

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MONDAY, December 16, 2013 6 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, and Tom Donegan, Erik Yingling

Other attendees: Assistant Town Manager David Gardner and Finance Director Dan Hoort
Town Manager Sharon Lynn was unable to attend.

Recorder: Mary Timmons

Austin Knight chairs the meeting.

1. PUBLIC HEARING: None

2. PUBLIC STATEMENTS

Mike Camara -- represents ABC Disposal. Trash contract for 2015, he wants to offer \$58 and wants to offer a state of the art facility. Covanta came down in price due to competition; they have tried to slow ABC down, which will be open this summer. Can offer a recycling rate of 90-95%. Invites us to come to their facility. Future is their kind of technology. Can't afford to burn or bury trash. Consider their technology, with their focus to protect the environment.

Judy Cicero -- here to support Austin Knight. She is upset about this because it is a rushed judgment. She doesn't expect this in Provincetown. She finds it funny that she is here defending one of the finest Selectmen we have had. She has experienced many selectmen, and Selectman Knight has represented our town in the finest possible way. He is respected by the Governor of the state. He thinks enough of the town and the people to do extra things. She condemns rush to judgment. Why are we always ready to rush for people to resign. We have big tasks, a new Town Manager and this attitude is putting a chill on things.

Julia Perry – Statement as a private citizen, talked about the Cape Cod Times article. Chapter 10 Section 1, there is a procedure for removal of an elected official. She read from the Town Charter outlining the process for removal from office. This is to protect the electoral process and she urged the Board of Selectmen to go by the Charter.

Marian Roth – Over the years she has voted for every person on the current Board. She now has a shameful feeling about the town; she believed the selectmen would represent the town, not individual squabbles. She spoke of Sharon and is also disappointed that Sharon is leaving. She asks the Board to get over it. She asks all to resign if they can't get along and can't move forward.

Barbara Rushmore. She read the Marcum Report and talked about how disgraceful Austin Knight is. She knows many things about him. She believes he has broken the law and the newspapers are onto him. Nobody has a right to interfere with an election, and she implicated others by pretending nothing was happening. She believes he will be recalled only after disgracing the town. Urges him to resign before the election in May.

Dieter Groll – Talked about what Austin Knight said in his remarks, he also read statements from Mr. Rudewicz regarding the election and the signs. He also brought to the attention Mr. Knight's refusal to recuse himself on several occasions. Talked about contradictions in his remarks from the last Board of Selectmen's meeting.

Mark Juaire – He hopes no one resigns or considers it. He spoke of processes and how to handle a recall. He believes that because we are short on good people, everyone should stay put.

Clarence Walker – He spoke of the appendices and emails of the Marcum Report, and how the Board said they agreed they should be released but then changed their mind. Spoke of the Board not being transparent. Spoke of his process, of sending a letter to the Town Clerk which was forwarded to Town Manager, and still no attachments have been released. He is concerned as he is implicated in the response. He has not gotten any sensitivity to his response and has said he will adjudicate. Spoke of Yingling and how he was attacked by Austin and the Town Manager, how Austin Knight spoke of Vernon Porter in public. He does not want to rush with change but some need to come.

Marcene Marcoux – Was thinking of tonight and the changes happening. Marcene quoted T.S. Elliot's line from a poem which referenced beginnings and ends. She believes we should come to a new beginning. She spoke of the Chief of Police Jaran and that we need to move on. She does not want to spend months or years in the legal system, and urges us to end this and face a beginning.

Ms. Lithcott – She feels the town is changing in a direction that doesn't feel right, even though change is normal. She referenced the Marcum Report and how some inappropriate things happened. She believes we have lost a very good Town Manager. Now we are looking for a Town Manager and a new Police Chief. She likened the town to good and bad water. She spoke of people that wrote an editorial published in the Banner and of common values. We need to know what are our common values so we can look at cultural competency. We need to be clear to see what we want so our Town Manager and new employees are competent.

