

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MONDAY, December 9, 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.

Excused Absence: Erik Yingling

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

Recorder: Mary Timmons

Austin Knight chairs the meeting.

1. PUBLIC HEARING: TAX RATE CLASSIFICATION

Assessor Paul Gavin present.

MOTION: Move that the Board of Selectmen vote, pursuant to MGL C.40,§56, as follows relative to the FY 2014 property tax:

- 1. To establish a residential factor of "1" [a residential factor of "1" establishes a single tax rate for all classes of property; any other factor splits the tax rate between residential/open space and commercial/industrial/personal].***
- 2. To adopt/not to adopt] a "residential exemption" of 20% [an exemption of up to 20% may be adopted, to shift the tax burden from residents to non-residents, within the residential class].***
- 3. to adopt/not to adopt] a "small business exemption" of 10% [an exemption of up to 10% may be adopted, which shifts the tax burden from certain qualifying small businesses to all other commercial and industrial property]; and***
- 4. To identify \$287,407.51 in unused property tax levy capacity.***

Motion by: Tom Donegan Seconded By: Elaine Anderson Yea 4 Nay 0

On November 1, 2013, the Board of Assessors voted on the following:

Not to recommend adoption of a Split Tax Rate for Fiscal Year 2014. (4-0-0)

Not to recommend adoption of a Residential Exemption for Fiscal Year 2014. (4-0-0)

Not to recommend adoption of a Small-Commercial Exemption for Fiscal Year 2014. (4-0-0)

Three questions needed to be addressed by the Board of Selectmen:

1. Will there be a split tax rate between commercial and residential with commercial tax at a higher rate.

2. Residential exemption where a resident would have lower taxes a second homeowner would have higher.
3. Commercial exemption gives small business a break but would be shifted to larger commercials.
4. Finally identify what our living capacity would be for FY14.

According to Dan Hoort, if the motion goes through the tax rate would be set this week.

2. PUBLIC STATEMENTS

Austin Knight – Austin made a statement regarding the Marcum Report. He talked about the election signs. Mr. Knight was unaware the chief did not pick up the signs and sent someone; nor did he know they went to the police station. He was upset it took several months for a selectman to make comments regarding the signs. Mr. Knight said he did nothing wrong and was unaware of certain facts until they came out in the report. Mr. Knight then turned the public statements over to the union, recused himself of the entire process, and reminded the union representatives they had five minutes each for comments.

Detective Lobur – wants to be clear copies were hard copies were made as well as emailed to selectmen asking for more than 5 minutes, as Mr. Rudewicz was given more than five minutes to present the report.

Tom Donegan - motions the Police Department representatives be allowed more time, David McChesney seconds the motion. Vote to extend Yea 4 Nay 0

Detective Lobur -- Union considers report document to be affront to police union, the police department, and the community as a whole. Asks the Marcum Report not to be exclusive finding of fact and their response to the report be attached. The report has been attached to these minutes. She brought up the police union letter to the Board of Selectman which that raised issues. First, ordering of officers into the Squealing Pig because of his objection to a 20 year old Rap song and ordering officers to get names of people in the Squealing Pig in relation to this issue. Second, the unethical behavior of the chief in trying to influence votes for certain candidates and the bringing of election signs into the police station. Third, disparity of discipline and treatment of a union member sexually assaulted in the police station by an armed police officer on duty and the chief harassing that union member. Detective Lebor further elaborated on certain incidents.

Squealing Pig

The report discredits interviews given by officers at the time of the incident. After the incident, Chief Jaran called a detective into his office stating he was the victim of a hate crime after this detective tried to dissuade Chief Jaran that this was not the case. The next day this detective was forwarded an email with the names and dates of birth of the two bartenders and two of the patrons involved in the incident and told to run them or look into them. This means doing CORI and in-house checks. The detective was uncomfortable with the request and Lobur advised the detective that this was inappropriate and not to comply. Marcum Report says Sergeant Steele drove the wrong way past Squealing Pig. The Marcum Report was erroneous in stating Sergeant Steele drove the wrong way down the

street and cruisers passed the Squealing Pig on the way to another call. He actually directed officers to avoid the Squealing Pig.

Election:

Jaran tried to influence personnel as to who they should vote for, which took place in the police station while he was in uniform. He stated "Richter is a drug dealer and Donegan hates cops". Marcum report stated there was no undue pressure to put signs in their yards; however employees stated they did feel pressure. The signs were placed at the rear door of the police station where officers enter and exit.

