

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

SPECIAL MEETING – THURSDAY, MARCH 4, 2010 4 PM

16 JEROME SMITH ROAD

Chairman Michele Couture convened the meeting at 4:03 PM noting the following Board of Selectmen attending: Michele Couture, Elaine Anderson, Mary-Jo Avellar, and Austin Knight

Excused Absence: David Bedard

Other attendees: Town Manager Sharon Lynn, Assistant Town Manager David Gardner, DPW Director David Guertin, Municipal Finance Dir. Alix Heilala, FinCom Chairman Tom Coen

Recorder: Vernon G. Porter

The following are meeting minutes, in brief:

1) Open discussion on **Special Town Warrant Articles**.

MOTION: *Move that the Board of Selectmen vote to insert STM Articles 1 and 2 and Articles 4 through 16. (See attached copy of articles.)*

Motion by: Austin Knight **Seconded by**: Elaine Anderson Yea 4 Nay 0

MOTION: *Move that the Board of Selectmen vote to insert STM Article #3. (See attached copy of articles.)*

Motion by: Austin Knight **Seconded by**: Elaine Anderson
Yea 3 Nay 1 (Mary-Jo Avellar)

2) Open discussion on **Annual Town Warrant Articles**.

MOTION: *Move that the Board of Selectmen vote to insert ATM Articles 1 and 8, 10-17 and Articles 20 through 22. (See attached copy of articles.)*

Motion by: Mary-Jo Avellar **Seconded by**: Austin Knight Yea 4 Nay 0

MOTION: *Move that the Board of Selectmen vote to insert ATM Articles 8, 18 and 19.. (See attached copy of articles.)*

Motion by: Elaine Anderson **Seconded by**: Michele Couture
Yea 3 Nay 0 Abstain 1 (Mary-Jo Avellar)

Motion to adjourn by Mary-Jo Avellar at 5:50 PM.

Minutes transcribed by: Vernon G. Porter, Secretary to Board of Selectmen
March 4, 2010

Town Warrant

Special Town Meeting – Monday, April 5, 2010

To either of the Constables of the Town of Provincetown, Greetings:

In the Name of the Commonwealth of Massachusetts and in the manner prescribed in the Charter and By-laws of said Town, you are hereby directed to notify the inhabitants of the Town qualified by law to vote in Town affairs to meet and assemble at **Veterans Memorial Elementary School in the Multipurpose Room on Monday the Fifth day of April, A.D. 2010 at 6:00 o'clock in the evening**, then and there to act on the following articles, to wit:

Article 1. FY 2010 Budget Adjustments. To see what amendments the Town will vote to make to the Fiscal Year 2010 operating budgets and enterprise funds established under Articles 2 and 5 of the April 6, 2009 Annual Town Meeting and what sums the Town will vote to raise and appropriate or transfer from available funds therefor; or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 2. Rescind Unused Borrowing Authority. To see if the Town will vote to rescind borrowing authority, as follows:

Date of Vote	TM	No.	Authorized and Unissued Debt	Fund	Amount Authorized	Total Borrowed to 4/5/10	Rescind Unused Balance
04/01/02	ATM	4-6	Grace Gouveia Bldg	GEN	35,000		35,000
04/01/02	STM	13	Wastewater Phase II Planning	WASTEWATER	215,000	213,250	1,750
04/07/03	ATM	4-14	Water(Equip-SCADA)	WATER	25,000		25,000
04/07/03	ATM	4-16	Water (Wells-Security)	WATER	25,000	11,375	13,625
04/03/06	STM	3	Land Bank 74 Harry Kemp	LANDBANK	190,000	163,550	26,450
					2,440,000	1,986,430	

[Requested by the Board of Selectmen and the Town Manager]

Article 3. Transfer of Funds into Provincetown Public Pier Corporation Reserve Account. To see if the Town will vote to transfer from free cash the sum of \$140,504 to fund the operating reserve of the Provincetown Public Pier Corporation pursuant to Chapter 13 of the Acts of 2000 and the Grant Agreement between the Town and the PPPC dated November 4, 2002; or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 4. Replace Fueling Station. To see if the Town will vote to transfer from free cash the sum of \$200,000 to fund the replacement of the fueling station at the highway garage; or take any other action relative thereto.

