

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN**

**REGULAR MEETING - MONDAY – AUGUST 12, 2013 6 PM**

**TOWN HALL – JUDGE WELSH ROOM**

Chairman Austin Knight convened the meeting at 6:15 PM, apologizing for the meeting starting late due to the Board of Selectmen meeting in Executive Session beforehand. noting the following:  
Board of Selectmen attending: Austin Knight, Elaine Anderson, David McChesney, Erik Yingling and Tom Donegan.

Other attendees: Town Manager Sharon Lynn, Assistant Town Manager David Gardner and Finance Director Dan Hoort

Recorder: Assistant Town Manager David Gardner

The following are meeting minutes, in brief:

**1. PUBLIC HEARINGS – ADOPTION OF TOWN WIDE GOALS**

The public hearing notice was read into the record, listing proposed goals from the preliminary goal-setting exercise held on July 8, 2013. Charter §4-2-1 provides that “the board of selectmen shall be the primary policy making, planning, and goal setting agency of the town.”

Public Comment:

Barbara Rushmore – Supports the fiscal management goal and wants to keep the tax rate where it is. Doesn’t want to see any more big projects. Not a good time to build a new police station. Does not like the Herring Cove Bath House. Does not support what the Seashore has done to the Race Point Parking Lot and wants it returned to its original condition.

Paul Redanz - VFW Post election is not legal and the town should not relocate the police station there.

Marcene Marcoux – Speaks as a member of the VFW and wants to have a re-vote of the decision to sell the post. Requests that there should be a legal investigation of the decision process at the VFW.

Michael Rogovsky – Need to invest and protect the assets of the town. Need to invest in a new police station and DPW garage. Need to ensure that future affordable housing is deed restrictive in perpetuity.

**MOTION: *Move that the Board of Selectmen vote pursuant to Charter §4-2-1, to adopt the Town-wide Policy Goals for Fiscal Year 2014 as contained in the public hearing notice.***

**Motion by: Tom Donegan Seconded By: Elaine Anderson Yea 5 Nay 0**

**2. PUBLIC STATEMENTS**

Tony Brackett – As an artist I realize that I can practice my craft as often as possible but I can never

be perfect. We should take the time to thank town employees. Town Manager should be thanked for what she has done for the town. After research, I have found many positive things that the Town Manager has achieved.

Maria Lopez – Nonresident property owner has come forward to raise concerns about the police policies in town. The Town Manager has promised a public forum and would like to see the Selectmen set a date immediately.

Ann Maguire – Some people want to take us back to an era prior to Town Meeting Sharon Lynn. Town Manager Lynn has accomplished a great deal in her tenure as town manager. The meanness and the ugliness need to stop, enough is enough.

Stephen Mendish – I echo the complements of the good things that have been done under the town manager, but that doesn't mean there is still not work to be done. I support the public forum to discuss police policies.

John Golden – Concerned about Center Street Resident Parking District that does not allow Residential Commercial Permit holders with commercial plates.

Edward Ritter – Wish to speak about the beach clean-up on private property. Boats on private property had been removed and destroyed. Wants to ensure that boats are not removed from private property.

Sam Anacito– Boat was removed from private property and destroyed.

Barbara Rushmore – Agrees that we have accomplished a great deal with the Town Manager. I have concerns about the police. The Police Chief sets the tone of the police officers. I think there is an attitude of disrespect on behalf of the Police Chief. Police officers are ever present. I am fearful of the Police Chief. The Chief needs to either resign or change his attitude.

Mick Rudd – Concerned about how the Finance Committee has been expanding their scope and authority.

Jeff Jaran – read a personal statement regarding the incident at the Squealing Pig Restaurant.

Austin Knight announced that the Selectmen voted in executive session to have an independent investigation on the Squealing Pig.

Chris Hottle – I wanted to talk about two upcoming events. Planning Committee of the Mass Memories Road Show. We will digitize photos and memories of anyone who wants to participate. Opening of the VMCC and the new location of the COA. Will have an open house this fall. Wants to thank all those who have worked to achieve the transition to this new facility.