In conclusion, Lobur went into the reason the union entered a no confidence vote. It was a difficult vote and not entered into lightly. Several union members expressed fear of reprisal and retribution because of their vote. The conclusion of the Marcum Report is unfathomable to us. The Marcum Report said the union was responsible for not notifying the Town Manager regarding ethical violations regarding the election. This is not the case. The union was called opportunistic in their vote, but this is also not the case. It was reiterated that the answer to the Marcum Report be made a part of the case.

Tom Steele -- Discussed communication or lack thereof with the Town Manager and if they had communicated with the Town Manager all would have been fixed. He disagrees with this; he believed the Town Manager was aware of the signs. He had no reason to believe the Town Manager did not know the events at the Squealing Pig due to the investigation. He asked the lieutenant, his superior, if the chief was aware he had sent people into the Squealing Pig and the Town Manager was aware and he said yes. Sergeant Steele was upset about the report, and strongly urges to accept the letter with Markum Report.

Michael Canizales -- Urges both the Marcum Report and the police document become a part of the disciplinary report and urges them to talk to town counsel for guidance. He asks if a check has been issued and are we using other funds to give him additional money. Asks any check be stopped until public hearings can take place as to what should be paid.

Marcene Marcoux. Wants to respond to union for what they have done. She is impressed and overwhelmed that it took courage to continue and stand up to the Marcum Report and be specific to issues to which they hold a different position. Applauds aspect that the police state the need the support of the community and we are in this together.

Dieter Groll --I have no confidence in the Chairman of the Board of Selectmen. The Chair has made contributions and we thank him for that. Mr. Groll read from a letter and called the validity of his election is called into question and spoke of his distrust of the Chair of the Board of Selectmen. He spoke of a petition signed by 80 names asking Austin to resign. If not, they will initiate a recall. The petition was made a part of the meeting and is included as part of these minutes.

Clarence Walker -- Marcum Report is very shallow because if you exclude the first two issues of the Pig and the signs and read the last element, the 3rd had to do with Anti-Defamation League statement with one of the social blogs. What it did show is that there

was a long term pattern established by the chief. He is requesting full documentation of Marcum Report including exhibits, appendices and 143 emails from individuals with regards to attacking him and his personal status. He demands the documentation and unredacted, the appendices and the exhibits.

Josiah Mayo -- Townspeople have the right to full disclosure of all materials, urges the police report be used in conjunction with the Marcum Report.

Charlene Priolo -- Totally in support that their report be equally looked at as well as the Marcum Report.

Duane Steele. Requests the exhibits to the Marcum Report be released without redactions. Also requests not to replace the Town Manager until the Board of Selectmen are totally replaced.

3. SELECTMEN STATEMENTS

Tom Donegan – Abstains from commenting on Marcum Report. Excited about the housing summit and impacting future of the town and how we move forward. Worried we are stuck in a rut. His experience on FinCom and one as a selectman leads him to believe we need new selectmen leadership. Mr. Donegan hopes Austin would step aside as Chair but indicated he won't. Asks Elaine Anderson to become Chairman for the balance of the term and put forward a motion for Austin Knight to step down indicating it takes a two-thirds vote. Tom motioned to rescind Austin Knight as chairman.

Motion by: Tom Donegan Seconded By: None No vote was taken.

Elaine Anderson – This is a tough time she is conflicted and hopes we can move forward. We need to feel the strength of the community as it used to be. Elaine was also at housing preplanning meeting and it is a very exciting time, Raphael was there and a lot of people who care about the town. Please put the January 10th housing summit on your calendar and participate fully as you have done before. She read a short letter from Darren Klein regarding the exhibits. Based on the contents of the letter, she said we have to be cognizant as a town in protecting the town from litigation. She suggests Mr. Walker ask our attorney to release some information that is important to his case in what may be important to his litigation.

MOTION: Move that the Board of Selectmen vote to approve to include the Union report with the Marcum Documents.

Motion by: Elaine Anderson Seconded By: David McChesney Yea 2 Nay 0 Abstention 2

David McChesney – Is in favor of release of the exhibits but cautions whatever is redacted would be of a personal nature that would affect a town member, not the report itself. Regarding the police rebuttal, the harassment was deliberately not a part of the investigation. It is an ongoing case that was not to be in the report.

Austin Knight –. Thanks everyone for coming out this evening. Spoke of Sharon's many accomplishments and what she has done for the town.

