

Provincetown Finance Committee

May 27, 2004

3:00 p.m.

Members Present: Sue Buerkel, Gail Enos, Ruth Gilbert (Chair), Mark Leach, Ann Maguire, Thomas Thurston, and Robert Vetrick.

Members Absent: Matthew Clark and Virginia Ross (both excused)

Also in attendance: Dr. Cheryl Andrews (Selectman), Keith Bergman (Town Manager), Mary Ann Bragg (Banner reporter), and Doug Johnstone (Town Clerk)

The meeting was called to order at 3:00 p.m.

Agenda

Request by the Town Manager for Reserve Fund Transfer

Keith Bergman (KAB) requested \$35K to hire special counsel to handle the same-sex marriage issue. The amount is to be transferred from the Reserve Fund into the General Fund. KAB continued saying that he wanted the Finance Committee to have a better understanding. He also said he was before the FinCom because there's no money left in the "fiscal pot" and he feels this is a time sensitive matter. He has hired a litigator, Gretchen Van Ness, who is very familiar with same-sex issues and the Goodrich issue as well as being a member of GLAD. KAB went on to say that this is not just a Provincetown issue and the Board of Selectmen (BoS) has already voted to approve the request for the transfer. Ray Flynn has sued our Town Clerk over Category 3 licenses. KAB said Atty Van Ness will be defending Doug in the present suit. He concluded by saying that the preceding statement was within the limits of what he can say publicly.

Dr. Cheryl Andrews said that KAB had said it all and she was in agreement with him.

At this point in the meeting, the FinCom members were asked for their input.

Ann Maguire asked if it were true that we had asked the Attorney General for a finding on the 1913 rule as it referred to out-of-state marriages? KAB responded that the town clerk had just received a "cease & desist" **request**. This response came after asking the Atty General's office for a finding. We were the last community to agree to the request.

Ann M. next asked if the Town's contract with the new lawyer was for Offense or Defense. KAB said it can't be discussed publicly.

Mark Leach asked if other cities and town were joining in the litigation. KAB answered by saying, “Yes, we are making every effort to join forces.” Mark said he has friends who want to do a fund raiser for this cause and he wondered if we are going to do that? KAB said that this fight is larger than Provincetown and yes – we want to have money to defend the issue.

Robert Vetrick asked if a bill had been received from this lawyer? “Also,” Bob continued, “as of right now do we have an estimate – or an amount for her services?”

Ruth Gilbert said she didn’t think the FinCom had ever done a transfer without a bill or approximation of the service charge. She then asked, “What are the other towns offering to put up?” KAB said that the Town was looking into GLAD and their financial input.

Ann Maguire asked what the attorney had asked for in the amount of a retainer?

Mark Leach wondered why we aren’t working together with all 4 communities involved? KAB said the key is to have all the agencies coordinated and each group would have their own attorneys. He hoped that we can shift some of these proceeding to GLAD. Cheryl Andrews said the BoS had already discussed these issues that have been raised.

Tom Thurston said he was not hearing what he wants to hear about making a decision. He also wanted to hear an approximate timetable for settling the 1913 issue. KAB said the 1913 issue will probably not be settled legislatively – but only by bringing a suit. Tom also wondered about allocating the money now when we may not get a bill until July?

Ruth Gilbert said, “You’re here for \$35K without a bill – you hired her without any money?” Ruth continued, “The way this has been handled is not fitting well with me – at all.” KAB countered by saying he really cared about the same-sex issue.

Tom Thurston wanted to know what the BoS position individually is on this? “What is the thought process on this? – Couldn’t we just wait for GLAD to do what they do best?”

Gail Enos said to KAB, “You keep saying that you would be happy without the full amount……. So what amount would you accept? KAB replied that he would accept \$15K and hope it would take them through June when the fiscal year would be ended.

Sue Buerkel said she certainly feels that the Town Clerk should be defended but for other things we could attach caveats – doing the entire amount with a caveat that the remainder could go back into the Reserve Fund.

Ruth G. went over the scenario again. “We asked the town counsel for an opinion and then he back-pedaled and suggested this new attorney and she was hired without any money to do so.”

Motion: Robert Vetrick made a motion to approve \$15K transfer from the Reserve Fund to be spent on Atty Van Ness for defending the Goodrich decision and our Town Clerk. Sue Buerkel seconded the motion and it passed 7-0-0.

A bit more discussion on the matter happened finally concluding with one question: “What does this new attorney bill as an hourly fee?” The answer was \$200/hour.

The Finance Committee were all included in an invitation to the Provincetown High School graduation. Also, Dr. Trainor had a conversation with Ruth G. today and she said she would be sending a letter to Ruth explaining her feelings. When received, Ruth will send as an attachment in an e-mail to members of the Committee.

Review of Minutes

Motion: Mark Leach made a motion to accept the minutes of the May 13, 2004 meeting. Robert Vetrick seconded the motion and it was approved unanimously.

The meeting adjourned at 4:00 p.m.

Respectfully submitted,

Evelyn Gaudiano

Evelyn Rogers Gaudiano

Approved by _____ on _____, 2004
Ruth Gilbert