

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES - REGULAR MEETING
MONDAY - JANUARY 25, 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, Raphael Richter, and Robert Anthony.

Excused: Erik Yingling

Other attendees: Town Manager David Panagore, Assistant Town Manager David Gardner, Housing Specialist Michelle Jarusiewicz, Library Board of Trustee Members: Chairman James Johnson, Stephen Desroches, and Laura Shabott, and Provincetown Public Pier Corp. Members: Kerry Adams, Herbert Hintze, and Carlos Verde, and Harbormaster Rex McKinsey.

Recorder: Loretta Dougherty

Selectman Richter recused himself from the Consent Agenda Item A.

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

- A. *Treasurer's Transfer – John A. Henry Trust Fund – pay invoice for Cape Cod Children's Fund in the amount of \$6,275.00.*

MOTION: Move that the Board of Selectmen vote, as Commissioners of the Trust Funds, to approve the transfer of \$6,275.00 from the John A. Henry Trust Fund for the payment of the attached invoice(s).

- B. *Treasurer's Transfer – Holiday Lights Gift Fund – pay invoice from Sunderland Printing, in the amount of \$750.00.*

MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$750.00 from the Holiday Lights Gift Fund to pay for the attached invoice(s).

- C. *Treasurer's Transfer – Holiday Lights Gift Fund – pay invoice from Farland, in the amount of \$45.16.*

MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$45.16 from the Holiday Lights Gift Fund to pay for the attached invoice(s).

- D. *Treasurer's Transfer – Town Hall Gift Fund – pay invoice from New England Flag and Banner, in the amount of \$345.00.*

MOTION: Move that the Board of Selectmen vote, as Commissioners of the Town of Provincetown Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$345.00 from the Town Hall Gift Fund to pay for the attached invoice(s).

- E. *Approval of name change from Fishermen's Memorial Park to Fishermen's Waterfront Memorial Park.*

MOTION: Move that the Board of Selectmen vote to approve a name change from Fishermen's Memorial Park to Fishermen's Waterfront Memorial Park.

- F. *Approval of the 911 Equipment and Incentive Grant in the amount of \$17,747.00.*

MOTION: Move that the Board of Selectmen vote to authorize the Chief of Police to submit a Public Safety Answering Point and Regional Emergency Communication Center Support and

Incentive Grant application to the Executive Office of Public Safety in the amount of \$17,747 for Telecommunicator personnel costs and equipment.

Without objection the reading of the Consent Agenda was waived and without objection the Consent Agenda was approved by unanimous consent with the exception of item A. Item A was passed by unanimous consent with Selectman Richter being recused.

1. **Public Hearings:** None.

2. **Public Statements:**

Mary-Jo Avellar is concerned about the municipal buildings being much too hot, especially the VMCC. She stated that perhaps we should review the heating bills.

Beau Gribbin appeared before the Board speaking as a commercial fisherman. He is very concerned about the Pier Corp.'s rent abatement issue. He has been a full-time fisherman since 2002, and believes that if the Board does not allow the rent abatement that fishermen are facing a very severe fee increase. He asked the Board to stay within the footprint of the Memo of Understanding (MOU) with the Pier Corp. The MOU took a lot of time to formulate and we are facing a very severe fee increase if the abatement is not approved. He asked the Board to strongly consider that the fishermen have fixed expenses that cannot be passed on to anyone. The fishermen would like to go on the way it is set-up now and that any potential 50% increase in fees would be met with people pushing back.

3. **Selectmen's Statements:**

Raphael had no statements this evening.

Cheryl stated that the MMA Convention was held in Boston this past weekend, and that one discussion held was concerning the fire academy. She believes that it is important for the Board to attend the MMA Convention which is held once a year to keep up with any changes.

Robert had no statements this evening.

Tom thanked everyone who attended MMA in spite of the snow storm. He stated that the Board has closed the budget and transmitted it to the Finance Committee for their recommendations. He thanked the Town Manager David Panagore and Asst. Town Manager David Gardner, and he looks forward to hearing from the Finance Committee.

4. **Joint meeting / Presentations:**

A. Joint Meeting with Library Board of Trustees to appoint Stephen Borkowski as a Library Board Trustee with a term to expire May 3, 2016.