MOTION: Move that the Board of Selectmen vote to make December 18th Sharon Lynn Day Motion by: Austin Knight Seconded By: Tom Donegan Yea 4 Nay 0

4A. JOINT MEETING WITH THE HISTORICAL COMMISSION

The Historic Commission provided an update on several projects: The walking tour map has been successful; they continue to support Doug Johnstone's efforts with scanning the clippings from the 20's and 30's; they are working on tri-fold brochure of Town Hall and getting a quote from the tourism office for funding for this project. They will be generating a database and hiring consultants to do this multiyear work.

After the summary Tom Donegan recused himself and stepped out after which the committee provided background on the renovation of the Barn at Days Lumberyard.

MOTION: Move that the Board of Selectmen vote to approve the Community Preservation Act Grant Agreement for \$25,000 for the renovation of the Barn at Days Lumberyard site owned by the Fine Arts Work Center in Provincetown, Inc. 24 Pearl Street, Provincetown, Massachusetts, as approved to form by town counsel.

And further,

MOVE that the Board of Selectmen vote to approve the Preservation Restriction for the Barn at Days Lumberyard site, owned by the Fine Arts Work Center in Provincetown, Inc. 24 Pearl Street, Provincetown, Massachusetts, as approved to form by town counsel and approved by the Historical Commission.

Motion by: Elaine Anderson Seconded By: David McChesney Yea 3 Nay 0

Tom Donegan returned to the meeting

5A. BOARD OF SELECTMEN YEAR END APPOINTMENTS

MOTION: Move that the Board of Selectmen vote to appoint

Art Commission	John Dowd	Regular
Assessors, Board of	Patricia DeLuca	Regular
Assessors, Board of	Robert Sanborn	Regular
Bicycle Committee	Jeffrey Epstein	Regular
Building Committee	Richard Murray	Regular
Council On Aging	David Ketchum	Regular
Council On Aging	Charlene Priolo	Regular
Cultural Council	Judith Cicero	Regular
Cultural Council	Cherie Mittenthal	Regular
Cultural Council	Robert Speiser	Regular
Board of Health	Janet Whelan	Regular
Board of Health	Elizabeth Williams	Regular
JAFF Sch. Com.	Mary Ann Cabral	Regular
JAFF Sch. Com.	Eleanora Irving	Regular
Licensing Board	Kristin Hatch	Regular
Licensing Board	Frank Thompson	Regular

<i>Planning Board</i>	<i>Marianne Clements</i>	<i>Regular</i>
<i>Planning Board</i>	<i>Mark Weinress</i>	<i>Regular</i>
<i>Recreation Commission</i>	<i>Timothy Downey</i>	<i>Regular</i>
<i>RREC.</i>	<i>Laura Ludwig</i>	<i>Regular</i>
<i>Shellfish Committee</i>	<i>Richard Macara</i>	<i>Regular</i>
<i>Shellfish Committee</i>	<i>Nancyann Meads</i>	<i>Regular</i>
<i>Town Scholarship Com</i>	<i>Mary Ann Cabral</i>	<i>Regular</i>
<i>Town Scholarship Com</i>	<i>Eleanora Irving</i>	<i>Regular</i>
<i>Zoning Board of Appeals</i>	<i>Amy Germain</i>	<i>Regular</i>
<i>Shellfish Committee</i>	<i>Melville Cote</i>	<i>Regular</i>

MOTION: Move that the Board of Selectmen vote to reappoint the following Board and Committee members, as noted in the revised attached list, to an additional three year term to expire on December 31, 2016

Motion by: Elaine Anderson Seconded By: David McChesney Yea 3 Nay 0

5A. BOARD OF SELECTMEN APPOINTMENTS- BEAUTIFICATION COMMITTEE

Anika Costa read a statement stating the importance and her desire to be appointed to the Beautification Committee. The statement has been included as a part of these minutes. There was some concern as to her being a town employee but this was deemed not to be an issue

MOTION: Move that the Board of Selectmen vote to appoint Anika Costa as a Regular Member of the Beautification Committee with a term to expire on December 31, 2015.

Motion by: David McChesney Seconded By: Elaine Anderson Yea 4 Nay 0

6A. PROVINCETOWN DOG PARK ASSOCIATION

The existing Operation Agreement for the Dog Park requires any amendments to the original agreement be approved by the Board of Selectmen. Because the banners will be interior and not oriented to the public way, the Zoning Enforcement Officer does not consider them to be off-site signage and no further approvals would be required. The association asks this be permanent.

