

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES
REGULAR MEETING - MONDAY – AUGUST 26, 2013 6:00 PM
TOWN HALL – JUDGE WELSH ROOM**

Chairman Austin Knight convened the meeting at 6:00 PM, 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 – NSTAR POLE HEARING 100 ALDEN STREET

The public hearing notice was read into the record.

Karen Corveau, NSTAR representative present.

John Browne, Electrical Inspector in support of NSTAR Electric petition. All abutters were notified of the public hearing by the Permit Coordinator via regular mail.

Public Comment: none

MOTION: *Move that the Board of Selectmen vote pursuant to MGL C.166,§22, to approve the request of NSTAR Electric; to install new underground conduit as indicated on Plan Number 103706 dated June 12, 2013 submitted by NSTAR Electric to provide electric service to Seashore Point-Deaconess, Inc. located at 100 Alden Street, Provincetown, MA; and further that NSTAR Electric provide an as-built plan to the property owner showing actual location and depth after installation.*

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

2. PUBLIC STATEMENTS

Jim King – Read a letter into the record. Requests the Selectmen look into the merits of the marine patrol program. Requests financial costs of the program. Seeks a costs benefit analysis of the program. Thinks the program is too expensive for the Town.

Carlos Verde – Clarify that the PPPC did consider the letter and request from Mr. King. We intend to look at the cost associated with the marine program at the end of the season.

Gordon Peabody – Harbormaster has an abandoned boat program. Witnessed the marine patrol officer cutting kayaks. Boats are supposed to be stickered prior to being removed. Provincetown needs to have a beach management plan that respects all users. The due

process cannot be sidestepped in the administration of the removal program.

Edward Ritter – The prams that we crushed were on the private property of the Old Colony. The boats that were destroyed were seaworthy. I am not seeking compensation. Would request the ability to obtain a surplus pram from DPW before others get destroyed.

Victor _____ - Pram was also confiscated on the Old Colony's property. Would like this issue looked into to understand how this came about.

Sam Andecito – Would like something done regarding prams. Would like to determine if it is private property or not.

Alan MacKinnon - Expressed concern about speeding on Arch Street. Would like the town to address the problem.

Tom Shirk - White Porch Inn, concerned about safety on Arch Street.

Alan Roth – Lives on Conwell Street, very concerned about safety and vehicles speeding on Conwell. Seeks additional police enforcement.

Dan Hoort – Director of Finance. Feels the need to make a statement to express concern about the information coming from Finance Committee member Clarence Walker's blog. Mr. Hoort stated that Mr. Walker posts inaccurate and misleading information about the town's finances on his blog. Mr. Hoort provided corrections to the inaccuracies to the general public in his statement.

3. SELECTMEN STATEMENTS

Austin Knight made the following preliminary statement: Requests the Harbormaster and the Marine Patrol Officer at the next meeting to report on the incident of removed boats.

Tom Donegan – Congratulations to all town staff and PBG for a successful Carnival Parade.

We should include ways for non-resident taxpayers to be included in our budget and policy discussions. Would like to see a future agenda item on this subject.

In regards to what is being discussed with the Parking Task Force relating to the Resident and Non-resident parking permits, it should be clear that the distinction between the two permits is where the vehicle is garaged as that is where the excise tax is paid. On the Fincom, we looked and the average excise tax was approximately \$185, which far exceeds the difference between the resident and non-resident owner permit fees.

Elaine Anderson – Thanks to DPW and staff for great work with the Carnival Parade. Quick work with the water leaks and quick response by the fire department.

Would like to see us get beyond these concerns soon. Emails from the Fincom Chairman directly to a contractor prior to a contract even being approved is inappropriate. Fincom has

been meeting with other Fincoms and discussing shared services, all issues previously discussed by Boards of Selectmen. Asking that the Fincom pay attention to their primary task as the budget process is very extensive.

David McChesney – Congratulations to all those involved with Carnival. Tomorrow will be the last meeting of the Parking Task Force which we will be making recommendations to the full Board of Selectmen. Several people coming up asking me what is happening with the Fincom, which I can only describe as a trainwreck.

Erik Yingling – Carnival was a great success, special thanks to PBG, DPW and Police. Acknowledged Vernon Porter's retirement

MOTION: Move that the Board of Selectmen vote to send a thank you to Vernon Porter for his many years of service.