[Requested by the Town Manager]

Article 5. North Union Field Land Acquisition. To see if the Town will vote to raise and appropriate, transfer

from available funds, or borrow a sum of money, to be expended under the direction of the Town Manager and the Board of Selectmen for the permitting, design and construction of a new water supply well or wells to be located upon the land known as the North Union Well Field in the Town of Truro, and related water distribution facilities, and including without limitation all costs defined under Section 1 of Chapter 29C of the General Laws, land acquisition costs, and all other costs incidental and related thereto;

and to authorize the Board of Selectmen to acquire certain land or any interest therein or any portion thereof by purchase, gift, eminent domain or otherwise for water supply purposes and/or water supply protection purposes pursuant to Section One of Chapter 483 of the Acts of 1907, Section Two of Chapter 439 of the Acts of 1952 or any other provision of general or special law enabling such acquisition, said land being 10.84 acres, more or less, being all or a portion of the land shown on Truro Assessors Map 40 as Parcel 71, 73 and 77, also being shown as Parcel One, 6 acres, Parcel Three, .65 acres and Parcel Two, 4.19 acres, respectively, on a plan of land entitled, "Plan of Land in Truro made for the Town of Truro," dated October 21, 2003, recorded with the Barnstable County Registry of Deeds in Plan Book 589, Page 49, which land may be acquired together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine;

and to authorize the Board of Selectmen to acquire certain land or any interest therein or any portion thereof by purchase, gift, eminent domain or otherwise for water supply protection purposes pursuant to Section 39B of General Laws Chapter 40, or any other provision of general or special law enabling such acquisition, said land being 6.35 acres, more or less, being a portion of the land shown on Truro Assessors Map 43 as Parcel 2, which land may be acquired together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine;

and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum of money under and pursuant to Chapters 29C and/or 44 of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and to the extent that any federal, state or other funds are or become available for the purposes set forth above, the Board of Selectmen is authorized to apply for and accept such funds and to enter into all agreements and execute any and all instruments, including the grant of restrictions and other rights with respect to said land, as may be necessary on behalf of the Town of Provincetown to effect said acquisition or grants;

and further to authorize the Board of Selectmen to instruct its Senator or Representative in the General Court to file a petition, under the so-called Home Rule Amendment or otherwise, to enact any special legislation or amendment to any special act as the Board of Selectmen may determine to be necessary (i) to implement the authority given to the Board of Selectmen under this Article, (ii) to provide that any intermunicipal agreement that the Board of Selectmen may enter into to on behalf of the Town with the Town of Truro under Section 4A of Chapter 40 of the General Laws relating to the acquisition, control or use of such real property and for the provision of water to properties located in Truro may be for a term of up to fifty years, (iii) to authorize such land acquisition under Article 97 of the Amendments to the Massachusetts Constitution and notwithstanding any other requirement of law, and (iv) to amend the Town of Provincetown Charter by adding a new Section 6-14-3 to provide that when the Provincetown Water and Sewer Board is exercising the powers of the water board, the board shall consist of seven members, two of whom shall be

appointed by the Town of Truro Board of Selectmen, or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 6. Stabilization Fund. To see if the Town will vote to transfer from free cash the sum of \$250,000 to the stabilization fund, or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 7. Meals Tax Option. To see if the Town will vote to accept the provisions of Massachusetts General Laws G.L. c. 64L, § 2(a) that will authorize the Town to adopt a local option sales tax of .75% upon the sale of restaurant meals originating within the Town by any vendor, or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 8. Room Tax Option. To see if the Town will vote to accept the provisions of Massachusetts General Laws G.L. c. 64G, § 3A that will authorize the Town to adopt an additional local option excise tax of 2% in regard to the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house or motel located within the Town by any operator for each occupancy, or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 9. Create a Special Purpose Stabilization Fund for Capital Improvements. To see if the Town will vote, pursuant to General Laws Chapter 40, section 5B, to create a Special Purpose Stabilization Fund for capital improvements; or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 10. Create a Special Purpose Stabilization Fund for Special Events. To see if the Town will vote, pursuant to General Laws Chapter 40, section 5B, to create a Special Purpose Stabilization Fund for special events; or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 11. Home Rule Petition/Amend Room Excise Tax Distribution. To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows, provided that the General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of the petition:

AN ACT RELATIVE TO THE ROOM OCCUPANCY EXCISE OF THE TOWN OF PROVINCETOWN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 391 of the Acts of 1998 is hereby amended by providing that thirteen percent (13%) of the room excise tax collected by the town of Provincetown under [section 3A of chapter 64G](#) of the General Laws for the fiscal year beginning July 1, 2010 and each fiscal year thereafter shall be credited to the wastewater enterprise fund of said town without further appropriation.

