

**TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES - REGULAR MEETING
MONDAY – JULY 11, 2016 – 6:00 p.m.
JUDGE WELSH ROOM - 260 COMMERCIAL STREET**

Chairman Richter convened the open meeting at 6:07 p.m. noting the following attendees:

Board of Selectmen members: Raphael Richter, Erik Yingling, Tom Donegan, Cheryl Andrews, and Robert Anthony.

Other attendees: Town Manager David Panagore, Asst. Town Manager David Gardner, and Airport Manager Butch Lisenby.

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

Raphael pulled item B out of the Consent Agenda and asked that it be placed under #6 Requests, by unanimous consent.

A. *Treasurer's Transfer - Recycling and Renewable Energy Gift Fund – pay an invoice to Andrea Tasha & Rachel Harrington, for 100 reusable tote bags, in the amount of \$300.*

MOTION: Move that the Board of Selectmen vote, as Commissioners of the Recycling and Renewable Energy Gift Fund – (#1136), pursuant to MGL C44 § 53A, to approve the use of the funds to pay \$300.00 for the attached invoice from Andrea Tasha and Rachel Harrington.

With unanimous approval item A passed.

Raphael turned over the meeting to Erik, and recused himself from the Public Hearing item A. He left the room at 6:09 p.m.

1. Public Hearings:

A. Harborfront Shuttle Tours Appeal – appeal at the request of Timothy Downey of a decision to declare null and void the Municipal Street License issued to Harborfront Shuttle Tours on June 11, 2012, for failure to obtain the required certificate of public convenience and necessity and other necessary permits and licenses within the prescribed time frame established in M.G.L. c.159A §4.

Tom read the public hearing notice. Mr. Downey was not present for the hearing and it was agreed to continue with the process. The following motion was then made:

MOTION: Move that the Board vote to affirm its May 23, 2016 decision to declare the Municipal Street License issued to Harborfront Shuttle Tours null and void as a result of the license holder's failure to comply with the requirements of Massachusetts General Laws, Chapter 159A, section 4, insofar as the license holder failed to obtain a certificate of public convenience and necessity from the Massachusetts Department of Telecommunications and Energy, now known as the Department of Public Utilities, within three years of issuance of the license; and further that the former license holder be ordered to remove the ticket booth from the Ryder Street Extension within 50 30 days of this vote and if the ticket booth is not removed within said 50 30 days, that the Town will remove and dispose of the ticket booth without further notice to the former license holder and at his expense.

Motion: Tom Donegan

Seconded: Robert Anthony

There was a brief discussion on the appropriate number of days to allow for the removal of the ticket booth and David Gardner recommended that 30 days was an appropriate amount of time.

The original motion was amended to 30 days.

Motion: Tom Donegan

Seconded: Robert Anthony

There were no public comments and the public comments section was closed.

There were no selectmen comments.

4/0/1 (RR recused) Motion passed.

Raphael came back into the meeting at 6:13 p.m.

B. Curb Cut Application submitted by Ann & Zyg Plater to move their existing parking area located at 197 Bradford Street, Provincetown, MA 02657 eastward +/- 20 feet to allow for a useable garden area.

Erik read the public hearing notice and Mr. Plater gave a brief summary of the curb cut move proposed. A PowerPoint presentation of the diagrams in the Board's packet was shown. He assured the Board that the parking space will remain, just moved over.

There were no public comments and the public comments section was closed.

MOTION: Move that the Board of Selectmen vote, pursuant to MGL C. 11, § 6-2 of the General By-Laws, to approve the request of Ann and Zyg Plater to move their existing parking area located at 197 Bradford Street, Provincetown, MA 02657 (Assessor's Map 12-4, Parcel 65) (Res 3 Zone) eastward +/- 20 feet so they may have a useable garden area pending an appropriate map and plan approved by the Assistant Town Manager.

Motion: Tom Donegan

Seconded: Robert Anthony

Cheryl asked if the width of the curb cut would be the same.

Zyg stated it would be the same; just moved over.

The Board wanted to see site plan with the new overlay shown on it. The original motion was amended pending an appropriate map and plan approved by the Assistant Town Manager.

5/0/0 Motion passed.

The Public Hearing closed.

2. Public Statements:

Mark Hatch Chairman of the Finance Committee told the Board that FinCom had unanimously approved the Year End Budget Transfers with a couple of updates. The Finance Committee also does not foresee anything on the horizon, at this time, which would warrant requiring the Town to hold a fall town meeting. Unless there are compelling reasons for financial issues, time would be better spent concentrating on matters to be brought to the spring town meeting.

Tom asked that Consent Agenda Item B be voted on at this time.

B. Year End Budget Transfers – Interim Finance Director Ruth Lewis.

MOTION: Move that the Board of Selectmen vote to approve the year-end budget transfers recommended by Interim Finance Director Ruth Lewis, as presented.

Motion: Tom Donegan

Seconded: Robert Anthony

5/0/0 Motion passed.