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

Thought election season ended in May, wished my colleagues would put it to rest and stop attacking other committees and the free press.

Austin Knight – Carnival floats should be respectful of families. Should have a joint meeting with Fincom on September 30, 2013. Was very proud to carry the flag during the parade.

Would like to see a tribute to Vernon at town meeting.

Supports Dan Hoort's public comments and the rights of town staff, and wants to see us move forward and continue together in our work for better financial management.

Read an email from Mike Canizales to town counsel. Found the letter and tone of the letter insulting and highly inappropriate coming from the Chair of the Fincom. We need to work together and stop tearing each other apart.

Would like to see something happen on Arch Street. Can we refer to the DPW and Police Chief to see how this can be addressed.

4 JOINT MEETING/PRESENTATIONS – None.

5. BOARD OF SELECTMEN APPOINTMENTS -

Interviewed applicants to the Provincetown Public Pier Corporation: Tom Johnson and Herbert Hintze.

MOTION: Move that the Board of Selectmen vote to appoint Herbert Hintze as a Regular Member of the Provincetown Public Pier Corporation with a term to expire on June 29, 2014.

Motion by: Austin Knight Seconded By: Erik Yingling Yea 4 Nay 1 (David McChesney)

Conduct interviews with the Charter Review Ad Hoc Committee applicants: Doug Johnstone, Judith Cicero, Marcy Feller, Robert Speiser, Thomas Coen, Mark Phillips, Robert Vetrick, David McGlothlin; Elizabeth Williams not present.

MOTION: Move that the Board of Selectmen vote to appoint the following nine applicants to the Charter Review Ad Hoc Committee with terms to expire on August 31, 2014 or as extended by the Board of Selectmen: Doug Johnstone, Judith Cicero, Marcy Feller, Robert Speiser, Thomas Coen, Elizabeth Williams, Mark Phillips, Robert Vetrick, David McGlothlin

Motion by: Austin Knight Seconded By: Erik Yingling Yea 5 Nay 0

6A UPDATE ON THE PROCESS FOR THE FACILITATED PUBLIC FORUM ON THE POLICE DEPARTMENT POLICIES –

Facilitator John Goodrich present.

Updated the Board of Selectmen as to the process for the Facilitated Public Forum on the Provincetown Police Department. Printed surveys should be placed throughout town and returned to the Town Clerk for submission.

MOTION: Move that the Board of Selectmen vote, to approve a contract with Massachusetts Office of Public Collaboration, 100 Morrissey Blvd., Boston, MA 02125, in the amount of \$10,000, to do an initial conflict assessment and to facilitate a public forum of the Provincetown Police Department.

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

6B1 DPW: COMMERCIAL STREET RECONSTRUCTION PHASE 2 UPDATE

Deputy DPW Director Richard Waldo present. Updated the Board of Selectmen as to the progress of the Commercial Street Reconstruction. The water main and water services will start on Monday September 9th, 2013. The area that will be affected will be Good Templar Place to West Vine Street. Crews will do the water main and water services simultaneously. Starting immediately after the water work we will start the road reconstruction. The area that will be affected will be Winthrop Street through the West End Parking Lot. The road reconstruction involves digging down 4 feet and installing stone. In the areas of construction Commercial Street will be closed to all vehicular traffic. Like Phase 1 this work will be done in sections and detours will be clearly marked. Once the base coat of pavement is laid, the road will reopen and the next section will close for construction.

MOTION: MOVE that the Board of Selectmen vote to establish the following parking bans during Phase 2 construction project:

- 1. No parking in the vicinity of the construction crew for the water main replacement on Commercial Street through the period of September 9th until approximately October 11th.**
- 2. No parking west of the Franklin Street Town Landing for the duration of both Water Main and Road Reconstruction Project from 2:00 am Monday morning to 5:00**

pm Friday.

3. No parking west of Winthrop Street to the Provincetown Rotary for the duration of the road reconstruction project expected to start October 15th.

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

6B2 DPW: VMCC HEATING SYSTEM PROJECT CLOSEOUT AND APPROVAL OF CHANGE ORDERS

Deputy DPW Director Richard Waldo present. The Board of Selectmen awarded and executed a contract to General Air Conditioning & Heating, Inc of Dorchester, MA on September 17, 2012 to perform the installation of a new energy efficient heating system. The heating system work began on October 1, 2012 and was substantially completed on May 15, 2013.