MaryJo Avellar – stop sign at Ryder Street and Bradford Street should be removed. Traffic was backed up all the way to the hill. Stop sign at Harry Kemp and Howland Street should also be removed. In regards to the public forum, I think it is important to listen to what the public is saying. Public Officials need to be held to a higher standard. I will defend my right to be heard and the right

of the Finance Committee to be heard.

Clarence Walker – The Finance Committee is the official financial watchdog of the town and represents the legislative branch Town Meeting.

Jim Palaceno – commend the board for the private investigation. I was personally involved in the incidents. Thinks the investigation should be expanded to include other incidents.

**Erik Yingling** –

Sale of the VFW will go before town meeting and voters will have an opportunity to speak. CCRTA proposal to close an exit at the bridge to improve traffic flow in the summer.

I thank the nonresidents for coming out and I hear their concerns.

Think the public forum should be on a weekend.

Center Street parking issue should come up at the next traffic hearing.

Look into boats destroyed on the beach

Finance Committee is independent and should not be controlled by the Selectmen.

I believe what happened on election night has to do with the First and Fourth Amendment rights are at the core.

**Tom Donegan** –

Pleased that we are moving forward with an independent investigation.

I experienced the same criticism of the Finance Committee when I was on it last year. If people have concerns they should talk to the Finance Committee or the Moderator.

**Elaine Anderson** –

I appreciate the work of the Finance Committee when they are on target and within their bounds.

Read a prepared statement. An open forum is a good idea, but will only be helpful if we hear from everyone, not just a few. All the achievements made over the last six years were made because we all worked together.

**David McChesney** –

Read a prepared statement. The Town Manager has opened her door to the residents. Within her first 5 years, after decades of mismanagement, the town is running more smoothly and we are off the

DOR's watch list. As a Selectmen, I do my job, read my material, ask questions of staff, and I do not vote with a personal agenda.

**Austin Knight** –

Articles for the upcoming town meeting should be presented so we can discuss them prior to the warrant.

I have been to the Finance Committee to remind them that the Selectmen are the policy board and that they are the advisory board to town meeting.

We will have the public forum and the Town Manager will address this during her comments as the information came in after the agenda was posted.

The Finance Committee members are appointed by the Moderator, it is not her committee.

**4**      **JOINT MEETING/PRESENTATIONS – PLANNING BOARD AND AD HOC  
ZONING BYLAW REVISION COMMITTEE - ZONING BYLAW AMENDMENTS  
REFERRAL**

Planning Board Members Present – Chairman Mark Weinress, John Golden, Grace Ryder-O'Malley, and Dorothy Palanza. Also in attendance: Ad Hoc members Peter Page and David Nicolau.

Pursuant to the MGL Chapter 40A, the Planning Board submits the proposed Zoning Bylaw Amendment sections to the Board of Selectmen for referral to public hearing prior to Town Meeting. The attached Zoning Bylaw amendments have been prepared and forwarded to the Planning Board, which will hold a public hearing on Wednesday, September 18, 2013, to consider and approve language to be placed on the October 21, 2013 Special Town Meeting Warrant. A second Planning Board public hearing on the actual warrant language is scheduled for Monday, October 7, 2013.

**MOTION:** Move that the Board of Selectmen vote to pursuant to Massachusetts General Law Chapter 40A Section 5, to submit the attached zoning bylaw amendments to the Planning Board for review and public hearing on Wednesday, September 18, 2013, in order to be placed on the October 21, 2013 Special Town Meeting Warrant.

**Motion by:** Erik Yingling      **Seconded By:** Tom Donegan      Yea 5      Nay 0

**5.**      **BOARD OF SELECTMEN APPOINTMENTS** - None

**6A**      **UPDATE ON KAYAKS AT WEST END BEACH/PARKING LOT** –

Report from the Harbormaster Rex McKinsey.

Will report back on the issue of boats being removed and destroyed from private property.

Kayak racks were installed at the West End Beach, but the number of kayaks in the area has grown. An interim solution will be to set aside a section of beach reserved for bathers that will prohibit

kayaks and boats. This is an interim solution, as the Harbor Committee would like to have a more detailed discussion about this issue. Also, all kayaks should be removed from the beach at the end of the season.