3. SELECTMEN STATEMENTS

Elaine Anderson – Heard good things. There is positive energy where people are trying to heal what is an uncomfortable environment. This is one town, it's us. She spoke of the prehousing meeting where John Ryan said it is not us and them. We need to solve our problems together. This town is sophisticated when it wants to be, each Town Meeting surprises her when it comes to solving problems. We are trying everything we can to answer these questions. She cannot talk about the hearing or Executive Session, but

nothing was done in a vacuum. We wanted to be fair and tried to be fair. There may be arbitration and courts, I don't know. We have disrupted the fabric of this town, we are losing a good Town Manager, and we are the losers. We need to get on with the business of the town and stop nitpicking. The Marcum Report and union report are both good. The attorneys are now working hard and we are not involved any more. She asks everyone to come together and become familiar with the charter. We agree that we love this town enough to work together and move forward.

David McChesney –. If our chairman feels it's best to step aside, then so be it. If he doesn't and there are allegations, the charter directs what is to be done. Four people on this board should not decide the fate of another person on the board.

Erik Yingling – We are a better town for having Sharon but it was her decision to leave. He appreciates the public statements, but he cannot remain silent when something is wrong. This is not nitpicking. He cannot sit back and let things happen. We did not have free and fair elections and everything I am doing is within the charter. Our elections need to be free and fair. My feeling is I disagree and I am going to make a motion to rescind Austin's chairmanship.

Move the Board of selectmen rescind Austin's chairmanship, second by Tom

Austin said we can put this on the agenda for January 13, and according to town counsel this should be on the agenda.

John Giorgio stated only things on the agenda can be voted on. The chairman has to make the determination. The Attorney General would look at a vote tonight that wasn't on a posted agenda, would determine there is no emergency and it is not appropriate for the Board to take action. The Board can reorganize to appoint a new chair at any time and this is a simple majority vote. Abstentions are not votes; it is a simple majority vote. There is nothing to prevent the Board from having this in another meeting. Terms of OML permits the chairman to put a vote on the agenda but that was not done for tonight. If there is to be a vote, you schedule a meeting and have it as an agenda item.

MOTION: Move that the Board of Selectmen place as an agenda item, January 13th, the possible reorganization of the Board

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

Tom Donegan – Thanks everyone for coming. When we talk about a search committee for the Town Manager, we need to set out and define valued work behaviors and cultural competencies. He was impressed with what was said about cultural competencies. He went over things which happened that were negative, in regard to people resigning and people cheerleading the cause. He believes this takes a toll. Some people read off the Charter, the voters pick the selectmen and the selectmen pick their officers. We must have consensus going forward and we have a lot to do. We have to support Acting Town Manager David Gardner over the next few months. He has to have confidence in his leadership and hopes Austin can explain what has gone on regarding discipline. We will find our way through it. We have enormous opportunity. He thanks Austin for his many hours of contributions.

Austin Knight –. Thank you for coming. Where I sit is a difficult place. He talked about the sign issue again, and believes in what Marian said that we have bigger issues to deal with such as hiring a Town Manager. Listening to the words about dirty water settled in my mind. Ego wants you to take everyone, but it is not necessary. He accepts his responsibility for the signs and giving them to the police chief. He did not know of mandatory meetings or that the chief was taking them to the police station. We must move forward. I do believe the healing process has begun and I will say clearly, I will not resign. I was elected by 673 people who asked me to do the work. Right now I have a job to do. Last week I met with the 2020 group. We are not calling this a celebration but a commemoration. This affected a lot of people. We have a lot to do between now and then. I am asking Elaine and Tom to be subcommittee members for the OPEB group with the finance subcommittee to see how we deal with the OPEB liabilities.

4A JOINT MEETING WITH PROVINCETOWN SCHOOL COMMITTEE

Due to a resignation, there is an opening for the School Committee. The School committee endorses Ms. Lovati with a term to end May 6, 2014. Roll Call vote:

Tom Donegan: yea
Elaine Anderson: yea
David McChesney: yea
Eric Yingling: yea
Austin Knight: yea

MOTION: Move that the Board of Selectmen vote to appoint Elizabeth Lovati as a Regular Member of School Committee

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

4B MUNICIPAL SOLID WASTE DISPOSAL

John Giorgio presented a recap of the New Bedford and Covanta proposals. Covanta has been a solid waste contractor for 20 years. We are currently paying \$37 per ton. That will not continue as the contract expires 12/31/2014 they will extend for a 10 year term with a 5 year renewal option. Current proposal is a net fee of \$60 per ton, but will be billed as \$65 with a \$5 credit on each bill; the credit is not dependent on anything. They also have a no put-or-pay provision. They have never enforced this. Obligation is to deliver all the tons we own or control. Covanta is going to execute a contract with Yarmouth to take over operation of Yarmouth Transfer station. We have ability to deliver waste to Yarmouth.

