

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING - MONDAY, OCTOBER 14, 2008

### JUDGE WELSH HEARING ROOM

Chairman Michele Couture convened the meeting at 6:00 PM noting the following Board of Selectmen attending: Michele Couture, Elaine Anderson, Mary-Jo Avellar, Austin Knight, David Bedard

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

Recorder: Vernon G. Porter

The following are meeting minutes, in brief:

#### **1A PUBLIC HEARING – NSTAR – 3 NICKERSON ST. & 82 COMMERCIAL ST.**

Chairman Couture read the public notice. No written comments were received from the public.

Opened up to public comments. None were received.

Open discussion ensued.

*Move that the Board of Selectmen vote pursuant to MGL C. 166 §22 to:*

*A) Approve the request of NSTAR to install cable and conduit from Pole 6/1 under the roadway to provide underground service for 3 Nickerson Street and 82 Commercial Street, Provincetown, MA.*

*B ) And to request that NSTAR provide an as-built plan to the property owner showing actual location and depth after installation; and further that such plans to be recorded at Town Hall.*

*C) And that the property owner and/or his agent notify in writing or in person the following: The Abutters, Police Department, Fire Department, and Department of Public Works the start date of construction and date of completion.*

**Motion by: Elaine Anderson    Seconded by: Austin Knight    Yea 5    Nay 0**

#### **1B OUTER CAPE HEALTH EXPANSION**

Mr. David Hale, Chief Financial & Operating Office from Outer Cape Health Services, Inc. gave a brief overview and reasoning for the new building addition and dental services for the Outer Cape Health Services on Harry Kemp Way here in Provincetown. Also in attendance the new Dental Director Dr. John Graves, and Medical Director of Infectious Diseases at Outer Cape Health, Mr. Steve Lacy.

Open discussion ensued. Announce that a new Infection Control Doctor will be coming on board in January 2009. In the future Outer Cape will be looking for additional gallons (700) and parking. The Board of Selectmen offered their help any way possible.

#### **1C CAPE COD REGIONAL TRANSIT AUTHORITY**

Presenters: DPW Deputy Directory Sandy Turner and Cape Cod Regional Transit Authority Director Joe Potzka.

**MOTION:** *Move that the Board of Selectmen vote to approve the construction of a transit enhancement shelter system for Flex Bus passengers, provided by a National Park Service Grant, to be located at the Ryder Street Extension Terminal to serve the needs of the customers of this service.*

**Motion by: Austin Knight    Seconded by: Elaine Anderson    Yea 5    Nay 0**

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

Taylor Politics - Presented his views on the upcoming Warrant Article that would change Community Preservation Act funds.

Barbara Rushmore – Spoke on her article of a 1% Real Estate Tax Fee. Transfer \$1.8 M on CPA funds for restoring Town Hall. Have signatures of over 120 people. Grant Money for Shankpainter Pond under the Land Bank has already been spent. ..Leaving \$496K .. Suggest that the Board of Selectmen release these fund towards the rehab of town hall. Have the letters been sent out to Delahunt, etc. regarding Route 6.

Astrid Berg – 10% Open Space and 10% Historic Reservation and 80% Housing. Suggest that the Board of Selectmen request 10%,10%, and 80% for Historic Preservation. Question: How much money has been distributed to the three segments. How much is left for each segment. Would like to see the monies that are remaining in the Land Bank go to the restoration of town hall.

Rick Murray – Read statement into record (See attachment #1)

Mrs. Rachel White - Feels that Town Hall should be done all at once. What is 371 to headquarters?

Michael Rogovsky - I second everything that Astrid Berg said. I called the Dept. of Education, and they said the Town could move to the School. If town has less than 50 families with children in the school they can regionalize.

### 3. **SELECTMEN STATEMENTS**

#### **Mary-Jo Avellar**

There is a misconception that the \$1.7M that is set aside for community housing is not encumbered funds. What we have is \$91,461.21 available until fiscal year 2010.

