

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES - SPECIAL MEETING
TUESDAY – FEBRUARY 16, 2016 – 5:00 p.m.
JUDGE WELSH ROOM - 260 COMMERCIAL STREET**

Chairman Donegan convened the open meeting at 5:00 p.m. noting the following attendees:
Board of Selectmen members: Thomas Donegan, Erik Yingling, Cheryl Andrews, and Robert Anthony.

Excused: Raphael Richter

Other attendees: Town Manager David Panagore, Assistant Town Manager David Gardner, Town Planner Gloria McPherson, Planning Board Members: Grace Ryder-O'Malley, James Woods, Brandon Quesnell, Ryan Campbell, and Steven Baker, and Historic District Commission: Marcene Meroux, Laurie Delmolino, Thomas Biggert, Lisa Pacheco, and Martin Risteen.

Recorder: Loretta Dougherty

Selectman Anthony recused himself and left the meeting at 5:04 p.m.

1. & 2. Joint Meeting with the Planning Board -Proposed Zoning Bylaw Amendments for 2016 Spring Town Meeting and Referral of Articles to the Planning Board for Public Hearing; and Review of Proposed Inclusionary Zoning Bylaw Amendment for 2016 Spring Town Meeting:

There will be a Public Hearing held on February 29th where any public comments and correspondence received by the Board will be read. The Planning Board called their meeting to order. The above mentioned drafted by-laws may be found in their entirety on the Town's website under the Board's agenda packet.

Town Planner Gloria McPherson gave an overview of the purpose and intent of the Inclusionary Housing By-Law noting the primary purpose is to encourage the creation of a range of housing opportunities for households of all incomes, ages, and sizes; to mitigate the impact of residential development on the availability and cost of housing; to protect the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land; to provide a mechanism by which residential development can contribute in a direct way to increasing the supply of affordable and community housing in exchange for a greater density or intensity of development that is otherwise permitted as a matter of right, and to support the goals of Provincetown's December 2006 Affordable and Community Housing Action Plan; updated January 2014. The secondary purpose being to create dwelling units eligible for inclusion in the Town's Chapter 40B Subsidized Housing Inventory. She spoke at length to the applicability of the by-law within all zoning districts; the mandatory provision of affordable units for all developments; density bonuses ; submission requirements and procedures; provisions applicable to affordable and community housing units located both on-site and off-site; distribution of affordability; maximum incomes and selling price-affordable and community housing inventory; marketing plan; segmentation; conflict with other by-laws, and severability.

Cheryl asked about the quality of fixtures being used in the affordable units versus market rate units and at what locations the units would be built. She stated that the idea that we would expect the developer to spend for high end fixtures for the affordable units, as in the market rate units, does not make sense to her. She would like to see the savings put into an affordable housing account rather than having the same fixtures in the affordable housing as in the market rate housing. She asked for a couple of examples so that she can better understand the differences.

Erik understands what Cheryl is saying but wants to have the same fixtures in the affordable units as in the market rate units.

Town Manager David Panagore asked that we have a discussion on this at the Board's February 29th meeting noting that the fee we get is based upon the average price of the unit. If we lower the quality of the amenities, it lowers the price of the unit itself. We need to treat everyone equally; the Attorney General will look at this.

Tom does not want to make decisions for the developers. We do not want to create a subclass.

There was discussion regarding rental units and how they might come up with the upfront payment for rentals. Gloria stated that maybe we can work out a payment plan (short-term).

Cheryl wanted to know how we could use the rules dealing with financing to make this happen. She wants us to look at rental properties; year-round.

Tom stated that there are no governmental assisted rentals in Provincetown. He asked for the Planning Board's thoughts on the density bonus and incentives.

Asst. Town Manager David Gardner stated that staff will work on some scenarios and bring them back to the Board; the Town Manager will look into bringing back some modified thresholds, and Gloria will make up a few scenarios to bring back to the Board for Res 1 specifically.

No action was taken.

Public Comments:

Paul Kelly wanted to know specifics regarding at what point Growth Management would come into play; does it depend on the size of the building. Are there any height requirements, what if you were going from rental to condo, and what if the property is not in a residential zone at present such as the old Community Center.

Gloria stated that density is automatic and then the Planning Board would have the ability to waive some requirements. The abutters would come before the Planning Board before anything could be waived.

Louise Venden hopes that this will be very clear at Town Meeting; the presentation has to be made so the public can understand it.

Doug Dolezal thanked everyone for all the work that has been done on this. He is a strong supporter of affordable housing and as an architect in Boston has worked on many projects; senior housing, micro housing, etc. He is not in favor of in lieu payments being set up as they are extremely expensive. One implication is that everyone is a developer and a lot of people own their units and may want to participate. He will put his concerns in a letter for the February 29th Public Hearing, and feels that this by-law will not create the affordable housing that we need.

Joe DeMartino appreciates all the work that has been done, and believes the density bonus will work but the in lieu payment of five or less units will not. When you think about 10% for developers; they plan to make 20% on a project, and if you are going to take one-half of that from them, this is not an incentive. He believes that the in lieu payment idea will kill most of what we want to do here in small developments.

Erik asked if a lesser percentage would work.

Joe stated that it has to be a win for the Town and developer. The density bonus offers that. The housing crisis is a community problem; not a developer's problem. He would be in favor of taxing even the visitors. He is not in favor of the payment in lieu for the small projects. It will have a huge impact on the economics in this town; contractors, plumbers, etc. He is in favor of taxing all of us to create a fund. He is suggesting a broad based tax that everyone pays and puts into some kind of trust fund; the town figures out how to build it.

