

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES - REGULAR MEETING
MONDAY – FEBRUARY 22, 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, Director of Health & Environment Morgan Clark, DPW Director Richard Waldo, Police Chief Jim Golden, Town Clerk Doug Johnstone, GHD Manager Russ Kleekamp, and GHD Engineer Jessica Janney

Recorder: Loretta Dougherty

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

A. *Treasurer's Transfer – History Project Gift Fund – to pay invoice from GovConnection, Inc. for Large Bed Scanner, in the amount of \$2,425.00.*

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 \$2,425.00 from the History Project Gift Fund to pay for the attached invoice(s).

B. *Treasurer's Transfer – Library Gift Fund – pay invoices from Sir Speedy (\$545.02) and Matt Clark (\$19.83) totaling \$564.85.*

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 \$564.85 from the Library Gift Fund to pay for the attached invoice(s).

C. *Treasurer's Transfer – Holiday Lights Gift Fund – to pay invoices from All In One Design (\$1,400) and Dunes 102 FM (\$500) totaling \$1,900.00.*

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 \$1,900.00 from the Holiday Lights Gift Fund to pay for the attached invoice(s).

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

1. **Public Hearings:** None.

2. **Public Statements:**

Doug Johnstone appeared before the Board and spoke about the need for volunteers to serve on the Town boards and committees. There is a list of positions available on the Town's website for the public's consideration. He also reminded everyone that there is an election to be held on May 3, 2016, and the deadline for submitting papers for anyone wishing to run for an office is March 15, 2016.

3. **Selectmen's Statements:**

Tom asked David P. to give a brief update on properties being considered for a swap.

Town Manager Panagore stated that Mr. James Savko will sell Winslow Farms for a swap for the old Community Center. This will come before Town Meeting. Appraisals are at approximately \$600,000 for 46 Bradford Street and \$2.3 million for Winslow Farms. This is a bargain sale resulting in a tax deduction for Mr. Savko. In turn is for the rights to develop seven condos with three bedrooms at the old Community Center which would require additional gallons under Growth Management. The Board has authorized staff to pursue this transaction and to prepare articles for the town warrant for the Board's review. We are proceeding to look at this transaction and bring it to a final form. We will move to engage everyone involved.

Cheryl asked everyone to attend Town Meeting. The housing issue is on everyone's mind and only Town Meeting can spend money. We need people to get a little more involved, and we need the feedback from the public.

Robert had no comments.

Raphael agrees with Cheryl regarding Town Meeting and everyone's participation. It is important that we all participate. He reminded everyone that the Year-rounders' festival is on March 12th and there will be lots of community exhibits and crafts. It is a great event with food, raffles, and music.

Tom has heard a lot about the Inclusionary By-law and pending articles and appreciates the feedback both positive and negative. It helps him to hear these comments. He complimented the Town Manager and staff in the Assessor's office regarding their preparation of the residential exemption policy. He also reminded everyone to vote in Provincetown next Tuesday at Town Hall in the presidential primary election, and if anyone is not going to be in Town be sure to get an absentee ballot at the Town Clerk's office.

4. **Joint meeting / Presentations:** None

5. **Appointments:** None.

6. **Requests:**

A. Requesting Approval of Board of Health Fee Schedule, as determined at a Public Hearing on Thursday, February 4, 2016:

Morgan Clark and Stephen Katsurinis appeared before the Board. Morgan presented the Board of Health Fee Schedule. There was a fee added for requesting paper applications in hopes of creating an incentive to use the online applications once they are up and running. There was also an increase in the fee for a renter's certificate.

Steve added that the fees best estimate the actual cost to process a paper application. Cheryl asked who sets the fees.

Asst. Town Manager Gardner started that the General By-law states that for all appointed Boards the Board of Selectmen have to approve them.