Cable problems – would like to invite a member of Comcast to a future meeting.

When will the Water Rate reduction take effect?

Has the letter been sent to Delahunt? Answer Yes, we got a response from him in our mailboxes today.

***MOTION: Move that the Board of Selectmen vote to contact Representative Delahunt's office to come to a Board of Selectmen's meeting to discuss the CCNS Route 6 Project; and that his response to our letter on Route 6 is not acceptable.***

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5    Nay 0**

***MOTION: Move that the Board of Selectmen to vote sent a letter to Representative Delahunt's Office regarding the appointment of a Chairman for the Dune Shack Sub-Committee.***

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5    Nay 0**

#### **David Bedard**

To Dr. Murray – the Water & Sewer Board will be holding their Public Hearing on the water rate next week.

The Shank Painter Pond (\$406K) can be used for any capital project that you could borrow money for ... like the town hall project.

My reasoning for changing the CPA funds is that I feel the CPC does not need to be using these funds for more housing at this time and that it should be used for repairing town hall.

Congratulations to the Cape Cod National Seashore for fixing the bike trails. Sandy Turner advised that maintenance of the playgrounds is done during the summer, and there is not staff for them in the winter.

Thanks to the Town Manager and Alix for DOR reports.

#### **Elaine Anderson**

I hear that there is three or four CPA Articles being generated around. I plea that you all get together and discuss your opinions and come up with just one article to save a lot of confusion on the floor.

***MOTION: Move that the Board of Selectmen vote to send a letter to Brian Carlson and Michele Couture for their organization of the Community Forum - Home Heating Resources held on Monday, October 6<sup>th</sup> at the Provincetown Veterans Elementary School..***

**Motion by: Elaine Anderson      Seconded by: David Bedard      Yea 5    Nay 0**

Went to the PTV open house. It was terrific, and I was glad to hear the plans for the future programs.

**Austin Knight**

To Mr. Rogovsky – there was a group of us that went to the School, and we were told that the surplus space was not available. The Town Manager did look into the potential use of school property. And through their attorney we went through the process.

We have to have a public hearing to discuss the article in a timely manner.

Town water is drinkable.

***MOTION: Move that the Board of Selectmen vote to schedule a public meeting on the Warrant Articles for 4 PM on Monday, November 3, 2008. Location to be announced.***

**Motion by: Austin Knight      Seconded by: Elaine Anderson      Yea 5    Nay 0**

**Michele Couture**

Silver Star Association – Can we look into the organization to determine what they are about before we accept their proclamation?

Read a letter addressed to Dana Faris & Sewer Team from Gary Delius now apologizing and setting the record straight concerning their property at Snows Lane / Race Road.

To Mr. Rogovsky – to follow-up on what Mr. Knight had said; There was a complete detailed analysis done regarding the school and town hall. Also want to verify that your cost for the trailers is approximate.

**4.    APPOINTMENTS**

None at this time.

**5A    POLICE TRAINING – UPDATE**

Open discussion ensued. Police to draft letter to District Attorney regarding police overtime due to Court procedures.

**5B    RECREATION DEPARTMENT – UPDATE**

David Bedard recused himself as he is owner of the Provincetown Gym.

Recreation Commission Attendees: Chair Treg Kaeselau and Cass Benson.

Recreation Director Brandon Motta gave a brief update on the past and current progress of the Recreation happenings and his department's outlook for the future.

**5C    PARADE PERMIT REQUEST**

Annual Halloween Parade – Friday, October 31, 2008.

