENTATION ADVISORY COMMITTEE

Dune Shack Ethnographic Study

MOTION: *Move that the Board of Selectmen vote to submit to the Superintendent of Cape Cod National Seashore a letter prepared by the Cape Cod National Seashore General Management Plan Implementation Advisory Committee relative to the current status of the dune shack ethnographic study and related matters and attach the Wolf -Ferguson Report.*

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

6A 2005 MCDBG - WATER TANK REHABILITATION

Award Contracts - \$124,000 Steel Maintenance Corp; \$33,500 EPG

MOTION: *Move that the Board of Selectmen vote to approve and execute a contract with Steel*

Maintenance Corp for \$124,000 for construction services for rehabilitation of both the Winslow Street No. 2 and Mt. Gilboa water tanks project and a \$33,500 amendment to Environmental Partner's Group Contract funded by the 2005 Massachusetts Community Development Fund program pending final approval of the Town's amendment request by DHCD.

Motion by: David Nicolau Seconded by: Richard Olson Yea 4 Nay 0

6B NOVEMBER 13, 2006 SPECIAL TOWN MEETING FOLLOW-UP

Tracking Sheet of Articles Passed

MOTION: Move that the Board of Selectmen vote, pursuant to the vote under Article 3 of the November 13, 2006 Special Town Meeting endorsing the U.S. Mayors Climate Protection Agreement to undertake the Cities for Climate Protection Campaign's five milestones to reduce both greenhouse gas and air pollution emissions throughout the community.

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

6C DPW BACKHOE LOADER

Award Contract - \$69,320 - Schmidt Equipment

MOTION: Move that the Board of Selectmen vote as follows: WHEREAS, the Department of Public Works has reviewed the bids opened on November 9, 2006 for a 2006 4-Wheel Drive Backhoe with Extendable Dipperstick and determined that the bids submitted by Southworth-Milton, Inc. and Casey & Dupuis Equipment are not responsive to the bid specification issued by the Town; and WHEREAS, the Town Manager as Chief Procurement Officer, has adopted the DPW' findings; THEREFORE, the Board of Selectmen votes to award the contract for a backhoe for the Provincetown Department of Public Works to lowest responsive and responsible bidder Schmidt Equipment, Inc. of North Oxford, MA, in the amount of \$69,320.

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

7A BOARD OF SELECTMEN

Schedule Joint Meeting with School Committee re: FY 2008 Budget

MOTION: Move that the Board of Selectmen vote to schedule a special joint meeting with the School Committee for Tuesday, December 12, 2006 at 3:00 p.m. relative to discussing budget planning for Fiscal Year 2008.

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

8. CLOSING STATEMENTS

Michele Couture

Meet with Truro Board of Selectmen to discuss North Union Wellfield. The Town Manager will check on some dates.

Heard that there may be some Planning Board members that may not like some of the zoning changes that came about to that end there is been some discussion about maybe some folks helping them to get around certain things - to find certain loop holes. I would sure hope that was not the case - that we had board members and regulatory boards trying to help applicants out in a way that would help them circumvent what Town Meeting had voted. I would certainly think that when the Planning Board is invited to come before us that will be one of the things I would like to ask them --- but I certainly hope that that's not happening. I just thought I would put that out there for anyone that happens to be watching that on television.

Richard Olson

Minutes, are we up-to date on approving minutes? Vernon - No. I expected we would only have 3 selectmen here tonight, so they are not here.

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David Nicolau

- Room Excise Tax - Keith Bergman explained - We were given new info from the Cape Cod Commission - and the best aggregation is quarterly.

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Sarah Peake

- Thanks to my colleagues. This has been my first time to chair a regular meeting of the Board of Selectmen.

Motion to adjourn by Michele Couture at 8:40 pm

Minutes transcribed by: Vernon Porter, Secretary
November 27, 2006