3. Selectmen's Statements:

Robert and Erik had no statements this evening.

Cheryl wanted to thank all of her colleagues on the Board and the members of the Pier Corp. for rescheduling their joint meeting so everyone could attend the annual Provincetown Chamber of Commerce BBQ. The Town Manager was able to give an address at the BBQ. She also thanked everyone for all their hard work regarding the 4th of July event and asked if it would be possible for staff to compile a list of people who donated to the fireworks fund. The list of names could be read at the next Board meeting. She also touched upon what happened in Dallas and wanted the Board to know that she had written a short note to our police officers, as an individual, to show her support.

Tom thanked all of the people who live in Provincetown now and those of the past for all of their efforts and support in helping in the formation of our wonderfully functioning Police Dept. He thanked all the staff and Board members that attended the Board of Selectmen's Joint Meeting in Nantucket. There were three things discussed; what was successful, what was unsuccessful and a commitment to work together moving forward. He believes that the time was well spent and wants to continue the dialogue with Nantucket. He touched upon the lawsuit that has been brought against the Provincetown Historic District Commission asking that the process currently used be cleaned up with consideration given to what the applicants have to go through during the process; make it simpler. He also thanked all of the volunteers who work with all of the Town's non-profits. They always have many activities going on. Tom asked that the Board send a letter to Tom Roda in appreciation for all of the work he has done for Lower Cape Ambulance.

Raphael thanked everyone involved in the 4th of July event noting the good work of our Dept. of Public Works; Police Dept. and Fire Dept. Everything went very smoothly this year.

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

5. **Appointments:** None.

6. **Requests:**

A. Discussion and possible votes relating to setting a goal and merit structure for the Town Manager.

Raphael asked the Board if they wanted to have a different process (merit/goal structure) for the Town Manager's performance evaluation other than the one outlined in his contract which requires defined goals and objectives. Tom Donegan will craft the measure, if the Board decides to change the process, as his background is in Human Resources.

Cheryl stated that she has not reviewed his contract recently and wanted to know if we are changing the existing contract. If so, any changes would be an addendum to the contract.

Robert wants to see the alternative before making any decision.

Raphael stated that this is just the first step and will be brought before the Board again. He proposed that Tom create a merit and goal structure that the Board can look at and either have it as a contract amendment or just put it in writing.

Tom and Cheryl will work on this for the next meeting, and Raphael and David P. will also discuss the process.

Raphael asked that this be an agenda item for the next meeting on July 25th, which may need to be held in an Executive Session.

B. Review and discussion of Town Business Calendar.

David Panagore has attempted to put together a schedule that tries to keep the budget and financial forecast separate. From his point of view, we do not need a fall town meeting. He wants more time to educate, get more input, and prepare so we can succeed at town meetings. Getting complicated items settled in the minds of the public is very important in order to do that. For next town meeting, we will move back to the mailing as one of the items for educating the public. If we have a fall town meeting he would like to keep it very narrow. Staff has looked at the calendar and he requested that the Board review it. He thinks this will help us to work smarter.

Tom wanted to be sure that should issues arise such as bills before the Legislature that need our immediate attention we would have a fall town meeting.

David P. recommended that we absolutely need to do without putting anything else on the warrant should such issues require a fall town meeting.

Tom was also concerned about how we would stick to this schedule with people going out of town. We have the high season; shoulder season; winter season; and town meeting and budget season as people return.

David P. is still looking to begin conversations in the fall. He does not want to wait until March. He will do whatever the Board decides, but he does not believe the process last spring was the best work of the staff or him.

Erik appreciates the calendar. He is concerned regarding the Home Rule Petitions and wants to make sure that we can act on them as soon as the General Court votes/passes them. He believes the fall town meeting has merit to it. He is in favor of a smaller town meeting and agrees that other matters can wait until spring.

Cheryl dislikes fall town meeting and believes that it asks a lot of the town's people to come to two town meetings every year. She would rather have one or two days added to the spring meeting. If something really important needs to be done she would look at that and agree to have an open and shut warrant with just those issues that are needed.

Robert agrees with the Town Manager that getting things done correctly, by taking the time to educate the public so we are all on the same page, allows a chance for victory.

David P. pointed out that the financial forecast is, at some point, going to take a lot of work, and there will need to be a big education process. Our revenue is good this year but when you get within the \$40,000 or \$50,000 cap something may need to be done.

Raphael wants a fall town meeting should there be something pressing such as financial issues or Home Rule matters. He asked that the Board be kept up-to-date on all changes that may be made. He asked staff to project out what the fall will look like without a town meeting and bring it before the Board.

Cheryl would like to have only one traffic hearing a year.

Raphael asked for an item regarding Traffic Hearings to be put on the July 25th agenda.

C. Review and discussion of E-Mail Policy for Appointed and Elected Town Officials.

David P. was not aware that this policy had not gone before the Board and been adopted at some point in the past. He apologized for giving the go ahead in sending it out.