MOTION: Move that the Board of Selectmen vote to approve changes to Board of Health fees Part VIII, Art. 1 – Fee Schedule, as presented.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

B. Approval of a Contract Agreement in the Amount of \$240,000 for Engineering Services Associated with Phase III Reconstruction of Commercial Street:

Rich Waldo, GHD Manager Russ Kleekamp and Engineer Jessica Janney appeared before the Board presenting the contract proposals for the engineering design services associated with Phase III of the reconstruction of Commercial Street. The Town was the recipient of a \$1.96 million grant through the MassWorks Infrastructure Program and along with a \$600,000 approved appropriation (ATM14 Art1-13) provides sufficient funding to proceed with the project. The contract includes attendance by GHD engineers to five Public Hearings that will allow residents and business owners to learn of the project, voice their concerns, and to ask any question pertaining to the design and construction. After the contract execution, the engineers will come before the Board within 45 days to provide a project schedule, schedule of public outreach, and inform the Board of such things as hours of construction, contact information and instructions on how to sign up for their public notification system "e-blast."

Raphael asked about the survey markers; some contractors had concerns about these markers not being clearly or easily identified. He asked them to address this. He is in favor of moving forward with the project.

Russ assured the Board that they will identify all of the markers both on public and private property and markers will be put back appropriately. They will be doing very limited work on private property. There will be no land taking or easement issues, and agreements will be in place between property owners and the Town. They may have to do a detailed survey for some properties, if needed.

Cheryl hopes they put the energy into contacting everyone because the property owners do know where their markers are located.

Russ stated if they cannot reach them by mail; they will go door-to-door and make phone calls. He will also leave his business card with his cell number for them to contact him directly.

Tom stated we have a standing request regarding consideration of maintaining the bushes, hedges, sidewalks, parking spaces, and fences.

Rich stated they are looking into all of those issues. We may lose some, but we will have the answer for the Board.

MOTION: Move that the Board of Selectmen vote to approve a contract agreement in the amount of \$240,000.00 between the Town of Provincetown and GHD, Inc., 1545 Ivannough Road, Hyannis, MA 02601 for engineering services associated with Phase III reconstruction of Commercial Street.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

C. Police Report for the Month of January 2016:

David P. and Chief Golden presented a new format of the Police Report which may be found on the Police Department's web page.

The Board reviewed the new format and made some recommendations. Raphael believes that the report may answer a lot of questions as to what the Police Dept. is doing.

Tom wants to see the alarm calls and 911 calls by cell phone that go to the state police. He wants to see anything trending such as larcenies, social service calls for help with domestic or incapacitated persons. Anything that the Board might need to make a policy decision around.

Robert would like to see the number of noise complaints, and some follow-up information on the noise complaints along with what mediation was done, if any.

Chief Golden stated that they very rarely have returns calls on noise complaints. The Department has changed from the information to the enforcement stage. Around 60% of these calls are neighbor complaints.

No action was taken on this item.

D. Review and Discussion of Existing Noise Bylaw:

Tom has heard directly from citizens about the need for a palatable noise by-law. He stated that a petitioned article may come before Town Meeting, if we do not bring up one.

David P. has gone over the history, has inquired within the state of MA, and received about five responses so far. There is nothing new. His only recommendation would be to look at something to distinguish between commercial and residential districts (geographically) using the decibel approach and to put good resources into training. Most ordinances fail because staff does not spend enough time on it. He is looking at drafting something along those lines with limited Town Counsel assistance.

Cheryl is curious about the statute regarding disturbing the peace. She used the example of when your next door neighbor is keeping you up all night versus the understood noise on Commercial Street.

Chief Golden believes the solution is a more enforceable by-law. Disturbing the peace is a criminal offense; using this changes a civil offense to a criminal offense. The Department uses this tool only in the instance they have to arrest someone.

Robert stated they tried using decibels on Commercial Street and noted that if you cannot identify the sources it defeats the purpose of trying to detect where the noise is coming from.

Raphael stated that is it not something we will be able to do before Town Meeting. He believes that the system we have is actually working based upon what has been transpiring.

David P. will ask Town Counsel what they have done recently in this area and will get back with the Board within the next week.

No action was taken on this item.

E. Approval by the Board of Selectmen to Insert a Ballot Question on the May 3, 2016, Annual Town Election Ballot Regarding a Petition to Elect A Charter Commission to Revise the Charter of Provincetown:

Town Clerk Doug Johnstone appeared before the Board presenting the Provincetown Board of Registrars certification that a total of 440 signatures of registered voters (15%), in the Town of Provincetown have requested a revision to the Charter of Provincetown.

MOTION: Move that the Board of Selectmen, in accordance with MGL C. 43B, vote to insert the following ballot question on the May 3, 2016 Annual Town election ballot: "Shall a commission be elected to revise the Charter of Provincetown?"

