

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES - SPECIAL MEETING
THURSDAY – FEBRUARY 11, 2016 – 6:00 p.m.
JUDGE WELSH ROOM - 260 COMMERCIAL STREET**

Chairman Donegan convened the open meeting at 6:00 p.m. noting the following attendees:
Board of Selectmen members: Thomas Donegan, Cheryl Andrews, and Robert Anthony.

Excused: Raphael Richter

Other attendees: Town Manager David Panagore, Assistant Town Manager David Gardner, and Housing Specialist Michelle Jarusiewicz.

Recorder: Loretta Dougherty

Consent Agenda – Approval without objection required for the following items:

- A. *Approval of Eligible Buyer Certificate for 24 Capt. Bertie’s Way, Unit C – Housing Specialist Michelle Jarusiewicz.*

MOTION: Move to approve of the resale of 24 Captain Bertie’s Way Unit C to Christian T. Halmi and Charles C. Daniels Jr. as being in compliance with the affordable housing deed rider encumbering the unit; accept new mortgage and affordable housing deed rider on the unit, as drafted by the Dept. of Housing & Community Development, from the purchaser thereof to secure the future affordability of such unit; and, further, to sign and/or authorize the Chair to sign on the Board’s behalf, a Compliance Certificate and any and all other documents necessary or convenient to accomplish the foregoing.

- B. *Discussion and Approval of the T-Mobile Lease for Winslow & Gilboa Water Tanks – Town Manager David Panagore.*

MOVE that the Board of Selectmen vote, to execute two (2) lease agreements of an initial term of ten (10) years for \$25,000 a year with a 3% escalator each year thereafter, with an option to renew for one (1) additional ten (10) year term with T-Mobile Wireless for installation and operation of wireless telecommunications facilities at the Winslow Street Water Tank located at 7 Captain Bertie’s Way and the Mt. Gilboa Water Tank located at 120 Mt. Gilboa Road, Provincetown, Massachusetts. Lease has been approved as to form by Town Counsel.

MOVE that the Board of Selectmen vote, to rescind Telecommunications Site Lease Agreement Waste Water Treatment Plant Site dated June 27, 2008 (“Lease”) by and between Town of Provincetown, by and through its Town Manager, a department of the Town of Provincetown (“Lessor”) and T-Mobile Northeast LLC, successor in interest to Omnipoint Communications, Inc. (“T-Mobile” or “Lessee”).

Without objection the reading of the Consent Agenda was waived and without objection is was approved by unanimous consent.

1. Public Hearings:

A. 2015 Growth Management Report:

David Gardner gave a summation of the report which evaluated the effects of growth on our resources over the past year, in the following areas: Water Supply, Solid Waste Disposal, Wastewater Disposal, Building Permit Tracking, Affordable Housing Needs Assessment and Economic Development. The Selectmen were asked to make a finding on the compliance with the Department of Environmental Protection Water Withdrawal Permit and to set the rate of growth for the upcoming year of 2016. The complete findings on each of these areas may be found on the Town website under the Board of Selectmen’s agenda packets for this evenings meeting. There were no public comments on the report and the Public Hearing was closed.

Erik commented on the great job of recycling the town is doing and asked David G. about the 9 units which are being recommended for the next year.

Erik believes we are doing a great job on recycling.

Cheryl wants to see language added that includes community and workforce housing as our goals have really changed from just the affordable housing.

Tom wants to think of looking at this ore holistically as a roadmap. He asked David G. to come back with some thoughts and set up a working group.

David G. asked that the language up to be taken out as shown on the cover sheet.

MOTION: Move that the Board of Selectmen vote, pursuant to the Provincetown Zoning By-Laws

Section 6600 (3), Growth Limitation Goal Allocations, to make the following findings that the average daily withdrawal for the Provincetown Water System in 2015 was 705,596 GPD; that the permitted level is 850,000 GPDs; and that, therefore, the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations by DEP with respect thereto, and to make the following 2016 allocations to growth management as revised:

Category 1a:	up to 550	or []	gallons
Category 1b:	up to 550	or []	gallons
Category 1c:	up to 550	or []	gallons
Category 2:	<u>up to</u> 1100	or []	gallons
Category 3:	<u>up to</u> 1870	or []	gallons
Category 4:	up to 1250	or []	gallons
Category 4a:	--- 2500	or []	gallons

**Motion Erik Yingling
4/0/0 Motion passed.**

Seconded: Cheryl Andrews

2. Public Statements:

Thomas Biggert made reference to the agenda item 7D and would like to see the demolition delay changed. Every demolition should go to a full review (30 days) and abutters should be notified. He would also like to review the safety issue around the proposed consideration of new materials to be used in place of wood for siding on houses in the Historic District.

Marcene Marcoux applauds the change regarding the demolition delay and noted that it would need to be a change in the General Bylaw. She wants to have the input of other boards such as the Board of Health involved in looking at the health hazards (toxicity) of the materials being considered for use on houses.

Martin Risteen will give the Board a brief that explains the way the HDC Bylaws are done.

Pat Bruno is concerned about the noise on Alden Street where she lives. The monument has outdoor venues that are creating more and more noise. She asked if there is anything that can be done in the future to mitigate and prevent further encroachment of noises. She is especially concerned about the summer tenants.

Jackie Kelly cannot sleep due to the increase in noise from summer tenants. She would like to see the Noise Bylaws enforced or improved. She is a year-round tenant but it is becoming more and more difficult to live here with the increased noise problem.

Larry Fontana lives in the same neighborhood as Pat and Jackie. He suggested sending a letter to the owner of the rental houses and by the third letter to include a fine of \$50 which would be doubled each time after that. This may be one way to put some teeth into our Noise Bylaw.

No action taken.

3. Selectmen’s Statements:

Erik is getting a bit frustrated in the process to bring about the room’s tax. He wants to see it moving forward.

Perhaps hiring a lobbyist for those issues before the General Court would be helpful.

Cheryl asked for a Special Meeting to discuss this issue. She also wants to get more information about people using residential homes as commercial properties. She is very pleased with the communications coming from the Town Manager’s office and Town Hall regarding any emergency messages.

David P. noted that we do not have a clear policy but that the code red system is used for emergencies and the recent snow storm was not considered enough of an emergency to warrant its use. He will get with staff and come back to the Board with a clear policy as to what constitutes an emergency.

Tom believes the current noise ordinance was designed for street musicians. The police have no enforcement venues. We need to look at this again and he asked staff to come up with an appropriate noise ordinance. He thanked the HDC members for their service. He believes that the materials being considered for use in place of wood are acceptable materials and would improve the chances of preventing fires from spreading. He spoke about the meeting with the Town Managers, Police Chiefs and Boards of Selectmen who met and discussed the drug problem on the cape. Some of the topics discussed were education, different tax options, local triage, longer term care and the need to look for funding. All four towns are on the same page. He was also very pleased with the way the snow storm was handled by our town staff.

4. Joint meeting / Presentations: None.

5. Appointments:

A. Appointment of Steven W. Baker as an alternate member to the Economic Development Committee

with a term to expire on June 30, 2016, and/or an alternate member to the Planning Board with a term to expire on December 31, 2018.

Steve Baker and his husband have been second homeowners for many years. He has moved here year-round; his husband still commutes to Boston. Steve is a real estate agent with prior non-profit management experience and he has a strong background in management and administration. He wants to be more involved in the town and believes this will be a great opportunity for him to learn.

MOTION: Move that the Board of Selectmen vote to appoint Steven W. Baker as an Alternate member to the Economic Development Committee with a term to expire on June 30, 2016.

Motion: Erik Yingling

Seconded: Robert Anthony

4/0/0 Motion passed.

MOTION: Move that the Board of Selectmen vote to appoint Steven W. Baker as an Alternate member to the Planning Board with a term to expire on December 31, 2018.

Motion: Erik Yingling

Seconded: Robert Anthony

4/0/0 Motion passed.

6. Requests:

A. Request by the Provincetown Community Television (PTV) to discuss proposed Article for Town Meeting:

PTV Board President Robert Klytta, PTV staffer Melissa Yeaw, Superintendent Beth Singer, Share Cavat, Amy Davies, and Heather Reed appeared before the Board. Heather pointed out the need for the requested funds as outline in the packet. She believes that transferring the funds will help meet the upcoming needs for replacement of equipment that is out dated.

Tom wanted to know how much viewership is on demand.

Melissa wants to see the cameras changed out also to give a better quality picture. There is no way to monitor how many are watching Comcast. On demand session requests last for seven days and there are 332 sessions on demand. In the last 30 days approximately 816 meetings were actually watched. The last Board meeting had 202 sessions on demand and 48 watched the joint meeting. For 2016 there were approximately 21,170 on demand views.

Erik is in favor of bringing a higher quality image for the screening services being provided.

Cheryl would like to talk about the whose property are the digital files

Robert K. stated that the property belongs to the Town of Provincetown. He requested the Board approve the proposed Town Warrant Article for Town Meeting.

MOTION: Move that the Board of Selectmen vote to insert the following article into the April 2016 Special Town Meeting Warrant: "To see if the Town will vote to transfer \$86,095.94 from the Cable Reserve Fund to Provincetown Community Television to fund upgrades needed to the Town Hall video system and to fund the PTV Capital Reserve Fund for regular equipment maintenance and updates".

Motion: Erik Yingling

Seconded: Robert Anthony

4/0/0 Motion passed.

B. Review and Discussion on Harbor Mooring Fees and Pier Corp.

Harbormaster Rex McKinsey appeared before the Board and requested the Board approve the draft Public Hearing Notice containing proposed changes to the Harbor Fees and Regulations.

Tom wanted to know if the Harbor Committee has talked about anchorage fees and he wants to see something in the fees related to this for the super yachts. He believes that Wellfleet has an overnight anchorage fee of \$275.

Erik does not want to be limited to the \$25 increase; it should be more. A 30 or 40 foot boat should be charged a lot more.

Cheryl wants to see a number put in and not leave it open-ended. She wants to also get more information about what other towns are doing regarding the larger vessels that are taking up the harbor space especially in the summer months.

Robert wanted to know when we last had an increase. Rex told him in 2006 or 2007.

MOTION: Move that the Board of Selectmen vote to publish the Public Hearing Notice as soon as possible and use the already planned Public Hearing draft with the following three exceptions: the proposed changes for vessels greater than 30 feet will be listed in the hearing notice as \$250, vessels greater than 40 feet will be listed at \$300, and rental moorings will be listed at \$225.

Motion: Cheryl Andrews

Seconded: Robert Anthony

4/0/0 Motion passed.

C. Discussion on Provincetown's Noise By-law.

Tom stated that this item has already been discussed and there will be information and recommendations forthcoming from staff. No further discussion was had.

D. Discussion and Update on Barnstable County Government: Fire Academy Status, Princi Ordinance, and Administrator Search.

Provincetown Assembly Delegate Dr. Brian O'Malley appeared before the Board and gave a brief summary of what is happening at the county level.

- Mary McGuinness is doing a good job as Finance Director. She started in October. They are anticipating a smoother budget process this year.
- He did not receive an appointment to the special committee dealing with the Fire Academy. There is ongoing litigation with the Town of Barnstable regarding the chemicals. The Town of Provincetown never used any of the chemicals during their trainings. In terms of the budget, it has been a budget loss. They are looking for an earmark from the state and additional funding from a private contract. There is no move under foot to close the academy.
- Two proposed amendments are being considered to the County Charter: Princi Ordinance which is supported by the Chamber of Commerce and the elimination of the Assembly of Delegates. It is unclear when this proposal will get a hearing because the process would require a majority approval of the Assembly of Delegates and County Commissioners to go to the General Court and then on the ballot.
- Every town on the cape has once again voted not to let Eversource spray chemicals. A rights-based ordinance would give Barnstable the right to have a voice as this is an environmental protection piece of legislation. This would limit the amount of toxins, radiation and chemicals.

Tom spoke as the Representative to the Cape Light Compact (CLC) stating that the county has expressed an interest in terminating their relationship with the CLC. He told Dr. O'Malley that he believes that Provincetown would be capable of handling their back room operations. If the county does move in that direction he wants Provincetown to be prepared to put forward an RFP. It would be an expansion of our Finance Department but it would bring more year-round jobs to Town.

Cheryl wants to get a copy of the report showing what the County Commissioners are doing. She wants to know what our contribution of our excise tax is and what it is going for every year. She does not support the deeds excise tax increasing. She has concerns about the budget process in the County.

Tom does not think we get enough of the benefits in terms of services offered by the County.

No action was taken.

E. Update and Potential STM Article – National Marine Sanctuary Visitor's Center in Provincetown.

Tom had a good talk with Richard Delaney of the Center for Coastal Studies. The National Office of Marine Sanctuaries has identified approximately \$15,000 available for a feasibility study in this year's budget. They have a pre-approved contractor in this region, ConsultEcon, who has estimated a cost of \$30,000. Richard is requesting the Board to consider a matching grant of \$15,000 to enable this study to be conducted. We are the largest gateway for NOAA.

Erik and Robert are in favor of this.

David P. will talk with Richard about bringing this before Town Meeting this coming spring.

No action was taken.

F. Discussion on the Open Doorway of Cape Cod, Inc.; a 501 (c) 3 Organization that Advocates for Individuals Seeking Treatment for Substance Abuse Disorders.

Tom stated that they have placed several individuals in treatment centers in Florida and are doing great work. They are eager to improve their presence on the cape. They will be speaking at the next drug task force meeting held by the Police Chiefs.

Erik asked to have them come before the Board and give a presentation and Tom will ask.

No action was taken.

G. Approval of Certificate of Compliance for Condition of the Land Development Agreement – Grace Gouveia, 26 Alden Street.

David P. asked the Board to approve a Certificate of Compliance which would require the Developer to construct nine residential condominium units on the property within a certain time period. It also requires the Developer to rent three of the units as affordable units.

MOTION: Move that the Board of Selectmen vote to approve a Certificate of Compliance, for the limited purposes set out therein, for the project at 26 Alden Street, as presented.

Motion: Erik Yingling

Seconded: Robert Anthony

4/0/0 Motion passed.

7. Town Manager / Assistant Town Manager:

A. Request for the Short-term Use of the former VFW building located at 3 Jerome Smith Road, by the Center for Coastal Studies.

The Board reviewed a letter from Richard Delaney, President of the Center for Coastal Studies that was sent to David P. David has looked over their proposed schedule and it makes sense to him. (Letter may be viewed in the Board's packet).

Tom wanted to know who would be responsible for turning on the water and electricity in the building as it is not turned on presently and if they would be paying the town any rent.

David P. stated that the Center would assume all responsibility for all of the building maintenance during the period; utilities and insurance. We would charge market rate rent through a third party broker from March until around July or August.

Erik is fine with this proposal and David P. will bring back the lease for the Board to sign.

No action was taken.

B. Town Manager's Report – Administrative Updates.

- Library carpeting is going to be started soon.
- Fender piles will be replaced on the Pier.
- RFP for the Farmers' Market has received no response as yet.
- Health rates came in and we are on target with a 10% increase/.
- David will talk with Representative Peake regarding the definition of what we mean by a market rate for the Year-Round Rental Trust.
- David will look into who in Provincetown is eligible for scholarships, meet with Town Counsel and bring back information to the Board. It will be the Board's decision as to how they wish to handle it.

No action was taken.

C. Annual & Special Town Meetings – Set Dates for Opening and Closing of Warrants.

David P. presented the Timetable to the Board for setting the dates for the upcoming Annual and Special Town Meetings and the Board voted.

MOTION: Move that the Board of Selectmen vote to open the warrant for the Annual and Special Town Meetings forthwith; and to close them on Friday, March 4, 2016, at 11:00 a.m., in accordance with Charter §2-1-7.

**Motion: Cheryl Andrews
4/0/0 Motion passed.**

Seconded: Erik Yingling

D. Discussion of Potential Town Meeting Articles and Bylaws.

Drafts of the Conversion Bylaw and Inclusionary Bylaw were discussed.

Robert recused himself from the discussion of these bylaws but did not leave the room.

David P. pointed out that the Conversation Bylaw does not have any changes in it since the last time the Board looked at it. Gloria has been working on the Inclusionary Bylaw with Town Counsel.

Gloria went over projects consisting of between 1 and 5 dwelling units; a Housing Contribution to the Housing Trust Fund in the form of a payment in-lieu of creating a partial unit will be made for 1 unit = 10%; 2 units = 20%; 3 units = 30%; 4 units = 40%, and 5 units = 50% of the average cost of a swelling unit that contains the average number of bedrooms for the units in the particular development sold in Provincetown in the calendar year prior to the date the first building permit is pulled. The average cost to be determined on an annual basis in January by the Provincetown Assessor based on the average sale price of all 1-5 bedroom dwelling units.

Erik is concerned that the affordable units will not be finished and Gloria referred him to where it states that the affordable units will be constructed first.

Tom stated that it might make a difference to developers as to where they build in town. You will never see affordable units being built on the waterfront.

David P. asked the Board for policy direction.

Gloria believes that everyone should contribute to community housing. We can do a cost construct and look at the data regionally to tweak it up or down for any particular area in the region. Look at the average cost to construct.

Cheryl would like to see numbers and not percentages.

Tom wants to get the assessment and then get the percentages. Everyone has to get a certificate and that is what triggers the event. We do not want to incent the bite sizing of our properties. He would like to see this come before Town Meeting. He is pleased with the draft.

Gloria then pointed out the language changes to General Bylaws Section 15-11 12. SIDING, Section 11-1-5-3.

Procedure, and Article 6 Growth Management. These changes may be viewed in their entirety in the Board's packet.

Tom is concerned about the town's buildings being so close together in terms of the fire danger and is in favor of alternate materials being used within the Historic District. If an owner wishes to put this up in the Historic District, can they? He wants to add language to factor in for the public safety.

No action was taken.

E. Other: None

8. Minutes:

MOTION: Move that the Board of Selectmen approve the minutes of January 6, 2016, and January 11, 2016, as presented.

Motion: Cheryl Andrews

Seconded: Robert Anthony

4/0/0 Motion passed.

9. Closing Statements/Administrative:

- A. *Thank you letter to Donna Vaillancourt who resigned from the Library Board of Trustees effective January 17, 2016.*
- B. *Thank you letter to Jeff Krainess who resigned from the Economic Development Committee effective January 25, 2016.*
- C. *Congratulation and thank you letters to those who through their leadership helped put together the First Light Provincetown celebration and events.*

Erik asked if there was any objection in moving the Executive Session to our next meeting as the hour is late, if there is nothing pressing to discuss.

David P. had no objections.

Tom asked that the Executive Session be moved to the February 22nd meeting without objection.

Without objection Tom adjourned the meeting at 10:08 p.m.

Minutes transcribed by: Loretta Dougherty