David G. stated that we need to explore this further as we cannot accommodate this through density alone; we do not have the land. The taxpayers already fund an affordable 3% surcharge on taxes; 3% Land Bank on the taxpayers. The taxpayers dedicated \$1 million dollars to the Housing Trust. The Land Bank goes away in 2020, and there is no identified funding for the affordable housing. The market is not serving the needs; it is not the individual developers fault, it is the market. We have to figure out what the middle ground is so that it works for the housing market, the developers and the community as well. We will continue to tax to pay affordable housing.

Tom stated that on a \$1.5 million dollar real estate deal, \$150,000 is a lot of money but not out of the ballpark. The question is does the value come out of the land; most of this is redevelopment.

Planning Board adjourned at 6:35 p.m., and Selectman Anthony came back into the meeting at 6:36 p.m.

No action was taken.

3. Joint Meeting with the Historic District Commission-Proposed General Bylaws for 2016 Spring Town Meeting.

Discussions were held as follows:

General Bylaw Section 15-11 (12. Siding):

Marcene Marcoux was very concerned about this process as it is unprecedented. There has never been a change to the by-laws that have not come from within the HDC. This has never happened and she has a legal

question; is it legally correct to have changes coming from outside the HDC. She wants clarification that this is a legal process. She also has concerns that the hardie board is a health risk.

Cheryl Andrews understood her concern, but asked only to hear what the HDC thinks of these changes. Cheryl wanted to have a discussion on the merits of these changes. She would like to see any articles related to health concerns about the hardie board to be sent to her.

Tom Donegan stated that any 10 citizens can petition changes to the by-laws. It is a policy setting decision; Town Meeting has the right to make these rules. He has had hardie board on his home for nine years and it is holding up very well. The challenge is fire; we had a fire this past summer which was stopped by a bucket brigade before the firefighters got here. We have the tools (materials) to mitigate this. We have aged wood in town and it burns very fast. Hardie board has an aesthetic view; we have the ability to mitigate fire risks – this is something to be considered.

Thomas Biggert had concerns about these products not being green products. He wanted to hear what the Fire Chief, Health Agent, and Conservation Commission has to say. He believes that hardie board is like asbestos and he has concerns about the health effects.

Lisa Pacheco informed the Board that there is a major class action suit against the manufacturers of hardie board. The hardie board does not hold up in the northern areas. As an inspector, she has to inform people that there is a major class action suit. She does not want to see certain buildings in town change their old architectural antique look. She wants this to be a case-by-case review. Public safety always overrides HDC re: particular fire ratings between buildings.

Robert Anthony wanted to make clear that the class action suit was not because of the toxicology or what the product was made out of but rather due to the fact of the amount of time the hardie board lasts.

The HDC does not believe this should be brought before Town Meeting until other questions are answered.

Demolition Permits (General Bylaw Section 11-1-5-3. Procedure):

Thomas Biggert was in favor of the general by-law changes presented to the HDC regarding demolition permit procedures. He believes it is a good by-law change.

Marcene Marcoux was in favor of this by-law change.

Everyone was in agreement that this by-law change is good.

Solar Panel Exemptions (15-9 Exclusions):

Thomas Biggert stated that the HDC has embraced solar panels; they did not many years ago. These are reviewed on a case-by-case basis. He believes they should not be allowed as mandatory on Commercial Street. The HDC has educated themselves and believe they are in line with what other towns in MA are doing.

Tom Donegan stated that this is drafted by staff relating to the HDC procedures. What this does is tells the public if they can put solar panels on their houses. It still gives room for the aesthetics. This seems to be a good thing.

Marcene Marcoux spoke about the Sage Inn; they have 72 solar panels. It is the placement that they work on more. She wants more people to know they are friendly towards the use of solar panels.

Martin Risteen wants to provide an opportunity for alternatives for those who cannot have panels in a certain location. The HDC will work with anyone to help them figure out alternative locations around their property where solar panels might be placed.

Laurie Delmolino would have had something more presented concerning this but was not aware we would be talking about this. She met with a solar company and is interested in looking into the possible creation of a community solar program re: placing solar panels on carports, areas along the edges of municipal properties, parking lots, soccer fields, and all available land. A company is interested in talking more about it. This has happened all over the country and helps keep the historic properties protected by allowing us to take part in these programs. The only houses they are sensitive about are on Commercial Street.

The HDC would like to see the language tightened up on this. They want to discuss this at their next meeting; codify its and make it simply for the applicant.

Each of the Boards thanked each other for their expertise and commitment to one another.

HDC adjourned at 7:48pm.

No action taken.

4. Proposed Articles for the 2016 Annual & Special Town Meetings:

David P. recommended putting in language for Article 2 (FY2017 Revolving Accounts. Item 1. Preservation of Town Hall Auditorium) to have a part-time manager oversee the events held in the auditorium.

Erik wants to make sure that Article 7(Fireworks Celebration) has enough funds for both the New Year's Eve and Fourth of July fireworks.

Tom wants to see an amended by-law that deals with those properties that are being used as commercial instead of residential.

No action taken.

5. Proposed Condo Conversion By-law Amendments for 2016 Spring Town Meeting.

Robert recused himself and left the meeting at 7:57 p.m.

David P. stated that the Condo Conversion By-law has not changed since the Board last saw it.

Cheryl wanted to have a comparison of what existed in the original by-law from many years ago, and what is being presented now.

David P. will draw that up for her. He pointed out that the last three items in this by-law (7, 8, & 9) were not in the first by-law presented to the Board.

There is a Public Hearing regarding this by-law scheduled for February 29th.

No action taken.

Robert returned to the meeting at 7:59 p.m.

6. Other: None.

Without objection the Board adjourned at 8:01pm.

Minutes transcribed by: Loretta Dougherty