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

Seconded: Raphael Richter

7. Town Manager / Assistant Town Manager:

A. Town Manager's Report:

i. Legislative Request for Clarification of the Definition of the Rental Housing Trust:

David P. was approached by Representative Sarah Peake who asked for clarification regarding the definition of "market rate" in the proposed Year-Round Market Rate Rental Housing Trust Home Rule Petition. He spoke with Town Counsel and staff and a memo presented to the Board laid out four options to consider for responding to the Representative's inquiry.

The Board reviewed the memo (memo may be found on the Town's website in the agenda packet), and agreed that Option 2 is the best. Option 2 states, "For purposes of this act, the phrase 'market rate' shall refer to rental housing which is not restricted to occupancy by low or moderate income households, as those terms are defined in section 38D of chapter 121B; provided, however, that "market-rate housing" may be available for occupancy by households without regard to income and may also include housing subject to maximum income limits to be occupied by households with gross income greater than 80 per cent but not more than 200 per cent of the area median household income as most recently determined by the United States Department of Housing and Urban Development, adjusted for household size. The trust may enact regulations establishing alternative or additional definitions for 'market rate.'"

David P. stated that this allows the Trust to be able to charge rent that the people who live here can afford.

MOTION: Move that the Board of Selectmen vote to adopt for the purpose of legislation Option 2, as presented by the Town Manager.

Motion: Tom Donegan

Seconded: Raphael Richter

4/0/0 Motion passed.

ii. Massachusetts 400 State Commission:

David P. stated that given the amount of effort Selectman Andrews has put in on this issue she is the perfect person to serve on the newly forming commission for the Plymouth 400th anniversary.

MOTION: Move that the Board of Selectmen vote to designate, at the request of Governor Charles Baker, Selectman Cheryl Andrews to serve on the newly forming commission for the Plymouth 400th anniversary, and its related activities including the Massachusetts 400 State Commission.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

B. Potential Town Meeting Articles & Bylaws:

David G. went over the articles with the Board.

Special Town Meeting Articles:

Article 4: National Marine Sanctuary Visitor Center in Provincetown. Add language after \$17,000 "in matching funds."

Article 5: Parking Kiosk Upgrade. David P. stated that this is an upgrade to the system that will allow for credit cards to be used in all of our parking lots. If the systems are not up and running by April 1st, we may once again have free parking for April in the lots, if necessary.

Raphael stated that we may want to do outreach to any of the businesses that are doing marketing, if we are going to have the free parking in April.

Article 6: Provincetown 400 Executive Director. David P. stated that this is a grant and it will be specified as a grant for employing a part-time executive director for Provincetown 400.

Article 7: Winslow Property. David G. stated that this is still in the drafting process to see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of acquisition.

Annual Town Meeting Articles (Consent Agenda):

Article 6: Fireworks Celebration. Fireworks for the New Year's Eve & Fourth of July events will be taken out of the Consent Agenda and placed in the regular agenda due to the increase in monies from the originally approved amount of \$22,000 to \$32,000.

Annual Town Meeting Articles:

Article 13: General Bylaw Amendment: Non-Criminal Disposition of Pier Corporation Regulations. David P. will check with Town Counsel to determine whether this article needs to appear in the warrant every year or not.

Article 23: Zoning Bylaw Amendment: Definitions – Affordable and Community Housing. Changed 120% to 160% at the Town Manager's recommendation.

Article 25: Zoning Bylaw Amendment: Article 6 Growth Management Section 6400 Priorities. Raphael asked how long the deed restriction will be regarding 2a for creation of any deed restricted year-round rental units or units. David G. will send the February 8th Growth Management report to the Board.

C. Other: None.

8. Minutes:

The Board reviewed the set of minutes and motioned to approve.

MOTION: Move that the Board of Selectmen approve the minutes of April 27, 2015 (Special), as submitted.

Motion: Raphael Richter

Seconded: Robert Anthony

4/0/0 Motion passed.

9. Closing Statements/Administrative Updates: None.

David P. has met with Butch regarding the Airport Commission's contract to be renewed July of 2017. He has gathered all the numbers and will present to the Board in the future.

There was no Executive Session this evening.

Without objection the meeting was adjourned at 8:21 p.m.

Minutes transcribed by: Loretta Dougherty