

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING - MONDAY, JANUARY 28, 2008

### JUDGE WELSH HEARING ROOM

Chairman Mary-Jo Avellar convened the meeting at 6 PM noting the following Board of Selectmen attending: Mary-Jo Avellar, Michele Couture, Austin Knight, Lynne Davies

Excused Absence: Pam Parmakian

Other attendees: Town Manager Sharon Lynn, Asst. Town Manager David Gardner, Municipal Finance Director Alix Heilala

Recorder: Vernon G. Porter

The following are meeting minutes, in brief.

#### 1A1 **PUBLIC HEARING – MASS COMMUNITY BLOCK GRANT’S FY ’08 COMMUNITY DEVELOPMENT FUND** – Water Treatment Program

Michelle Jarusiewicz gave a brief overview of the Grant application. Board of Selectmen Chairman Avellar read the Public Hearing notice into the record.

Public Comments – None.

Board of Selectmen Comments – Open discussion ensued.

***MOTION: Move that the Board of Selectmen vote to authorize the execution of a grant application under the Massachusetts Community Development Block Grant’s Community Development Fund for a grant of approximately \$800,000 for a water treatment program at Knowles Crossing well field through the Massachusetts Department of Housing & Community Development.***

**Motion by: Austin Knight    Seconded by: Michele Couture                      Yea 4    Nay 0**

#### 1A2 **PUBLIC HEARING - MASS COMMUNITY BLOCK GRANT FY ’08 COMMUNITY DEVELOPMENT FUND** – Housing Rehabilitation Program

Grant Administrator Michelle Jarusiewicz gave a brief overview of this program. No comments from the Public.

Open discussion ensued.

***MOTION: Move that the Board of Selectmen vote to authorize the execution of the joint authorization form for participation in a regional Massachusetts Community Development Block Grant ‘s Community Development Fund Application with the Town of Wellfleet for a grant of approximately \$720,000 for a Housing Rehabilitation program through the Massachusetts Department of Housing & Community Development.***

**Motion by: Michele Couture                      Seconded by: Austin Knight                      Yea 4    Nay 0**

#### 1B **OUTER CAPE HEALTH SERVICES**

Update by Chief Executive Officer Henry Tuttle

Mr. Tuttle gave an overview of Outer Cape Health Services, their values, vision and how they plan to get there. New plans to expand along with dental surgical care clinic, expansion of offices and medical exam rooms, a new health care facility in Wellfleet. (See attachment #1)

Open discussion ensued. No motions made.

#### 2. **PUBLIC STATEMENTS**

Ginny Binder - Invitation to 10<sup>th</sup> Anniversary of the largest fire in Provincetown at Whalers Wharf – will be held at the Crown and Anchor on Saturday, February 9, 2008 from 5 -8 PM. A short film will be shown.

Rick Murray – Here tonight to ask that the Board of Selectmen and the Town Manager discuss at some point the discrepancy with regards to the Water Enterprise Funds and how the share of municipally owned buildings is being allocated. I.E., The costs of such are borne just by the sewer users and not the general fund.

Rachel White – First, I would like to thank Marcene and Clarence because I see on their blog they recognize that I did not get the adequate answers that I was looking for the last time. So, here I am again to make some corrections and statements. Mary-Jo last week mentioned something about a deal being made. What kind of a deal? What funding source are you planning for a half position to be increased to a full position? We'd all like those answers. To Michele – and last week you did say the Town upgrades from within, like they did the Permit Coordinator. I got that message and it meant Maxine, but the system should be promoting from within. They've done it before, they'll do it again. And you should do that with the Police Chief right now. The Permit Coordinator was established at Town Meeting at least since 1997, and I have a whole documentation which I am going to present to Michele Couture. You can pass it around. I researched it in all of the Town Reports.

I question the validity of the Town Manager reorganizing of personnel in the Town Clerk's office and how the assistant town clerk's position is going to be funded.

Vaughn Cabral – Regarding the Chief of Police opening – I believe that you promote within.

### 3. **SELECTMEN STATEMENTS**

#### **Austin Knight**

Regarding Dr. Murray's questions on the Sewer Enterprise Fund, there is going to have to be a meeting on this. This will be discussed at tomorrow night's budget meeting. I do believe the Town is responsible for its use.

Addressing Mrs. White concerns about the assistant town clerk's position process from half time to full time; the Town Manager explained that a few weeks ago.

I understand the hire within for the Chief of Police – there is mixed feelings within the community that goes both ways. The process is open, and the current Acting Chief of Police is able to apply for the position. The process, at this point, has been chosen and it is going forward. That 's all I need to say.