Section 2. Section 2 of Chapter 178 of the Acts of 1996 is hereby amended by providing that thirty-five percent (35%) of the excise collected under [section 3A of chapter 64G](#) of the General Laws by the town of Provincetown for the fiscal year beginning July 1, 2010 and each fiscal year thereafter shall be credited to the Tourism Fund established pursuant to Section 1 of Chapter 178 of the Acts of 1996 without further appropriation.

Section 3. Twenty-five percent (25%) of the excise collected under [section 3A of chapter 64G](#) of the General Laws by the town of Provincetown for the fiscal year beginning July 1, 2010 and each fiscal year thereafter shall be credited without further appropriation to the special purpose stabilization fund for capital improvements established in accordance with section 5B of chapter 40 of the General Laws by the town pursuant to the vote under article 9 of the April 5, 2010 special town meeting

SECTION 4: Three percent (3%) of the excise collected under [section 3A of chapter 64G](#) of the General Laws by the town of Provincetown for the fiscal year beginning July 1, 2010 and each fiscal year thereafter shall be credited without further appropriation to the special purpose stabilization fund for special events established in accordance with section 5B of chapter 40 of the General Laws by the town pursuant to the vote under Article 10 of the April 5, 2010 special town meeting

SECTION 5: Twenty four percent (24%) of the excise collected under section 3A of chapter 64G of the General Laws by the Town of Provincetown for the fiscal year beginning July 1, 2010, and each fiscal year thereafter, shall be credited to the General Fund.

Section 6. This act shall take effect upon passage.

or take any other action relative thereto.

Article 12. Room Occupancy Tax. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation authorizing the Town to impose a room occupancy tax on vacation rentals not currently subject to such tax; provided, however, that the General Court may make clerical or editorial changes of form only to said bill, unless the Board of Selectmen approves amendments thereto prior to enactment by the General Court, and provided further that Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 13. Cemetery Improvements. To see if the Town will vote to appropriate and transfer from available funds a sum of money for services related to expansion of the Provincetown Cemetery and purchase of equipment; or to take any other action relative thereto.

[Requested by the Town Manager and the Cemetery Commission]

Article 14. PARC Land Grant – Suzanne’s Garden. To see if the Town will vote to supplement the vote taken under Article 7 of the June 22, 2009 Special Town Meeting, which vote authorized the Board of Selectmen to acquire the fee interest in a certain portion of the parcel of real estate at 608 Commercial Street and authorized the Board of Selectmen or other applicable boards or commissions to apply for federal, state or other funds, to specifically authorize the Board of Selectmen and/or the Open Space Committee and/or the Recreation Commission and/or other boards to apply for and accept funding under the PARC grant program (formerly, Urban Self-Help) (G.L. c. 45, Section 14) and to dedicate said parcel to recreation and to enter into all agreements and execute any and all instruments as may be

necessary on behalf of the Town of Provincetown to effect said acquisition and grant; or take any action relative thereto.

[Requested by the Town Manager]

Article 15. Land Bank – Pre-acquisition Expenses. To see if the Town will vote to transfer from the Land Bank Fund established under Chapter 293 of the Acts of 1998 the sum of \$25,000 to be expended under the direction of the Open Space Committee and the Town Manager for the funding of pre-acquisition expenses for potential Land Bank purchases, including but not limited to title searches and appraisals, updating of the Open Space Plan to qualify said purchases for state grants, and other costs associated therewith; or take any other action relative thereto.

[Requested by the Open Space Committee]

Article 16. General By-law Amendment: Hours of Entertainment and Amusement Operation. To see if the Town will vote to amend the Provincetown General By-laws by amending §8-15 to read as follows:

Provincetown General Bylaw Section 8-15. Hours of Entertainment and Amusement Operation.

Unless otherwise restricted, no holder of an entertainment license issued by the Town of Provincetown pursuant to Massachusetts General Laws, Chapter 140, Sections, 177A, 181, 183A, shall permit activity licensed thereunder to be conducted between the hours of 1:00 a.m. and 8:00 a.m., with the exception of the time period in any calendar year from the Friday of Memorial Day weekend thru and including the Saturday following Labor Day weekend, during which time period the licensed activity shall not be permitted between the hours of 2:00 am and 8:00 am. A non-criminal disposition penalty will be assessed on any holder of an entertainment license found to be operating between the hours of 1:00 a.m. and 8:00 a.m. in the amount of one hundred (\$100) for the first offense, two hundred (\$200) for the second offense and three hundred dollars (\$300) for the third offense. Each violation of the hours of entertainment or amusement operation shall be deemed to be a separate offense
Or take any other action relative thereto.

[Requested by the Licensing Board]