Regarding the New Bedford waste proposal, it was \$60 per ton for disposal; the town is responsible for transporting the waste to the transfer facility. The town contracts with a hauler and this would continue. Last week New Bedford waste sent a contract to the Town Manager. New Bedford would defer the cost of living increase to 1/27/2017. Tonight Mr. Camara said he would reduce the cost from \$60 to \$58 a ton. The recommendation tonight was to award the contract to Covanta and John defers to Richard Waldo the DPW director.

Elaine Anderson asked if this were time sensitive. Mr. Giorgio replied there is no deadline with respect to a decision but cautions the Board not to wait too long as the current contract expires in 370 days

David McChesney asked where New Bedford hauls to. Mr. Giorgio responded the municipal solid waste transfer station in Rochester, next to Wareham. They are promoting a new advanced process recycling facility when fully constructed it would accept waste either comingled or not and through processes all material that was not separated would be pulled out and marketed. What is left can be coupled with other waste for fuel.

Richard Waldo said we have been involved in this quite a while and have seen presentations from both companies; both have a lot of promise. He said we have not had issues with Covanta who has handled our solid waste for many years. They have worked with us and have helped us apply for a grant. New Bedford has a remarkable facility on the horizon, but it is still on the horizon. We need a contract for what we have today. We don't see any reason to change right now.

Tom Donegan asked how will we get to Yarmouth or Rochester, and have we investigated this. Mr. Waldo suggested first to get a contract, and then find out where we will haul it. Then do a feasibility study on trucks. First, get the contract then determine how will we haul it.

Discussion among the board was with environmental issues, such as fuel and trucks going to Rochester. They suggested sorting through this and not make a decision at tonight's meeting.

Covanta's Tom Cipolla spoke about the history of business between Covanta and the Town of Provincetown. He reminded everyone that competition is a good thing but SEAMASS is here today, is dependable and has been in operation since the 1980's. They will continue to bring other things to the table such as grant opportunities. They also stated they can accept construction waste.

It was decided we will not negotiate this evening and will come back to this issue. The board asked for more information from Rich Waldo.

MOTION: Move that the Board of Selectmen vote to consider a municipal solid waste disposal agreement between SEMAS/Covanta and the Town of Provincetown

Motion by: None Seconded By: None Yea 0 Nay 0

5A. BOARD OF SELECTMEN YEAR END APPOINTMENTS .

This appointment has been withdrawn due to family issues

6A. MONTHLY POLICE REPORT FOR NOVEMBER

Lt. Jim Golden – 1659 total calls for service and broke them down by reading the report. The report is brief but this does not reflect that the department is not working. Elaine commended the police for the Toys for Tots. Provincetown came in fourth and Lt. Golden gave an overview of how many toys were donated by cape towns.

6B1. WASTEWATER UPDATE

Regarding Phase 3 connection of Coastal Acre Campground to the sewer. It was found in the Registry of Deeds that no one owns right to Browne Street Extension. Within Mariam Gross's property there is confusion. Rather than battle in court for an easement we agreed to put a 25 foot easement on her property, and remove a water main that runs through her property. Miriam has signed a waiver allowing the town to go on her property.

MOTION: Move that the Board of Selectmen vote to endorse and make recommendations to the Water and Sewer Board the proposed water and sewer easement for property owned by Miriam L. Gross located at 60 West Franklin Street and 22 Race Road and make recommendations to the Water and Sewer Board.