Library Board Trustees attending were Chairman James Johnson, Stephen Desroches, and Laura Shabott. The Library Board of Trustees was called to order at 6:07pm.

Stephen stated that he has been reviewed by the Library Board of Trustees. He has served on the Board previously.

Tom asked if he is here in the winter and able to serve on the Board.

Stephen stated he is here in the winter and believes that he brings some history to the Board as he is a library patron and has a strong relationship with the Library Director Matt Clark. He stated that it would be a pleasure to serve with the existing Library Board.

Cheryl asked if there was any concerns regarding term limits, and asked how many years he had previously served on the Library Board of Trustees.

Stephen stated that it was less than one year.

MOTION: Move that the Board of Selectmen vote to appoint Stephen Borkowski, as a Trustee to the Library Board of Trustees, with a term to expire on May 3, 2016, pursuant to MGL c41, Section 11.

Motion: Cheryl Andrews
(Roll Call Vote)

Seconded: Raphael Richter

Thomas Donegan: Yes

Cheryl Andrews: Yes

Raphael Richter: Yes

Robert Anthony: Yes

Yea: 4 Nay: 0 Motion passed.

The Library Board of Trustees made a motion and took a roll call vote with unanimous approval of the appointment.

B. Joint Meeting with Provincetown Public Pier Corp. – Follow-up discussions on CIP, Rent Abatement, and Pier Corp. Budget.

Provincetown Public Pier Corp. (PPPC) members appearing before the Board: Kerry Adams, Carlos Verde, Herbie Hinze and Harbormaster Rex McKinsey. Kerry called the meeting to order at 6:16 p.m. Kerry read from a memo requesting that there be a rent abatement so that the burden of maintaining the pier would not be placed on the commercial fishermen. He asked for a favorable vote tonight for the abatement.

Robert was very concerned about the letter that had been sent out by the Pier Corp and stated that he found it to be a little intimidating as it stated that if the Board does not approve the abatement everyone else will suffer. He does not believe that this is the right way to do business and that we all need to work together. He was never in favor of the Pier Corp., but in order to get the pier that the Town needed at the time, a Pier Corp. had to be set up. He believes that everyone can work in a better way to get things done.

Cheryl stated briefly that one and one-half years ago the Pier Corp. came before the Board and wanted to address the need to put money aside and abate the rent. The Pier Corp. was to pay rent in FY2016 and the abatement was to be addressed for FY2017 with the Pier Corp. The Town had underfunded the Harbormaster's contract. She believes that the Pier Corp. has done their job well. She is going to support that there be a full abatement for this next fiscal year. The audits are up-to-date and the books are open.

Raphael will support the rent abatement; however, he does understand Robert's concerns. The work that Raphael has seen done on the pier seems to be exemplary. Others have also seen what work is being done on the pier and have complimented them on it. It was his understanding that the rent would be abated in FY2017. He feels the Town and the Board understands what is going on at the pier. The Town is being served well under the current arrangements.

Kerry stated that, if the rent is not fully abated, the Pier Corp. will have to charge additional money to their tenants just to do the maintenance work that is needed on the pier.

Tom would like to help the pier get to a profit faster. The money would go into the reserve fund. His frustration is that now he has to deal with the fishing subsidy; he now has a new variable that affects the Board and fishing community.

Kerry stated that we are not putting money into a reserve and not doing maintenance; if we have to continue to pay rent we will have to increase fees.

Tom stated that this is just not a decision about the rent abatement. If the Town only has an operating budget of \$20,000 that puts us in a serious position should we have a major storm. He will not support the full amount of the rent abatement being asked for at this time.

David P. wants to get back to the Board after he reviews all of the information in the draft budget B, and get tighter numbers on this.

Carlos stated that the Pier Corp. would be taking the abatement amount of \$118,000 and investing it back into the pier. It is an investment in the future. The Pier Corp. cannot predict how much money

would be needed for whatever emergency might come up, but there is the need for the continuing maintenance for electrical and plumbing repairs, and the dock also need repairs. The \$2,500 a month we spend on the pier is not enough.

MOTION: Move that the Board of Selectmen approve rent abatement for the Pier Corp. for FY2017 pursuant to the Memo of Agreement between the Board of Selectmen and Pier Corp. of 2015.