#### **Michele Couture**

I had a conversation with Dr. Murray regarding his concerns earlier this afternoon. I've always supported the idea of the users paying for the sewer. The question as to why the general fund has not been paying for town building from the beginning I can't answer at this time. When phase I was initially proposed, I thought it was going to accommodate sewer users, and that town buildings were a cost that was going to be borne by all of the townspeople. Since they were the users of the systems, I expected that it was incorporated in it.

In terms of rebates, I am not prepared to answer that question this evening. I appreciate the comments and will look into it, and Dr. Murray you'll be notified by Town Staff whether we're going to have an agenda item on it or what the answer is. So, thank you for bringing that to our attention.

Mrs. White – I think it is within the purvue of the Town Manager to assign staff as she deems necessary. It was an appropriate hire, and I think we will have to disagree on your interpretation of the propriety of that and I certainly supported the full time position of the assistant town clerk. It certainly is a position that the Town Manager sought fit to fill and that the Town Clerk felt was more than necessary, and was within the purvue of the Town Manager to have done so.

There was a report from DPW Director a couple of weeks ago Re: Meeting with DEP on February 12, 2008 on EDC Permits. We need to be on a parallel track with what is going to be happening with the results from

DEP, and hopefully it is going to free up a few more gallons. We need to let business owners know that have a vested interest in expanding their businesses. By our next meeting on February 11<sup>th</sup> we should have a process in place to accommodate those people that want to apply for an Economic Development Permit that will run concurrent with whatever you are getting from DEP. I discussed that with the Town Manager, and I just wanted to let the rest of the Board know that we had that discussion. We already have one application, and I know of two others that also want to expand their business. They are just waiting for the process to move on the stage that will allow them to have permits in hand, and say what their gallons are going to be.

Sharon Lynn – The meeting with DEP is Tuesday, February 12<sup>th</sup>. At that point, those properties that can and have requested to expand will be identified. On February 13<sup>th</sup> that process can begin. The application process, which is being worked on by the Acting Building Commissioner, is being fine tuned, and that will be in place by February 13<sup>th</sup> for those folks to start making applications if they haven't already done so. We do have a file of those requests, and I assume we will receive more request of the same.

Michele Couture - My suggestion would be that if that on our meeting of the 11<sup>th</sup>, because it is the Board of Selectmen that grants the permits, that we could have some information about if there is criteria that needs to be run by the Selectmen, that we get it then. I would recommend that we even have a special meeting, perhaps the following week just to tighten things up, and if we are going to grant permits to those folks that we do it at a special meeting. (Thursday – Feb. 14<sup>th</sup> @ 5 PM)

The criteria – we can have Staff downstairs working on. That's the part that we need to see on the 11<sup>th</sup> and hash that out, and then when we meet on the 14<sup>th</sup> it will be a matter of saying OK – these are the gallons, this is what DEP said, and hopefully all of the other stuff will be done, We can say then we have this many gallons, we have these folks as applicants - how do we choose to assign the gallons? And that is really all I want to do on the 14<sup>th</sup>.

Email from citizen who was not really happy that they went on line and was looking for the minutes for the Economic Development Council, and there were only two meetings posted in the last six months. I was wondering Madam Chair, if you could have a chat with the Chair to see what the deal is. Answer: He is in Florida right now. Well then the Vice-Chair.

### Lynne Davies

Regarding Dr. Murray's statement: It is regrettable that everything happened did happen. But it is done. So now we have to figure out how we are going to correct it. I would hope that if we have a 2 ½ override. that if there is any way that we can have a line by line vote for each item. It would be easier on the population to pick and choose what they feel is important amongst those expenditures that we need above and beyond the budget. I do like the idea of a credit going forward if that is how it turns out to be as far as some kind of a rebate. So we'll just see what happens.

Along with that is monies that are going to be needed to cover the cost of the hook-up for Seashore Point. I don't think this totally should be borne by the sewer owners. I think it should be borne by the townspeople. I would like to see what would happen if we pushed a little to Seashore Point and say: "can you pick up a portion of this, we've given you land, we've given you just about everything to come on board and we're still picking up some of the cost of your employees."

Open discussion ensued. Michele Couture explained the deal that was made between the Town of Provincetown and Seashore Point, and that in no way should they be asked to bear any of the cost.

Lynne Davies – I am aware of the deal even though I was not on the Board, I did keep apprised of the goings on. All I am saying is that the townspeople were told that we had this Agricultural Grant that was sure to come through, and would cover the cost and nothing was done to put money aside or to find a way to pay for this if the grant did not come through. So, I'm looking for some imaginative ways to help mitigate the impact to our townspeople; whether it be find another grant or go to Seashore Point to see if we can do a split due to the fact that this is an unexpected situation. But in either case, I don't think the total remaining amount that is owed should be borne strictly by the folks on the sewer system.

Business Summit – schedule for March 18<sup>th</sup>. Have the committees been meeting on this? Sharon Lynn: Because of the holidays and vacations it will be taken up at the February meetings.

I brought this up at the last Board of Selectmen meeting, and I'm going to ask again. What is the understanding of what our housing needs are? Things have changes a lot in the two years since the last assessment was made. Housing Counsel is looking for these numbers as well. We need to know exactly what we need so we can better manage our housing.

***MOTION: Move that the Board of Selectmen vote to instruct the Housing Counsel to move forward in trying to pull this information together.***

**Motion by: Michele Couture      Seconded by: Mary-Jo Avellar**

***- Motion withdrawn -***

**Mary-Jo Avellar**

Plea to anyone out there interested in becoming a member of our Planning Board. We sure could use some people, otherwise the Board of Selectmen will end up being your Planning Board.

I have to say that I couldn't agree more with Dr. Murray. I think that people should understand that the override that failed in November was only going to address a small portion of that portion of the betterment that we were going to ask taxpayers to assume. Right now 100% of the cost of town owned buildings that are on the sewer are only paid by people who are on the sewer. So, if you are not on the sewer, and you pay taxes in Provincetown, you're not contributing at all to this building on the sewer, the Library, or any other town owned building that is on the sewer. I couldn't agree with you more that a rebate or credit is due over the past five years to anybody who has been - I think it's an unjust taxation quite frankly. It's a fee, it's a tax, it's an unfair tax. I feel, as one person who is on the sewer, I'm being taxed for something without any choice in the matter whatsoever, and I think that is unjust. I don't know why there hasn't been a class action suit. But I think something has to be done, and I don't think the budget for the DPW is going to address five years of unjust fees and taxes being charge for people who had no choice in the matter. But I could not agree with you more.

The question raised, once again by Mrs. White, when I said there was a deal made, I didn't mean there was a deal in the shady sense of the word. The reason I agreed to that was that there was not going to be a replacement. A position was being eliminated. That was the only reason I agreed for the assistant clerk's position to become full time is because we're eliminating a half a position and that is what I am hoping what we're going to do. I have to say that I can't control what people say or write, but the notion that something improper was done has been left out there. Nothing improper was done. It was perfectly legal, and personally I stand by my decision as far as it went. But it was not improper, not sneaked or underhanded. There was nothing improper about it. I hope that is the last we are going to hear about it.

I agree with Ms. Davies concerning Seashore Point – she's correct. It's not fair. There is no mechanism right now to address that inequity. I totally agree that we need to schedule a meeting about this. We need to figure out how we are going to deal with this. I don't know if the Water and Sewer Board should be part of this? I really think there is a miscarriage of just and it has been going on for about five year now, I really thank Dr. Murray for stepping up to the plate and saying what really needs to be said, and that is that people need to either get a rebate or a credit. I would like to get this scheduled - for February 25<sup>th</sup>.

Sharon Lynn – If I might just clarify the email you received today. Mr. Bedard does feel better about the situation. Unfortunately, it was an oversight, and steps have been taken to clarify it in the future.

**4A      APPOINTMENT**

None at this time.

**5A      JOHN ANDERSON FRANCIS FAMILY SCHOLARSHIP**

This agenda item was requested by Phil Gaudiano and he explained the purpose of his request.

Open discussion ensued.

Board decided to have a Public Hearing on February 25, 2008. No motions made.

**5B FLOAT OWNERS ASSOCIATION – Candace Nagle**

Ms. Nagle was represented by her attorney Mr. Edward Patten of Dennis, MA who introduced members of the Float space owners in the audience: Vaughn Cabral 2W, Bob Burns 9W, Jeff Johnson 7W, Sandy Silva 1E, Steve Milliken 5W, John Salvador 1W and Candace Nagle 8W.

Submitted a petition signed by Taxpayers. (See Attachment #2).

Float Owners Comments

Sandy Silva Float Space 1E – After they doubled the rent, I had to scramble to find a tenant. I entered in the hole for 3 years. Finally this year I came up with a deal with the Pier Corp for half the rent. I have people knocking at my door who would love to rent the space for recreational use.

Jeff Johnson – 7W – My fee used to be \$500, and now it is going to be over \$8500. It takes a long time to get things to happen at the Pier. Things work in their favor and nothing in my favor. When is the price increase going to stop? I would like to see some support from the Board.

Vaughn Cabral - I'm torn between this. Those are our spaces. They are Chapter 91 license. We should be able to do what we want with them. It is not up to us to maintain the whole Pier by ourselves.

Candace Nagle – Several float owners who have not maximized their float spaces.

Steve Melican – 5W - There is a necessity for this. There use to be 4 Whale Watch companies, and now there are only 2. I feel the Courtesy Float Extension is a danger.

**Board of Selectmen Comments**

Lynne Davies

Thank you for your information and I think we need to listen to Pier Corp and Town Counsel and get their opinions on this.

Austin Knight

Why was the lawsuit withdrawn? Answer – Because the court found in their favor.

Michele Couture

I've spoken with Ms. Nagle this morning on this, and I've spoken with the Harbormaster as well.

I think possibly a modification of the license. I don't think that it is the intent of the Pier Corp to put the fishermen out of business.

I try to look at the situation – can there be a compromise? Up to 50% for Recreational and 50% Commercial -- that is going to be my recommendation. They don't have to take our recommendation but that is up to them.

**5C FIREWORKS FUNDRAISING COMMITTEE – Marcene Marcoux**

Open discussion ensued.

Keith ? (Beacon Light Guest House) – would like to secure Corporate Sponsorships for this years fireworks.

Michele Couture – Does not like the idea of Corporate Sponsorship.

The Task Force raised \$32.860 last year.

***MOTION: Move that the Board of Selectmen vote to give a letter of support to the Fourth of July Task***



goals for creating of affordable rental housing and reuse of existing structures; 2) proposed by an organization (Community Housing Resource) that has a good track record with the town; and, 3) recommend issuance of the Project Eligibility Letter so that the 40B Comprehensive Permit process can proceed to the Zoning Board of Appeals.

**Motion by:** Michele Couture      **Seconded by:** Lynne Davies      **Yea 4 Nay 0**

**5I      USE OF FREEMAN STREET BUILDING**

Sharon Lynn – Spoke with Herb Taylor and they expect to be out by the end of April, 2008.

Open discussion ensued.

Mary-Jo Avellar left the room as she works for the Provincetown Realty Group

**5J      SANDY HILL LANE – Grant Administrator Michelle Jarusiewicz  
Amendments and Deed Restrictions**

**MOTION:** *Move that the Board of Selectmen vote to approve (1) a Regulatory Agreement which redesignates “Exhibit D” as “Exhibit E” and adds a “Town of Provincetown Affordable Housing Restriction (Ownership)” document as Exhibit D, for the housing development known as Sandy Hill Lane and (2) to approve the affordable housing restrictions for moderate income ownership for 6 Sandy Hill Lane units #5, #6, #7 and #8 and approve the affordable housing restrictions for median income ownership for 6 Sandy Hill Lane units #9, #11, and #12.*

**Motion by:** Michele Couture      **Seconded by:** Lynne Davies      **Yea 3 Nay 0**

**6A      PAMET LENS OVERSIGHT GROUP – UPDATE**

Open Discussion.

Next meeting will be in Provincetown @ Town Hall on January 17, 2008.

**6B      APRIL 7, 2008 ANNUAL & SPECIAL TOWN MEETINGS**

Set Dates for Opening and Closing of Warrants

**MOTION:** *Move that the Board of Selectmen vote to open the Wednesday, April 7, 2008 Annual and Special Town Meeting warrants February 29, 2008 and to close them on Monday, March 7, 2008 at 5:00 p.m., in accordance with Charter §2-1-7.*

**Motion by:** Michele Couture      **Seconded by:** Austin Knight      **Yea 4 Nay 0**

**6C      TOWN MANAGER FOLLOW-UP/OTHER**

Flex bus.

**7.      MINUTES OF BOARD OF SELECTMEN’S MEETINGS**

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of January 14, 2008 as printed.*

**Motion by:** Michele Couture      **Seconded by:** Austin Knight      **Yea 4 Nay 0**

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of January 22 2008 (Budget Mtg.) as printed.*

**Motion by:** Michele Couture      **Seconded by:** Austin Knight      **Yea 4 Nay 0**

**MOTION:** *Move that the Board of Selectmen vote to approve the minutes of January 23, 2008 (Budget Mtg.) as printed.*

**Motion by:** Michele Couture      **Seconded by:** Austin Knight      **Yea 4 Nay 0**

**8.      CLOSING STATEMENTS**

**Lynne Davies** – None

**Austin Knight** - None

**Mary-Jo Avellar** - None     **Michele Couture** –

Motion to adjourn by Michele Couture at 10:31 PM.

Minutes transcribed by: Vernon G. Porter, Secretary to Board of Selectmen  
January 29, 2008