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

6B2. WASTEWATER PROJECT – AECOM CHANGE ORDER

Looking for a change order with AECOM to provide sewer. Under order AECOM will design and develop a cost analysis and submit something for the MCDBD grant. The design will include a pump station large enough to serve Maushope Housing. The Grant we are submitting will cover several issues. We are looking at a pump station in the general area of Maushope and running a pipe up Miller Hill Road connecting to Bradford Street.

MOTION: Move that the Board of Selectmen vote to approve Contract Amendment No. 11-4 for Phase 4 engineering services to AECOM in the amount of \$100,000 for the scope of work as described under Contract Amendment No. 11-4 dated December 12th as funded under Special Town Meeting, April 2012, Article 5 in the amount of \$4,500,000

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

6C. ESTABLISH GIFT FUNDS

Mr. Nightinggale has \$3,000 from the Halloween Ball to donate to the Town Hall Fund for a new sound and light system for the auditorium. If we had a permanent system the auditorium would be rented more often. He is willing to start this fund and be the tag person to help raise money for the fund. It was suggested we work with the Historic Commission, and a sound and light company to get best possible price that fits in a budget we can live with. Dan Hoort added it takes very little effort to add an additional fund

MOTION: Move that the Board of Selectmen vote, pursuant to MGL Chapter 44, section 53A to establish a special gift fund account to receive donations for the Town Hall Auditorium Sound and Lighting Gift Fund, the proceeds of which shall be used without further appropriation under the supervision of the Town Manager and the Board of Selectmen.

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

6D. PARADE PERMIT REQUEST

Lt. Golden stated they are moving away from Jerome Smith due to the inaccessibility of the VFW property. Wanting to end in Jerome Smith is not his recommendation. They are working to end it at the VMCC. Some elements of that neighborhood are unhappy about being a finish line so the Board may hear from them.

MOTION: Move that the Board of Selectmen vote, to approve the parade application permit submitted by Bill Sykes on behalf of the National Multiple Sclerosis Society, Central New England chapter, to hold annual Cape Cod Getaway MS Bike Ride to be held on Saturday June 29 from 8:30 to 4:00 pm.

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

6E USE AND OCCUPANCY AGREEMENT

There is a requirement within the P&S agreement to provide space to the VFW. The actual agreement was emailed to you over the weekend. The closing date is 12/23/13. The VFW is prepared to continue to maintain the building.

MOTION: Move that the Board of Selectmen vote, to approve the Use and Occupancy Agreement with Lewis A. Young, V.F.W., Post 3152, Inc., as approved to form by Town Counsel

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

7A TOWN MANAGER FOLLOWUP

Tom Donegan asked the Assistant Town Manager to comment on the status of the Kingsbury Group and the operational changes. The presentation request represented the Kingsbury Group with the local participants. Shortly after that request as the local participants moved forward in the application and subsequent to that meeting those participants backed out and are no longer in the partnership. We have requested the new group to come forward to explain how the change in partnership would affect Provincetown. They could not in such a short span of time. At this time we do not have a proposal for Provincetown.

7B OTHER - None

8. MINUTES OF BOARD OF SELECTMEN'S MEETINGS

MOTION: Move that the Board of Selectmen vote, to approve minutes of November 12 Special Meeting, 5:00 pm as printed, with no changes and November 12 Regular meeting, 6:00 pm as printed with no changes.

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

9. CLOSING STATEMENTS

Elaine Anderson stated it is frustrating to think we are going back to the Farmers Market site discussion after we debated and decided to try a pilot location. Why not give it a try in

another location. Why are we beating this one down. We have abutters that complained to us about the inconvenience and safety issue of that location. She was not sure why we want to keep debating this. Happy Holidays.

David McChesney Happy Holidays

Erik Yingling feels the vote on Chairmanship was the wrong choice but we will re-evaluate it in January.

Tom Donegan asked when Sharon will get the proclamation. Austin will give it Wednesday, December 18th on Sharon Lynn Day. He encourages his fellow colleagues on the Board as well as Provincetown residents to attend the budget meetings.

Austin Knight Happy Holidays and welcomes Mary to her second meeting

Motion to adjourn by Elaine Anderson at 7:30 pm.

Minutes transcribed by: Mary Timmons