Motion: Cheryl Andrews

Seconded: Raphael Richter (for discussion)

David P. will review the Appendix A in the Memo of Understanding (MOU) to better understand it. He will review all the numbers and get back with the Board.

Raphael would like to set a date to go over the MOU one more time.

Tom suggested that we put it on the agenda after we do the second meeting in February (February 29th).

Raphael withdrew his motion.

No action taken on this item.

5. Appointments:

A. Appoint Fred Latasa-Nicks as an alternate member to the Board of Health, with a term to expire on December 31, 2018.

Members of the Board asked Fred if he would be here in the winter to attend meetings, if he had attended any Board of Health meetings, and why he wants to be a member of the Board of Health.

Fred stated that he would be here in the winter. He had met with Morgan and she had given him information on what the Board of Health was doing. He has a background in health and public relations. His philosophy is that better information leads to better health.

MOTION: Move that the Board of Selectmen vote to appoint Fred Latasa-Nicks as an alternate member to the Board of Health with a term to expire on December 31, 2018.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

6. Requests:

A. Approval of Draft Policy Statement 2016-01-25A – Amendments to the Curb Cut Guidelines and Procedures.

David G. stated that this amendment to the existing policy statement is in response to the issue brought up at the fall traffic hearing regarding how gates affect the process. In reviewing the process, staff concluded that the existing curb cut regulations should cover the gates. This amendment clarifies the Selectmen's policy. Staff also took the opportunity to make some changes in the process, as presented.

Robert wanted to know if a property has two gates would they indicate no parking in front of one gate. He knows that a vehicle could not block both gates years ago.

David G. stated that within the traffic regulations it states that you cannot block access to a gate. What this amendment says is that in order to change a traffic pattern that will affect existing public parking the request will need to come before the Board.

Cheryl asked if the owner of the property would have to file a request for a curb cut. She recommended "word snipping" in the language.

David P. stated that this changes the mandatory without changing the by-law. A curb cut may include any pedestrian walk-way or gate. He would move towards handling this on a case-by-case basis, in the public's interest.

MOTION: Move that the Board of Selectmen vote to approve Policy Statement 2016-01-25A, as revised.

Motion: Cheryl Andrews

Seconded: Raphael Richter

4/0/0 Motion passed.

B. Approval of Draft Policy Statement 2016-01-25B - License Agreement - Permitted Improvements within the Public Way - Guidelines and Procedures.

David G. stated that as commissioners of the public way, the Board has the authority to grant permission to private property owners to install improvements within the public way subject to a license agreement and conditions. This policy defines guidelines and procedures for consideration of such requests.

Tom wants to make sure that we notify the abutters and, if needed, hold a public hearing.

Cheryl believes when it comes to sidewalks we should hold a public hearing on it.

David P. stated that obstruction of the public way also includes air space. We would have to figure out what constitutes the dividing line.

David G. stated that the Board can call a public hearing, at their discretion. He will add language that a Public Hearing may be required at the discretion of the Board.

MOTION: Move that the Board of Selectmen vote to approve Policy Statement 2016-01-25B, as revised.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

C. License Agreement request – 281 Commercial Street – request to install an awning over the public way of Ryder Street.

Mark Birnbaum appeared before the Board requesting their approval to install an awning over the public way of Ryder Street.

Tom thanked Mark for coming in and asking for a building permit.

Robert wanted to know if it exceeds the sidewalk.

Mark stated that it does not.

The DPW staff and Fire Chief Trovato have also looked at the awning and find no problems with it.

MOTION: Move that the Board of Selectmen vote to approve the request by Mark Birnbaum to install an awning at 281 Commercial Street which will encroach into the public way of Ryder Street pursuant to the attached license agreement.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

D. Approval of Refinance Request – 6 Sand Hill Lane, #4 (DeGruttola) – Housing Specialist Michelle Jarusiewicz.

Michelle stated that a deed restriction requires permission from the Town in order to apply for financing.

David P. has reviewed the documents as well and is fine with the request.