MOTION: MOVE that the Board of Selectmen vote to approve the project closeout change orders for the Veteran's Memorial Community Center Heating Project totaling \$33,423.85.

Motion by: David McChesney Seconded By: Austin Knight Yea 5 Nay 0

6B3 DPW: UPDATE OF WIRELESS COMMUNICATION RFP FOR THE WATER TOWER

DPW Director David Guertin present. AT&T responded to the RFP for telecommunication facilities at the water towers.

MOTION: Move that the Board of Selectmen vote, to approve disposition by lease of such property and utility easements defined by location as the water tower located at 7 Capt. Berties Way known as the Winslow Water Tank for use by a telecommunication service provider herein identified as AT&T, as being the high and only responsive bidder to the Town's Request for Proposals duly advertised and publicly opened on Thursday, August 8, 2013. Lease terms to be \$30,000 per annum, paid in monthly installments and increased 2.5% annually thereafter for a term of 10 years with a renewal option for an additional 10 years, said lease to be subject to approval by Town Counsel.

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

6B4 DPW: NORTH UNION FIELD WELL PROJECT CLOSEOUT AND APPROVAL OF CHANGE ORDERS

Continued to the next meeting.

6C CHANGE ORDER FOR DESIGN SERVICES FOR THE POLICE STATION PROJECT

Additional Service Fee Proposal for the Provincetown Police Station for the VFW site.

MOTION: MOVE that the Board of Selectmen vote, to approve the Change Order with

Kaestle Boos Associates Inc, of Foxboro, MA in the amount of \$37,750 for design services associated with the preparation for the town meeting article for the purchase of the VFW property for construction of a police station and affordable housing.

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

6D INDEPENDENT INVESTIGATION OF THE SQUEALING PIG INCIDENT

Frank Rudewicz of Marcum, John Ford, and Al Donovan of APD Management Inc, all submitted proposals. Selectmen would like to have the proposers come before them for questions. Would like to request the list be opened up for additional proposers.

MOTION: *MOVE that the Board of Selectmen vote, to enter into a contract agreement with Marcum Group for the purposes conducting an independent investigation and to take witness statements of the incident which occurred at the Squealing Pig on May 7, 2013.*

Motion by: Austin Knight Seconded By: Elaine Anderson Yea 2 Nay 2 (Tom Donegan and Erik Yingling) Abstain 1 David McChesney

MOTION: *MOVE that the Board of Selectmen vote to invite the proposer in for an interview and seek two additional proposals.*

Motion by: Austin Knight Seconded By: Erik Yingling Yea 3 Nay 1 (Elaine Anderson) Abstain 1 David McChesney

6E TOWN HALL AUDITORIUM REQUEST FOR BEER AND WINE SERVICE: PROVINCETOWN CARES

The Provincetown Cares Annual Women's Health Benefit event to benefit breast cancer and women's health is scheduled for October 18 and 19, 2013. As in past year's events, they are requesting beer and wine service. The event is catered by Ptown Parties who will, once again, handle the beer and wine service. They will be using the same set up as last year's event which went very smoothly. The hours for alcohol will be two hours before and after the play to accommodate the silent and live auction on both Friday and Saturday. The hours will be similar as last year. On Friday 1 pm-11 pm and on Saturday 1 pm – 8 pm.

MOTION: *MOVE that the Board of Selectmen vote, pursuant to the Regulations for Public Use of Town Hall, to authorize the consumption or sale of beer, wine or champagne service in the Town Hall Auditorium as requested by Lynn d'Angona, on behalf of Provincetown Cares, 516 E 2nd Street #14, Boston, MA 02127, for the Provincetown Cares event to be held on Friday and Saturday, October 18 and 19, 2013 (Friday 1 pm - 11 pm and on Saturday 1 pm - 8 pm).*

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

6F1 PARADE PERMIT: ANNUAL PROVINCETOWN 5K PILGRIM TROT

Chief Jaran has approved this application. Runners will gather at the Harbor Hotel parking lot and head west down Commercial Street, turn around at 460 Commercial Street (PAAM) and head back to the Harbor Hotel. This route is exactly 5k (3.6 miles).