DPW does not have the ability or space to hold onto the abandoned kayaks removed from the beach. The town should take pictures prior to destroying any abandoned kayak.

Kayaks do require a permit. Kayaks have been known to break loose during a winter storm.

Kayaks are posted with a violation sticker prior to removal.

Squid fishing has been closed temporarily due to damage to the pier and restrooms. Selectmen expressed concern about the closing of the pier and the need to do enforcement to remove the problems.

## **6B MONTHLY POLICE REPORT**

Purpose of the report is to inform the Selectmen of police activity on a monthly basis. Police Chief Jeff Jaran provided police activity statics for the last two months. The information is provided on the Police Department's webpage. Chief gave an explanation of an arrest back in June that had been widely discussed on Facebook. The Chief felt the need to correct the record.

## **6C1 DPW: AWARD CONTRACT: COMMERCIAL STREET RECONSTRUCTION PROJECT PHASE II**

David Guertin introduced the new Water Superintendent Cody Salisbury.

Deputy Director Rich Waldo presented the contract for Phase 2 of Commercial Street reconstruction project. Construction of Phase 1 is now complete and progress is continuing with Phase 2. To assist with the Phase 2 project, the Town of Provincetown received \$600,000 through a Section 319 Nonpoint Source Program grant. This federal money is provided under Section 319 of the Clean Water Act and administered through the MassDEP. Provincetown was awarded this grant based on the Town's previous history towards improving the water quality of Provincetown Harbor. The remainder of the funds were authorized by town meeting.

In addition, the project provides environmental benefits through the installation of porous asphalt. The design approach is to develop a solution that will effectively improve the water quality of Provincetown Harbor by limiting stormwater runoff and to reconstruct and pave a portion of Commercial Street. Phase 2 of the project will continue to address two critical issues facing Provincetown; stormwater management and repaving of Commercial Street. The grant will help fund the cost of final design and construction.

The complete Commercial Street Improvements Project – Phase 2 will include repaving, curbing, sidewalks replacement where needed, replacement of water main, new water services where identified, and new drainage. A public forum will be held on Monday, August 19, 2013 at 5:00 PM for abutters and residents to inform them of the project. Work to begin on the water line replacement on September 9, 2013.

Disability Commission is not in favor of brick sidewalks. We will be requesting a variance from the Disability Access Board to reduce the width of the sidewalk to an overall 48". We will also be

asking people to trim their hedges to remove obstructions.

**MOTION:** *Move that the Board of Selectmen voter to award and execute a contract to R.B. OUR of Harwich, Ma. in the amount of One Million Nine Hundred Eighteen Thousand Three Hundred Ninety Five Dollars (\$1,918,395.00) for the Commercial Street Reconstruction Project – Phase II as the low bidder of record for bids received and opened publically on August 1, 2013.*

**Motion by:** David McChesney    **Seconded By:** Elaine Anderson    Yea 5    Nay 0

## **6C2    DPW WASTEWATER PROJECT UPDATE**

In September 2012 following Board approval, the Dept. of Public Works submitted a \$2 million grant and low-interest loan application to the USDA for the construction of the planned sewer extension to serve the Coastal Acres Campground and the proposed Phase 4 sewer extension on Bradford from Province Lands Road to West Vine with a possible extension to Pleasant Street. Now that the USDA award has been received, the Town can move forward with these two sewer extensions. The first step is to complete the engineering and permitting and the requested engineering services contract is for that purpose.

The Department of Public Works is currently undertaking an additional outreach program to the areas to be served, as we have done in the past once funding has been secured and we are moving into the final design and construction phase. Construction for the Campground sewer extension is expected to occur this winter with connections in the spring of 2014. Construction for the Bradford area sewer extension is expected to occur in the fall of 2014 since the design and permitting work will need to be done over this coming winter.

As explained in the outreach letter, this substantial grant and low-interest loan from the USDA will allow the Town to serve these two areas at the current betterment rate of \$45 per gallon per day, with the grant covering the costs for stubs for future users and the cost for curb-to-curb paving.