Cheryl spoke to the Board about several updates she would like to have made to the policy.

Tom was concerned about the no expectation of privacy.

David P. stated that inside a municipal corporation there is no expectation of privacy. If a Board member were using the town email to commit a criminal action, a police investigation would not let them know they were looking at their emails. Only for an official reason should anyone be wandering through emails. You have to retain the records per state law.

Erik would like to know when any third party is reading the emails. He believes that no one should be doing that at all.

Raphael is not comfortable with this policy statement as it does not seem to serve an actual function. He votes against this whole idea. This policy does not seem to serve an actual function.

Cheryl thought we might want to have a policy to help them comply with state law.

David P. stated this is educational; pass or not nothing actually changes.

Tom believes that the idea of this policy is to solve not having personal and business emails; it is for document retention. This does not sound like this is a helpful thing.

MOTION: Move that the Board of Selectmen postpone this agenda item and ask for comments from the Board members for revisions.

Motion: Tom Donegan

Seconded: Robert Anthony

4/1/0 (Cheryl Andrews) Motion passed.

D. Approval to execute a grant in the amount of \$443,412.00 from the Federal Aviation Administration for the replacement of the runway lighting system for the Provincetown Municipal Airport.

Airport Manager Butch Lisenby appeared before the Board and requested approval of the Grant Agreement. The Federal Aviation Administration's share is 90%, \$443,412.00, the state's share is 5%, \$24,634.00, and our local share is 5%, \$24,634.00.

MOTION: Move that the Board of Selectmen vote to execute a grant in the amount of \$443,412.00 from the Federal Aviation Administration (FAA) for the Replacement of the Runway Lighting (HIRLS) System for the Provincetown Municipal Airport.

Motion: Tom Donegan

Seconded: Erik Yingling

5/0/0 Motion passed.

E. Approve draft of letter to Congressman William R. Keating requesting support of the Town of Chatham's request for a legislative remedy to reverse the U.S. Fish & Wildlife Service's unsubstantiated claim over the open waters & seabed to the west of Monomoy National Wildlife Refuge.

The Board reviewed the letter and the motion was made.

MOTION: Move that the Board of Selectmen vote to approve a letter to Congressman William R. Keating requesting his continued support for the Town of Chatham and Commonwealth regarding the Monomoy Refuge Boundary as presented.

Motion: Erik Yingling
5/0/0 Motion passed.

Seconded: Robert Anthony

7. Town Manager / Assistant Town Manager:

A. Town Manager's Report – Administrative Updates.

- David is awaiting legal advice as it relates to deadlines and whether we have a defensible case on the lawsuit being brought against the Provincetown Historic District Commission.
- Ruth Lewis is on board now as the Interim Finance Director and her first piece of work was the Year End Budget Transfer passed this evening. The auditors will be coming in to assist and educate her and our Treasurer John O'Buck about our process.
- Professor Goodman from UMass Dartmouth will be starting to look at our growth management history and its implications on jobs, and where people live and work. His official start date is August 1st and the first draft will be ready by the end of the year with final publication by February or March 2017.
- He has begun evaluation reviews on senior staff.
- The 4th of July weekend was a success even though it was unclear as to whether it would happen or not due to the 20mph wind speed. The DPW cleanup work and prep went very smoothly. He complimented everyone who worked on this event. There was a private fireworks display in Harwich with approximately 3,000 people in attendance which might have had an impact on our attendance.
- He will have a meeting with MEMA this Wednesday to begin talks about preparations of an all hazards plan. Everyone from town officials to community members will have incident command training that will teach them how the plan works, what it does and what their roles are to be.
- The Bi-weekly Departmental Update "three-bullet" memo will be sent to the Board tomorrow.

Erik asked for any details on the 99 Commercial Street matter.

David P. will send information to the Board. Town Counsel Ilana Quirk is reviewing everything to make sure we are on track with all of it. There are many issues that need to be addressed and not a lot of cooperation with the abutters.

Tom wanted to know when this would be resolved.

David P. stated that it rests on the owners. The decks and units on water are being dealt with by the Conservation Commission and being moved forward. The issues in terms of the restaurant are being dealt with by the Board of Health.

B. Others:

8. Minutes: None.

9. Closing Statements/Administrative Updates - Closing comments from the Selectmen:

A. Thank you letter to Mark Boucher who resigned from the Beautification Committee on July 5, 2016.

Robert and Erik had no closing statements.

Tom wished David P. a good vacation.

David will be going to Maine and meeting with the Town Manager and then going to meet with Island Institutes of Maine.

Raphael reminded the Board of the Housing Trust Round Table scheduled for Friday, July 29th at 10 a.m. in the Judge Welsh room. The Board will just be looking for ideas.

Cheryl wants to understand the Housing Trust legislation and how we might implement it.

Without objection Raphael adjourned the meeting at 8:02 p.m.

Minutes transcribed by: Loretta Dougherty