MOTION: Move that the Board of Selectmen vote to approve the refinance request for 6 Sandy Hill Lane, Unit #4 by Daniel P. DeGruttola, Jr., Provincetown, and any and all other documents necessary or convenient to accomplish the foregoing, and that Chairman Thomas Donegan may sign on behalf of the Board of Selectmen.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

E. Discussion to appoint a Selectman to work with Staff regarding the National Marine Sanctuary Feasibility Study.

Tom is interested in moving forward with this and would like to get one of the members of the Board to participate. He will be happy to do it, if no one else is interested or can't do it. This is one of the Board's goals and he believes the best place to have this sanctuary is in Provincetown.

Cheryl asked why a Board member should be involved rather than a staff member and wanted to know what the process is for competing for the sanctuary.

David P. is meeting with Richard Delaney, President/CEO of the Center for Coastal Studies this week and will discuss this issue. The idea of the Chairman or other member of the Board being involved tends to rally people. He finds it less effective coming from staff; people look to their elected officials.

Cheryl wants solid staff underpinning it so Selectmen can be more effective. She asked Tom to update the Board so they will know what is happening.

No action was taken on this item.

7. Town Manager / Assistant Town Manager:

A. Review of Proposed By-laws for the April Town Meeting including discussions of the Inclusionary Zoning By-law and Condo Conversion By-law et al.

David Gardner went over the Zoning By-laws which included the new Inclusionary Housing By-law; amendments to the Growth Management By-law; the new Food Truck By-law, and amendments to the Use Table that would allow several uses by Special Permit from the Zoning Board to change or expand existing uses without needing a Variance. The General By-law Amendments covered were the Condominium Conversion Bylaw, removal of snow and ice on sidewalks, the Renewable Energy By-law (wind & solar), and exemption of solar panels from HDC review provided certain criteria are met.

The Board reviewed the Town Planner's memo and Cheryl wanted to know the difference between our existing Inclusionary by-law and this one.

David G. stated that this by-law is all inclusive and would include 4170 (old by-law). The 4170 by-law was never written as an incentive by-law. It was written about commercial entities converting and was more of a penalty for doing so. David moved to item 3 on the memo regarding the new Food Truck by-law and stated that they will be moving forward but staff is still having discussions with the Planning Board on exactly what this by-law will look like. Item 4 of the memo regarding amendments to the Use Table is being looked at to allow more growth in the commercial areas such as hotels and motels located in Res 1 & 2 Zoning Districts, campgrounds in Res 1, Res 2, and Seashore Zoning Districts, and transportation terminals in the Seashore District.

Tom asked regarding item 4, if the amendments are intended to allow hotels/motels in the Res 1 district.

David G. stated that we are trying to change the way we view existing hotels in Res 1 district as they are really limited in their ability to expand or adapt. David moved to the general by-law regarding removal of snow and ice on sidewalks and asked the Board if they wanted to pursue it now that we have a new tractor which takes care of our sidewalks. Staff does not recommend this by-law. The Board agreed that there is no need.

David G. discussed the remaining general by-laws regarding renewable energy (wind & solar) and the exemption of solar panels from HDC review provided certain criteria are met. It was agreed to talk with HDC about these as well as the timeframe for delaying a demolition of a building.

Tom wanted to know if staff would have time to rewrite the Growth Management by-law by Town Meeting.

David P. stated that we would not have time to rewrite the Growth Management by-law, but wanted to let the Board know that UMass Dartmouth is looking to partner with towns for matching funds to do this sort of work particularly within the arts communities. He will look into this and get back with the Board. The Board agreed that the Growth Management by-law needs to be updated.

Bobby recused himself and left the meeting at 7:48 p.m. as the Board started to review the Inclusionary By-law. David P. presented the draft done by Town Counsel Judy Barrett. He asked

the Board to consider her concerns about going below four units even though Provincetown has a housing cost market that is unique. He wants to consider how we marry our local conditions with what will always pass muster with the Attorney General and wants to have a conversation about where we need to be in terms of the types of housing. This by-law would produce community housing; if we fall below the 40B unit count, then the next units would be community. That does not mean we will stop producing affordable while we are producing community. It is a lot easier to build in the community level than affordable. He asked the Board where they want to be in terms of production.

Tom wants to find ways to give developers incentives for building affordable housing. When the change of use is detrimental to the Town there needs to be a fee given or affordable housing. If you are building in place, you get exemption in density.

Raphael believes that the area we should focus on is the middle 80%-150% in order to capture those individuals that fall within these income levels. He wants the Town to consider setting a higher threshold.