**MOTION:** **Move that the Board of Selectmen vote to approve Contract Amendment No. 11-1 Phase 4 engineering services to AECOM in the amount of \$100,000.00 for the scope of work under Contract Amendment No. 11-1, dated July 31, 2013 as funded under Special Town Meeting, April 2013, Article 5, in the amount of \$4,500,000, with financing to be provided by the USDA through a \$1,400,000 low-interest loan and a \$396,966 grant that was executed on August 5, 2013.**

**Motion by:** Tom Donegan                      **Seconded By:** Elaine Anderson    Yea 5    Nay 0

## **6C3    DPW – UPDATE ON WATER USAGE**

DPW Director presented the trend of lower water consumption which could be attributed to reduced unaccounted for water.

## **6C4    71 COMMERCIAL STREET ENCROACHMENT:**

Request withdrawn.

## **6D    PROVINCETOWN BUSINESS GUILD – RAINBOW FLAG REQUEST AT TOWN**

**HALL**

Request withdrawn.

**6E AIRPORT: MASS DOT AERONAUTICS DIVISION GRANT**

This project consists of: Replacing the Wind Direction Cone / Rehabilitating the Segmented Circle (Air Traffic Direction Circle) / Modifying Airfield Guidance Signs / Crack Seal and Slurry Seal the General Aviation Tie Down Apron. The funding breakdown is: FAA 90%, MassDOT 7.5%, Provincetown 2.5%

***MOTION: Move that the Board of Selectmen vote to, execute a grant in the amount of \$20,925.00 from the MassDOT / Aeronautics Division for Replacing Wind Cone / Rehab Segmented Circle / Modify Airfield Guidance Signs / Crack Seal and Slurry Seal the General Aviation Tie Down Ramp at the Provincetown Municipal Airport; and approved as to form by Town Counsel.***

***Motion by: David McChesney Seconded By: Erik Yingling Yea 5 Nay 0***

Funding changes moving forward, shift from 90% Federal, 7.5% State, and 2.5% Local to 90% Federal, 5% State and 5% Local.

**6F1 TREASURER'S TRANSFER – Recreation Department Gift Fund**

To pay the authorized voucher(s) to pay this request totaling **\$3,549.36** from the Recreation Department Gift Fund leaving a balance of **\$77,118.97**.

***MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$3,549.36 from the Recreation Department Gift Fund to pay for the attached invoice(s).***

***Motion by: Erik Yingling Seconded By: Elaine Anderson Yea 5 Nay 0***

**6F2 TREASURER'S TRANSFER – Special Purpose Gift Fund**

To pay the authorized voucher(s) to pay this request totaling **\$7,000.00** from the Special Purpose Gift Fund leaving a balance of **\$5,550.18**.

***MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$7,000.00 from the Special Purpose Gift Fund to pay for the attached invoice(s).***

***Motion by: Erik Yingling Seconded By: Elaine Anderson Yea 5 Nay 0***

**6F3 TREASURER'S TRANSFER – Special Purpose Gift Fund**

To pay the authorized voucher(s) to pay this request totaling **\$2,000.00** from the Special Purpose Gift Fund leaving a balance of **\$3,550.18**. This is for the purchase of a portable breathalyzer test.

***MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$2,000.00 from the Special Purpose Gift Fund to pay for the attached invoice(s).***

**Motion by: Erik Yingling    Seconded By: Tom Donegan                      Yea 5    Nay 0**

**6F4    TREASURER’S TRANSFER – Library Gift Fund**

To pay the authorized voucher to pay this request totaling **\$35.48** for the purchase of Books and Subscription Memorial. The Hersch Library Gift Fund has a balance of **\$8,937.75** after this purchase

**MOTION:** *Move that the Board of Selectmen vote, as Commissioners of the Library Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$35.48 from the Hersch Library Gift Fund to pay for the attached invoice(s).*

