

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES – EXECUTIVE SESSION
THURSDAY, APRIL 24, 2017 5:00 PM
TOWN HALL – JUDGE WELSH ROOM

Chairman Richter convened the open meeting at 5:00 pm noting the following:

Board of Selectmen attending: Chairman Raphael Richter, Vice Chairman Erik Yingling, Members Dr. Cheryl Andrews, Tom Donegan and Robert Anthony.

Excused:

Other attendees: Asst. Town Manager David Gardner, Board Secretary Elizabeth Paine, Town Council Michelle Randazzo.

Recorder: Elizabeth Paine

Selectmen Anthony recused himself from the meeting at 5:05

1. The Board of Selectmen will vote to go into Executive Session pursuant to M.G.L. c. 30A, §. 21(a)(1) and to convene in open session thereafter:

Clause 1 – To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.

Marcene Marcoux requested the meeting be held in open session.

NO MOTION MADE

2. Discussion of removal of HDC member Marcene Marcoux for cause, votes may be taken (if requested or required)

Town Council Michele Randazzo and Ms. Marcoux conversed to clarify the letter of notification given to Ms. Marcoux. This meeting is simply to discuss the BOS intent to initiate the removal process. There have been no violations of the charter.

Selectmen Donegan began by giving his four concerns about why the discussion for removal was taking place.

1. Appearance of lack of impartiality, lack of respect for applicants, abutters, and various support personnel appearing on behalf parties before the HDC. Discourteous approach creates unnecessary adversarial relationships with property owners, tradesmen and abutters who appear before the HDC. The adversarial tone adversely impacts the reputation not only of the HDC but also of Town government.
2. Disregard for Town Employees. Persistent bandaging and harassment of Town employees, reducing the efficiencies of staff support leading to sub optimal staffing of the HDC.

3. Alleged Trespassing jeopardized the staffing and credibility of the Town of Provincetown in aggressively overstepping her role as a member of a public body by interfering with the work properly the role of the building inspector. Subjecting the Town to legal liability to the from property owners. And finally, creating a perception of lack of an impartial deliberation regarding subject property and abutters.
4. Record of Careless language that flaunts a reckless disregard for local state and federal laws & regulations unfairly putting property owners in the position of having to disregard one for another. Further creating of a record of disregard for laws complicates and diminishes the position of town in the case of an appeal

Along with her disregard for other regulator agents such as FEMA, he believes these are actions are liabilities to the town, and should be addressed.

Vice Chair Yingling also has many concerns about the trespassing order and years of complaints that have been brought up to him. The article in the Banner prior to the meeting reaffirmed his belief that Ms. Marcoux's behavior needed to be brought before the BOS.

Selectmen Andrews – Does not feel there is anything provided in the packet to justify removal and expressed great concern in the handling of this situation.

Dr. Marcoux replied to Selectmen Donegan's and Vice Chair Yingling's comments.

She has been on the board for 12 years; Provincetown has the second busiest Historic Board in Massachusetts. She feels she is trying her best. As far as the trespassing, HDC assumed we were allowed to do site visits. There needs to be clarification. She was not alone, but was with other members. This was a onetime occurrence, for five minutes, and was there to issue violations. Have nothing to do with the lawsuit. Destroying homes in Provincetown is very difficult, how we maintain relationship between FEMA and maintaining historic homes is difficult. She feels she has tried to be fair and never to quite arbitrary. She hasn't ever received any formal complaints beyond the letter dated February 8, 2017.

(Alanna – Town Council)

Vice Chairman moved that the Board initiate removal proceedings off Marcene Marcoux from the HDC, in accordance with the Charter, and to authorize Selectmen Tom Donegan to work with Town Counsel and the Acting Town Manager to prepare a notice of intent to remove, to be issued to Ms. Marcoux, for the reasons discussed at this meeting.

Selectmen Donegan seconded the motion.

(In discussion for the motion before them)

Selectmen Andrews still feels there is not any formal complaint to base the removal upon and that she is now hearing more about relations between appointed members and staff. Disappointed if this is why the BOS is here tonight. She is trying to put them in order for seriousness and disappointment it couldn't be resolved internally.

Selectmen Donegan would like to bring these issues to public by having a conversation in the open.

Chair Richter feels the way in which we have become accustomed to speaking to each other and about each other needs to change. How we treat staff and applicants should change. Ms. Marcoux's husband is the editor to a known blog, which encourages this type of behavior. The BOS are here delivering a message. He will be deferring because he will be leaving and this will be discussed under a new board.

VOTED

Approve: 2
Oppose: 1(ca)
Abstain: 1(rr)

Motion passed

5:41 – meeting adjured

Minutes Transcribed by Elizabeth Paine

I have been on the Historic District Commission for twelve years and I've been a Commissioner because I'm dedicated to the by-laws and to the Historic District. I've always seen my work based on consistency, following the by-laws and carried out with research and study. Part of the research involves site visits to visually examine properties being presented, as well as properties in violation. Often, in doing site visits, we may step on a porch or a pier that is part of private property. When we do this, we do it only as part of our role as Historic District Commissioners. We have believed that we had the right to do this. If we were misled, if I was misled, then I apologize for the misunderstanding.

The February 8th letter from the law firm of Prince Lobel accusing me of trespassing on the pier at 99 Commercial Street is misleading. First, I was relying on past practice that Commissioners could step on private property to carry out the work of the HDC. I believe that other commissioners had step onto this exact property and that I was not the only one. Two, I was on this property only once and for less than five minutes. It was a one-time occurrence. Three, I approached the property because I viewed a possible violation of HDC By-laws when I saw the new gate, fence, and railing—all done without HDC approval. I did not want to issue a violation from a distance. Four, the letter falsely states that I defied a court injunction. I was not named in the attached law suit. I was not named by the judge in the court order and therefore the accusation is based on a false premise. I defied no court order. Fifth, I read this letter into the public record at an HDC meeting. Sixth, Ilana Quirk, town counsel, was present at this HDC meeting and advised that I not respond to the letter.

Clearly, regulatory boards are hardly loved yet the work we do is crucial to our town.

I am moved by the people who are here and who have spoken in my favor and those who have written letters supporting me. Sometimes this only happens at one's funeral. I am honored that it has happened tonight. You touch my heart greatly.

In the spirit and admiration of three key people I have personally known—songwriter Leonard Cohen, historian Howard Zinn and essayist James Baldwin, I have learned from them that voice is critical; that speaking out is essential; and that speaking truth to power is the touchstone of our democracy. Our voices cannot be muffled; our ideas cannot be stifled. It is how a nation thrives.

So, from Leonard Cohen's powerful *Hallelujah*:

You say I took the name in vain
I don't even know the name
But if I did, well really, what's it to you?
There's a blaze of light in every word
It doesn't matter which you heard
The holy or the broken hallelujah

I did my best, it wasn't much
I couldn't feel, so I tried to touch
I've told the truth, I didn't come to fool you
I'll stand before the lord of song
With nothing on my tongue but hallelujah

Marcene Marcoux