Cheryl wanted David G. to find out why the developer, Ken Weiss, built the affordable housing on Harry Kemp Road as he did and get back to the Board.

Condo Conversion By-law:

David P. gave an overview of the changes made to the Condo Conversion By-law stating that concepts one through five were taken verbatim from the 1984 Amherst by-law, concept six is the same and concepts seven through nine are new concepts; some language taken from Somerville's by-law. He eliminated the two year prohibition on conversions and added a hardship clause.

Raphael asked if the Amherst by-law had ever been challenged.

David P. stated the by-law from Amherst has never been challenged. He will check to see if Somerville's by-law has ever been challenged. He believes that this model is more prone to withstand appeal.

Raphael feels good about bringing it forward as presented. He expects this to be an engaging discussion even in its current form.

Tom wants to have a Public Hearing on this again.

Robert came back into the meeting at 8:26 p.m.

No action was taken on this item.

B. Discussion of Draft Inter-municipal Agreement with the Town of Truro:

David P. has met with Truro Town Administrator Rae Ann Palmer and they agreed that a master framework needed to be created. The Inter-municipal Agreement draft presented to the Board outlines an agreement between the communities which could achieve a series of goals. This agreement lays out how to handle certain circumstances (no police or fire agreements), and sets up a framework for future conversations. Administrative issues will be talked about in the future. This agreement is being brought before the Truro Board tomorrow night. There will be a special joint meeting of the Provincetown and Truro Boards on February 8th. This agreement moves us forward for more analysis and conversations in the future.

Cheryl wanted to know if this would go before Town Meeting.

David P. stated that it only requires the Board's approval to initiate it.

Tom will contact Rae Ann and there may possibly be a vote at the Feb. 8th special joint meeting to have the agreement signed.

No action was taken on this item.

C. Discussion of Potential Town Meeting Articles: No further discussion on Articles.

D. Town Manager's Report – Administrative Updates.

David P. complimented the DPW for their operations during the snow storm; he was very pleased. There was full communication with MEMA and all staff during this last storm. We were ready and standing by should we have needed the shelter. He also attended the MMA and will be bringing the Governor's 200 page Modernization Act to the Board to discuss how some of the new processes may affect us in various ways. He mentioned his radio show "Town Talk" which is on at 9 a.m. on Feb. 5th and his guest will be Wendy Northcross from the Chamber of Commerce to talk about youth on Cape Cod, the blue economy and how we fit into the Chamber.

No action was taken on this item.

E. Other: None.

8. Minutes:

Raphael requested that the minutes for January 6, 2016 be updated to include more of the discussion held with the Town Manager and Fire Chief Mike Trovato and brought back to the next Board meeting.

Move that the Board of Selectmen approve the minutes of: March 25, 2014 (Special), as printed; January 05, 2016 (Budget), as printed, and January 12, 2016 (Budget), as printed.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

9. Closing Statements/Administrative Updates:

Robert stated that they are going to close the fire academy.

David P. stated that it appears this is a request by the Town of Barnstable to close it. He will look into the issue and report back to the Board.

Tom reminded everyone that the Board has a joint meeting on February 10th, at the Truro Public Safety Building, regarding the "Lower Cape Detectives Group" relative to handling our substance abuse crisis on the Cape,. He is working on the Town Report and asked anyone who has any thoughts to send them to him.

The Board motioned to go into Executive Session at approximately 8:47 p.m.

MOTION: Move that the Board of Selectmen vote to go into Executive Session pursuant to MGL c30A, Section 21(a), Clause 6 for the purpose of:

Clause 6 - To consider the purchase of, exchange, lease or value of real estate, if the chair declares (chair declared) that an open meeting may have a detrimental effect on the negotiating position of the public body. VFW (3 Jerome Smith Road) and related parcels. Votes may be taken.

and not to convene in open session thereafter.

Motion: Raphael Richter
(Roll Call Vote)

Seconded: Cheryl Andrews

Tom Donegan: Yes

Cheryl Andrews: Yes

Raphael Richter: Yes

Robert Anthony: Yes

Yea: 4 Nay: 0 Motion passed.

The Board went into Executive Session at approximately 8:49 p.m.

Without objection motion to adjourn at 8:50 p.m.

Minutes transcribed by: Loretta Dougherty