**Motion by: Erik Yingling    Seconded By: Elaine Anderson    Yea 5    Nay 0**

**6G    USDA RURAL UTILITIES SERVICE LOAN RESOLUTION FOR SEWER APPLICATION PHASE 4:**

**MOTION:** *Move that the Board of Selectmen vote to approve the United States Department of Agriculture Rural Utilities Service Loan Resolution for a loan in the amount of \$1.4 million and a grant in the amount of \$396,966 for the Sewer Application, Phase 4 of the Provincetown Wastewater System.*

**Motion by: Erik Yingling    Seconded By: David McChesney    Yea 5    Nay 0**

**7A    OPEN MEETING LAW COMPLAINT FROM VINCENT CURRIER CONCERNING THE BOARD OF SELECTMEN’S JULY 8, 2013, MEETING AND RELATED MATTERS. ACKNOWLEDGE RECEIPT OF COMPLAINT, CONSIDER POSSIBLE RESPONSES THERETO, AND VOTE TO RESOLVE THE SAME.**

**MOTION:** *Move that the Board of Selectmen has received an Open Meeting Law complaint filed by Mr. Vincent Currier, claiming that the Board chairman violated the Open Meeting Law on July 8, 2013 by declining to put a particular matter on the meeting agenda but then addressing the issue during “Selectmen Statements” after knowing that the issue would be discussed. In response, the Board moves to make certain findings of fact and resolve the complaint as follows:*

*A Selectman requested that the chairman put a particular matter on the July 8, 2013 agenda, but the chairman declined to do so as the matter was a personnel matter being handled by the Town Manager;*

*-        The chairman made no comments or statements during the “Selectmen Statements” portion of the July 8<sup>th</sup> meeting regarding the specific personnel matter;*

*-        The chairman did not reasonably anticipate that the matter would be addressed at the July 8<sup>th</sup> meeting, as he intentionally did not place it on the meeting notice and considered the matter to be under the Town Manager’s jurisdiction.*

*And further that Town Counsel is hereby directed to prepare (or finalize) a response to the complaint to be sent to the complainant and the Attorney General’s Division of Open Government, consistent with the findings of the Board of Selectmen.*

**Motion by: Elaine Anderson    Seconded By: Austin Knight    Yea 3    Nay 1 (Erik Yingling)  
Abstain 1 (Tom Donegan)**

**7B    TOWN MANAGER FOLLOW-UP**

The Massachusetts Office of Public Collaboration (MOPC) submitted a Proposal in response to a request from the Town Manager of the Town of Provincetown for a conflict resolution intervention that will include an important civic engagement process involving a neutral forum for the discussion of the provision of police services and the role and functions of the Police Department in the community. John Goodrich has been a facilitator in Provincetown on several occasions in the last 15 years.

Discussion as to whether a week night or weekend night is best time to allow most people to attend.

***MOTION:*** *Move that the Board of Selectmen vote to approve the proposal from Massachusetts Office of Public Collaboration (MOPC) to facilitate a public forum on the Police Department in the amount of \$7500.00 on Thursday, September 19, 2013.*

***Motion by:*** Erik Yingling ***Seconded By:*** Elaine Anderson **Yea 5 Nay 0**

FEMA meeting on August 15<sup>th</sup> on the revised Flood Insurance Rate Maps will be held at Nauset High School in Eastham.

Joint meeting with the Building Committee is scheduled for September 17, 2013

7C **OTHER** - None

## **8. MINUTES OF BOARD OF SELECTMEN'S MEETINGS**

***MOTION:*** *Move that the Board of Selectmen vote to approve the minutes of: July 16, 2013 (Special Mtg. 6:00 PM) as printed; July 22, 2013 (Special Mtg. 4:30 PM) as printed; and July 22, 2013 (Regular Mtg. 6 PM) as printed.*

***Motion by:*** Erik Yingling ***Seconded By:*** Elaine Anderson **Yea 5 Nay 0**

## **9. CLOSING STATEMENTS**

**Erik Yingling** - none.

**Tom Donegan** – Does not want to see items of discussion that are not on the agenda.

**Elaine Anderson** - none

**David McChesney** – none

**Austin Knight** - none

Motion to adjourn by Erik Yingling at 10:07 PM.

Minutes transcribed by: David Gardner