MOTION: Move that the Board of Selectmen vote to approve the Banner Program for the Pilgrim Bark Park for two more years

Motion by: Elaine Anderson Seconded By: David McChesney Yea 4 Nay 0

6B. PURCHASE OF WATERSHED PROPERTY IN TRURO

Richard Waldo provided a background as to why the purchase was necessary, and stated they would ask approval of the purchase of the land with the closing to be January 21, 2014. There is a deed restriction and they are working with Town Counsel to create this restriction. Correspondence from Environmental Partners Group regarding Truro Parcel 37-17 has been examined for compliance with a Phase 1 Environmental Site Assessment.

MOTION: Move that the Board of Selectmen vote to approve the purchase and sale agreement between the Town of Provincetown and Eleanor A. Widdison, for property described as a parcel of land on South Hollow Road in the Town of Truro, Massachusetts shown as Lot 8 on a plan entitled: "Plan of Land in Truro, Massachusetts as Surveyed and Prepared for Eleanor A. Widdison," dated Nov. 13, 2013, prepared by J.M. O'Reilly & Associates, Inc., being a portion of the premises described in a deed recorded with the Barnstable Registry of Deeds in Book 26001, Page 64.

Motion by: David McChesney **Seconded By:** Elaine Anderson Yea 4 Nay 0

6C. AUDITORIUM BEER AND WINE REQUEST

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 Lydia Hamnquist, Year Rounder's Festival, for the annual town festival to be held on Saturday, March 8 2014 (5:00 pm to midnight).

Motion by: David McChesney **Seconded By:** Elaine Anderson Yea 4 Nay 0

7A MID-YEAR FOLLOW-UP ON SELECTMEN GOALS

The Town Manager was impressed that many of the goals were accomplished. With the new Town Planner, more of the goals had attention. The Board thanked the Town Manager for the update.

7B. TOWN MANAGER SEARCH PROCESS

The Board stated in 2006 that this was a 10 month process and suggests we need to get started as soon as possible. They discussed how this was handled in 2006 with a search committee and adhoc committee. Tom Donegan suggested an ad hoc committee is required to review a job description examining what employee characteristics, leadership, and strategies are required. He suggests starting with the Board then handing this off to a search committee. It was also suggested we should have conversations with other towns.

MOTION: Move that the Board of Selectmen vote to issue a request for proposal to seek an Executive Search Consultant to provide services in the recruitment and Selection of Town Manager.

And further,

Move that the Board of Selectmen vote to convene an Ad Hoc Town Manager Search Committee and task them with screening the initial Town Manager applications.

Motion by: David McChesney **Seconded By:** Elaine Anderson Yea 4 Nay 0

7 C. PUBLIC RECORD REQUESTS – MARCUM REPORT EXHIBITS

Before we get to 7C, the Town Manager spoke of her discussion with the harbormaster and

the chair of the Pier Corp. regarding a request for a joint meeting with the Board at the December 16th meeting or the January 13 meeting. They would like to do this as soon as possible. She recommends proceeding to get budget figures so we are aware of what is needed in the agreement. January 13th would be best as all Board members will be present. It was also suggested Tom Donegan be the new Board of Selectman representative to the Pier Corp.

Motion by: David McChesney Seconded By: Elaine Anderson Yea 4 Nay 0

The board then proceeded to address 7C, Austin Knight recused himself turning the meeting over to Elaine, and Tom Donegan abstained. Selectman McChesney believed the Board should release the exhibits but should not release them prior to Chief Jaran's hearing. Elaine Anderson agreed we should wait, based on advice of counsel and to release after the Wednesday hearing.

Elaine agrees to not release them tonight based on the advice of counsel. Release them after the Wednesday hearing, when we can clarify and answer the question of redaction. She is conflicted. She is concerned we not put the town in a litigative position.

MOTION: Move that the Board of Selectmen vote to release the exhibits of the Marcum Report following the disciplinary hearing and upon further advice from counsel

**Motion by: David McChesney Seconded By: Elaine Anderson Yea 2 Nay 0 Abstension
1**

7D. **TOWN MANAGER FOLLOW-UP** - None

7E. **OTHER** - None

8. **MINUTES OF BOARD OF SELECTMEN'S MEETINGS** – None.

9. **CLOSING STATEMENTS**

Tom Donegan – Would like to get Executive Session minutes out particularly regarding the Palicino report. He would like a public record of who recused themselves and when. We need to release them soon. Asked about Google calendar for electronic calendaring. Possibly an Executive Session January 7th or 9th at 4 pm to discuss past Executive Meeting minutes.

Elaine Anderson – None

David McChesney – Asked for clarification on the December meeting dates.

Austin Knight – None

Motion to adjourn by David McChesney at 8:15 pm.

Minutes transcribed by: Mary Timmons