MOTION: *Move that the Board of Selectmen vote to approve the parade application permit submitted by Amy Huizdak of the Annual Provincetown 5K Pilgrim Trot on Thursday, November 28, 2013 starting 9:00 AM and ending at the Harbor Hotel at 10:00 AM.*

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

6F2 PARADE PERMIT: ANNUAL FAMILY WEEK CELEBRATION

Chief Jaran has approved this application. Walkers will gather at the Bas Relief Park, walk south on Ryder Street, west on Commercial, north on Court and east on Bradford Street and end at the Bas Relief Park.

MOTION: *Move that the Board of Selectmen vote to approve the parade application permit submitted by Ally Kunloff, of Family Equality Council for the Family Week 2014 Celebration Walk on Friday, August 1, 2014 starting 2:30 PM to 3:30 PM.*

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

6G1 TREASURER'S TRANSFER – Library Building Gift Fund

Attached is the authorized Voucher to Pay this request totaling \$173.22 leaving a remaining balance in the Library Building Gift of \$140,094.24.

MOTION: *MOVE that the Board of Selectmen vote, as Commissioners of the Library Building Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$173.22 from the Library Building Gift Fund to pay for the attached invoice(s).*

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

6G2 TREASURER'S TRANSFER – Library Gift Fund

Attached is the authorized Voucher to Pay this request totaling \$302.50 for the purchase of custom ornaments. The Library Gift Fund has a balance of \$15,059.13 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 \$302.50 from the Library Gift Fund to pay for the attached invoice(s).*

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

7A OPEN MEETING LAW COMPLAINT FROM BERNARD BRAHM 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.

Move that the Board of Selectmen vote to acknowledge receipt of two complaints from Mr. Bernard Brahm alleging that the form of the Board's July 12, 2010 and August 2, 2010 executive session meeting minutes is inconsistent with law be resolved as follows:

- (1) **Mr. Brahm previously filed an Open Meeting Law complaint concerning the meetings at issue, which complaint was the subject of a July 29, 2013 letter determination issued by the Attorney General;**
 - (2) **That determination finds as a fact that the minutes at issue were released following the Board's October 9, 2012 meeting, where the matter of the complaint and release of the minutes was included on the Board's meeting notice;**
 - (3) **Since release of the minutes, they have been available at Town Hall, and have also been posted to the Town's website to be accessed at any time at the will of the user;**
 - (4) **Under the Open Meeting Law, complaints must be filed within 30 days of the alleged violation, or 30 days from the date that such violation was reasonably discoverable;**
 - (5) **In this case, complaints concerning the form of the minutes would need to have been filed no later than 30 days from the date such minutes were released, which occurred well over 30 days ago;**
 - (6) **The Board acknowledges that the July 29, 2013 letter reminds the Board of the Attorney General's interpretation of the law with respect to the content of meeting minutes, and notes that the minutes at issue were prepared shortly after the revisions to the Open Meeting Law took effect, and prior to the availability of any guidance from the Attorney General's office as to the requirements of the newly revised law with respect thereto;**
 - (7) **Simply because the complainant only recently become aware of this issue does not mean that an alleged violation with respect to the form of the minutes "could not have reasonably been known" earlier;**
 - (8) **Where the complaint was not filed within 30 days of the release of the minutes at issue, the complaint has been received too late for purposes of the Open Meeting Law;**
 - (9) **While no remedial action is required, the Board notes for the record that it continues to refine its meeting minutes to comply with the substantive requirements of the Open Meeting Law, as interpreted by the Attorney General, and takes its responsibilities under such law seriously.**
- And further, to authorize Town Counsel to respond to the complaints at issue consistent with the Board's vote on this matter.**

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

7B TOWN MANAGER FOLLOW-UP

Blood drive to be held on Thursday, September 5, 2013 at 10:00 am to 3:00 pm at the VMCC.

7C OTHER - None

8. MINUTES OF BOARD OF SELECTMEN'S MEETINGS - None

9. CLOSING STATEMENTS

Tom Donegan – Need to understand why cell service remains deficient in town. People who have problems with town boards should talk to the boards directly or the appointing authority.

Elaine Anderson – Need to continue to trim hedges that protrude into the streets throughout town.

David McChesney – Question the status of the beautification on Shank Painter Rd at the NSTAR station.

Erik Yingling - none.

Austin Knight - We need to start discussing articles for town meeting.

Motion to adjourn by Elaine Anderson at 9:40 PM.

Minutes transcribed by: