

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, AUGUST 9, 2004

JUDGE WELSH HEARING ROOM

Chairman Cheryl Andrews opened the meeting at 6:00 PM noting the following attendees:

Board of Selectmen members: Cheryl Andrews, Michele Couture, Sarah Peake, Richard Olson

Excused Absence: Mary-Jo Avellar

Other attendees: Keith Bergman Town Manager, Acting Assistant Town Manager Michelle Jarusiewicz

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

1A FINANCE COMMITTEE

Legal Services for Same-Sex Marriage Litigation

Finance Committee Members present: Ruth Gilbert, Chairman, Matthew Clark, Thomas Thurston, Gail Enos, Robert Vetrick, Ann Maguire, Mark Leach

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B, clause 3, to go into executive session for the purpose of discussing strategy with respect to litigation; and to convene in open session thereafter. [Roll Call Vote]*

Sarah Peake - Yea **Richard Olson - Yea**

Michele Couture - Yea **Cheryl Andrews - Yea**

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

1B PUBLIC HEARING

NSTAR Underground Electric Service - Meadow Road

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.166, §22, to*

a) Approve the request of NSTAR to install cable and conduit from Poles 2/10 and 2/11 under the roadway to provide underground electric service including the necessary sustaining and protecting fixtures, in, under, and along and across Bradford Street Extension to service Meadow Road, east and west for CHR Meadow Road LLC.

b) And to request that NSTAR provide an as-built plan to the property owner showing actual location and depth after installation.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

1C PUBLIC HEARING

NSTAR Pole Relocation - MacMillan Pier

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.166, §22, to*

a) Approve the request of NSTAR to relocate pole 59/3 to a position 25 feet northwestward along the pier edge of the Municipal Parking Lot and to add a push brace to that pole, at the request of the Town of Provincetown. This relocation will allow straightening of the pole as well as proper access.

b) And to request that NSTAR provide an as-built plan to the property owner showing actual location and depth after installation.

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 4 Nay 0

2. PUBLIC STATEMENTS

None

3. SELECTMEN STATEMENTS

Michele Couture

Complaints of odor near the CVS station. Has the filter been changed? Answer - Yes, three weeks ago. It has been working fine and we have not had any complaints. Will check surrounding area.

Protocol for sewer system problems (incidents). Sandy Turner - working on protocol so that calls are transmitted directly to the appropriate person.

Would like a meeting with Board of Health on their own protocol and maybe its time to come up with some new regulations -- just to get their thoughts. Schedule for future agenda item.

MOTION: Move that the Board of Selectmen vote to thank the DPW Deputy Director Sandy Turner and the DPW Staff for the excellent job they did in cleaning up Lopes Square.

Motion by: Michele Couture

Seconded by: Richard Olson

Yea 4 Nay 0

MOTION: Move that the Board of Selectmen vote to declare the weekend of September 10, 2004 as Flyer Santos weekend in honor of his 90th birthday.

Motion by: Michele Couture

Seconded by: Sarah Peake

Yea 4 Nay 0

Laundromat timeline - would like to have an update.

Need nominee for Representative on the Barnstable County Home Rule Charter Committee. Cheryl Andrews will look into this.

Wastewater Infiltration Rate Study - when will it happen. Sandy Turner - During the month of August. Michele - will you notify us before it takes place. Sandy - Yes

Cape Cod National Seashore - Route 6 change. - Has comment timeline gone by. Keith - It has already passed. They had a public hearing and nobody showed up. They are putting out a document, which will then guide the study that gets done.

Community Preservation Committee - do we have any applications yet? Vernon - One so far. Keith - You have two at-large members to appoint. We are aware that several of the committees have taken their votes and we haven't coordinated all of them. We'll put together the roster as to which of their members they are designating.

Richard Olson

Had the opportunity to tour the new Library construction site and see the interior - which is shaping up very nicely. Highly encouraging as is the fact that the fundraising got a real boost in the past month from public citizens. I think we are going to be very happy with that project.

Sarah Peake

Relative to the Library - I don't very often get to talk about the Library as I am a neighbor of the Library have to step out of the room when it is discussed. But, I too, would like to congratulate the Library Board of Trustees and the people involved in the capital campaign.

MOTION: Move that the Board of Selectmen vote to send a letter to the Fowler-Bombardier Family charitable Trust thanking them for the donation to name the Children's Library and to Robert Duffy for his donation to name the Historic Front Lobby.

Motion by: Sarah Peake **Seconded by: Richard Olson** **Yea 4 Nay 0**

Congratulations to Anne Howard on her appointment as our new Building Commissioner - and look forward to her starting sometime later in the fall.

Cheryl Andrews

Normally don't comment on articles in the newspaper. Disappointed in the coverage of our strategic talks with Truro. This particular set of meetings going on between Provincetown and Truro, I think, are the most interesting, most difficult, the most unusual and the most far reaching in terms of the things that will impact us in generations to come. There has been a lot of change on the Board of Selectmen in Truro and a lot of position change. If you go back over the last two years and read things that have been said in terms of their goals and what they wanted there has been significant changes. It is a very fluid process - dynamic process and its very important for the folks who are following this story know what is going on.

In the stories opening paragraph talks about the Provincetown-Truro water system. There is no such thing - there's a Provincetown Water System. It has been in existence for almost 100 years and it is 100% wholly owned and operated by the municipality of Provincetown. I don't know what year it was that the agreement was made to start serving North Truro but it is the Provincetown water system. My concern is that when you start changing things like that they seem to imply things. And given the nature of the talks - it is kind of a shame and I think what we should do is report the facts and let the politics work their way out over time. Ultimately you will know the facts by the votes. There were no votes at that meeting. The newspaper reports that the Provincetown Board of Selectmen agreed to the need for further testing - and we did no such thing - there was no vote. And we certainly did not vote about need for further testing at C5. Reality is the Provincetown Board of Selectmen would like to proceed with testing at North Union Field. The Truro Board of Selectmen on the other hand, said no - we'll let you do that if you agree to go study this other well site. There is a significant difference between the two towns and we need to work this out and I would like at least the taxpayers and the water rate payers to know what's going on. We did not agree to the testing of C5 at all. What we heard is that Truro wants us very much to test C5 and we discussed possibly a small boring study of C5 with a simultaneous testing of North Union. But ultimately there was no vote. The only thing that I can recall was agreeing on was at the end of the meeting, Mr. Bergman suggesting that he prepare an amendment to our scope of services, which is on our agenda tonight, and ultimately we've started to talk about crafting some new language in the Intermunicipal Agreement between the two towns that will outline some information sharing and some systems management concerns that Truro has, which I, frankly, am actually very excited about. They are now talking seriously in Truro about environmental protection.

One other thing the paper talked about was - neither well could serve on its own as a 100% redundant water supply. Ultimately, I think it is DEP who is going to decide what we need for a redundant water supply - not Truro - not Provincetown - it's going to be DEP.

I think it is important for the facts to speak for themselves. There were no votes taken there and when there are you'll read about them in our minutes.

Received a written request from the Planning Board and LCP not to be on the agenda tonight and request to be on our agenda for August 23, 2004.

MOTION: Move that the Board of Selectmen vote take Agenda Item 5D - Library Construction Project Change Orders out of order.

Motion by: Cheryl Andrews **Seconded by: Michele Couture** **Yea 4 Nay 0**

Sarah Peake left the room due to conflict. She is an abutter to this project.

5D BUILDING COMMITTEE

Library Construction Project Change Orders #5-8

MOTION: Move that the Board of Selectmen vote to approve four change orders totaling \$15,780.57 for the library construction contract with J.K. Scanlan of East Falmouth, MA, as follows: Change Order #5 in the amount of \$8,621.31 for a main electrical disconnect; Change Order #6 in the amount of \$5,800.94 due to a

revised NFPA #13 [sprinkler code] change; and Change Order #7 in amount of \$566.48 for a structural steel change & CCD #8 for \$791.84 for a mechanical equipment change needed.

Motion by: Michele Couture Seconded by: Richard Olson Yea 3 Nay 0

Sarah Peake returned.

4. APPOINTMENTS

Provincetown Public Pier Corporation Board of Directors

MOTION: *Move that the Board of Selectmen vote, pursuant to section 4 of Chapter 13 of the Acts of 2000, to appoint Lee Ash to a term on the Provincetown Public Pier Corporation Board of Directors which expires July 29, 2008.*

Motion by: Sarah Peake Seconded by: Richard Olson Yea 4 Nay 0

5A AIRPORT COMMISSION: MASTER PLAN, LAYOUT PLAN

Execute Grant Agreements: FAA, MAC

MOTION: *Move that the Board of Selectmen vote to execute grant agreements for the Provincetown Municipal Airport Master Plan, Airport Layout Plan, Environmental Review, and Environmental Notification Form in the following amounts: \$370,310 from the Federal Aviation Administration and \$9,770 from the Massachusetts Aeronautical Commission.*

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

Cheryl Andrews left the room. Her father is a resident of the Cape End Manor.

5B1 CAPE END MANOR CARE CAMPUS

Update from Cape End Manor CEO

Discussion ensued. No motions made.

5B2 CAPE END MANOR CARE CAMPUS

Execute Land Exchange & Development Agreement - Bishop of Fall River

MOTION: *Move that the Board of Selectmen vote to execute a land exchange and development agreement between the Town of Provincetown and the Roman Catholic Bishop of Fall River relative to the Cape End Manor Care Campus.*

Motion by: Richard Olson Seconded by: Sarah Peake Yea 3 Nay 0

5B3 CAPE END MANOR CARE CAMPUS

Refer Proposed Zoning Amendment to Planning Board

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C. 40A,§5, to refer to the Planning Board a proposed zoning amendment which would (1) rename the “Highway Corridor Overlay District” as the “Health Care Overlay District” (HCOD); (2) rezone the 2.2-acre Cape End Manor Care Campus site and the surrounding area as part of the HCOD; (3) expand the permitted health care uses in the HCOD to include mission driven for-profits, as well as non-profits; and (4) increase the allowed height limit to forty-eight feet; all subject to approval as to form by Town Counsel.*

Motion by: Sarah Peake Seconded by: Richard Olson Yea 3 Nay 0

Cheryl Andrews returned.

5C

LONG-RANGE PLANNING ISSUES

Joint Meeting with Planning Board, LCP Implementation committee

Planning Board and LCP Implementation Committee requested this item be postponed until the Board's August 23, 2004 meeting.

5E

PARADE PERMIT: CARRIE A. SEAMAN ANIMAL SHELTER

Pet Walk After Blessing Of The Animals

MOTION: Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Carol MacDonald, on behalf of the Carrie A. Seaman Animal Shelter to hold a pet walk on Sunday, October 3, 2004 from 2 pm to 2:45 pm.

Motion by: Sarah Peake Seconded by: Richard Olson Yea 4 Nay 0

5F

PARADE PERMIT: AIDS SUPPORT GROUP OF CAPE COD

2nd Annual Harbor to the Bay Bike Ride

MOTION: Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Mark Baker, Executive Director, on behalf of the AIDS Support Group of Cape Cod to hold their 2nd Annual Harbor to the Bay Bike Ride on Saturday, September 18, 2004 from 6:30 pm to 7:30 pm.

Motion by: Sarah Peake Seconded by: Michele Couture Yea 4 Nay 0

6A

WATER UPDATE - TRURO

Further Testing of North Union Field and Site C-5

MOTION: Move that the Board of Selectmen vote of June 28, 2004 and request permission of the Truro Board of Selectmen to undertake a further testing program at North Union Field and Site C-5, at the expense of the ratepayers of the Provincetown Water System; and further authorize execution of an amended memorandum of agreement with the Truro Board of Selectmen in connection therewith; and further to vote to execute an understanding with Environmental Partners Group of Hingham, in the amount of \$114,000 to undertake this scope.

Motion by: Sarah Peake Seconded by: Richard Olson Yea 4 Nay 0

7A1

APPOINTMENT: ASSESSOR

Approval of town Manager's Appointment [Charter § 7-2-5(b)]

MOTION: Move that the Board of Selectmen vote, pursuant to Charter §7-2-5(b), to approve the Town Manager's appointment of Paul M. Gavin of Provincetown as Principal Assessor, effective August 9, 2004.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

7B

FALL SPECIAL TOWN MEETING

Prognosis, Scheduling

MOTION: Move that the Board of Selectmen vote to schedule for the regular meeting on September 13, 2004 the matter of calling a Special Town Meeting for this Fall.

Motion by: Michele Couture Seconded by: Sarah Peake Yea 4 Nay 0

8. **MINUTES OF BOARD OF SELECTMEN MEETING**

MOTION: *Move that the Board of Selectmen vote to approve the minutes of June 23, 2004 (Same-Sex Marriage) with changes so noted.* (All Present)*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

MOTION: *Move that the Board of Selectmen vote to approve the minutes of July 26, 2004 (Regular Mtg.) with changes so noted.* (All Present)*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

MOTION: *Move that the Board of Selectmen vote to approve the minutes of August 2, 2004 (Special Mtg. Re: Water) with change so noted.* (All Present)*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

MOTION: *Move that the Board of Selectmen vote to approve the minutes of July 26, 2004 (Joint Mtg. w/Truro) with changes so noted.* (All Present)*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

* Change: Put "Motion by" first then list how Selectmen voted.

9. **CLOSING STATEMENTS**

Michele Couture - None **Richard Olson** - None

Sarah Peake - None **Cheryl Andrews** - None

10. **TRURO WATER NEGOTIATIONS**

Preparations for Next Joint Meeting [MGL C.39, §23B cl.6]

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C.39, §23B clause 6, to go into executive session to consider the purchase, exchange, lease or value of real property; and not to convene in open session thereafter. [Roll Call Vote]*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

Sarah Peake - Yea **Richard Olson** - Yea

Cheryl Andrews - Yea **Michele Couture** - Yea

The Board went into executive session at 9:50 PM.

Minutes transcribed by: Vernon Porter, Secretary
August 11, 2004