***MOTION: Move that the Board of Selectmen vote to approve the Parade Application Permit submitted by Recreation Director Brandon Motta on behalf of the Town of Provincetown to hold the Recreation Department's "Annual Halloween Parade" on Friday, October 31, 2008 from 3:30 PM to 4:30 PM.***

**Motion by: Mary-Jo Avellar      Seconded by: Elaine Anderson  
Yea 4    Nay 0    Abstain 1 (David Bedard)**

**5D1    TREASURER'S TRANSFER**

Beautification Committee Gift Fund

**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 \$194.00 from the Beautification Committee Fund to pay for the attached invoice(s).*

**Motion by:** Mary-Jo Avellar      **Seconded by:** Austin Knight      Yea 5    Nay 0

**5D2**    **TREASURER’S TRANSFER**

Library Building Gift Fund – Landscaping

**MOTION:** *Move that the Board of Selectmen vote, as Commissioners of the Library Building Gift Funds, pursuant to MGL C44 § 53A, to approve the use of \$1,200.00 from the Library Building & Gift Fund - Landscaping to pay for the attached invoice(s).*

**Motion by:** Elaine Anderson      **Seconded by:** Mary-Jo Avellar      Yea 5    Nay 0

**5E**    **CONSERVATION COMMISSION**

Rename Curtis Property

**MOTION:** *Move that the Board of Selectmen vote to rename the Curtis Property located at 290 F Bradford Street to Fox Run Conservation.*

**Motion by:** David Bedard      **Seconded by:** Austin Knight      Yea 5    Nay 0

**5F**    **REPEAL OF STATE INCOME TAX INITIATIVE**

Open discussion ensued. No motions made.

**5G**    **ECONOMIC DEVELOPMENT PERMITS**

244 Commercial St., - Application for Growth Management Category 5 Allocation

**MOTION:** *Move that the Board of Selectmen vote to approve the Economic Development Permit gallons for Jonathan Williams Salon Inc. as submitted; and further that the 68 gallons be use for business use only.*

**Motion by:** Austin Knight      **Seconded by:** Mary-Jo Avellar      Yea 5    Nay 0

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

**MOTION:** *Move that the Board of Selectmen vote to approve the Watershed Management Plan.*

**Motion by:** Austin Knight      **Seconded by:** Michele Couture      Yea 5    Nay 0

**6B**    **INSERT TOWN MEETING WARRANT ARTICLES**

November 17, 2008 Special Town Meeting

**MOTION:** *Move that the Board of Selectmen vote to insert the following article on the warrant for the November 17, 2008 Special Town Meeting at the opening of the Warrant on Thursday, October 16, 2008 at 8 AM.*

**Article 1. General By-law Amendment: Community Preservation Committee By-law.** *To see if the Town will vote to amend the Provincetown General By-laws by amending §5-14-2-4 to delete the words, “not less than 80%” and insert in place thereof the words, “not less than 10%”, or to take any other action relative thereto, so that the section will read as follows:*

*In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use), not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing, or to take any other action relative thereto.*

**Motion by:** David Bedard      **Seconded by:** Elaine Anderson  
Yea 4    Nay 1 (Elaine Anderson)

**Article 2. Accept Town Collector Local Option Statute. To see if the Town will vote, pursuant to M.G.L. ch.41, §38A, to authorize the Tax Collector to collect, under the name of the Town and under the title of the Town Collector, all accounts due to the Town, or to take any other action relative thereto.**

**Motion by: Mary-Jo Avellar      Seconded by: Elaine Anderson      Yea 5   Nay 0**

**Article 3. Collection Costs Imposed on Delinquent Local Taxpayers. To see if the Town will vote, pursuant to M.G.L. ch. 60, § 15, as amended, for each written demand issued by the Town Collector a fee of \$15.00 to be added to and collected as part of the tax, or to take any other action relative thereto.**

**Motion by: Austin Knight      Seconded by: Elaine Anderson      Yea 5   Nay 0**

**Article 4. Purchase of Front End Loader. To see if the Town will vote to raise      and appropriate or transfer from available funds the sum, more or less, of \$138,848.00 for the purchase of a John Deere 544J loader to be used by the Department of Public Works, or to take any other action relative thereto.**

**Motion by: Austin Knight      Seconded by: Mary-Jo Avellar      Yea 5   Nay 0**

**Article 5. Town Hall Renovations. To see if the Town will vote to appropriate and borrow a sum of \$2,000,000.00, more or less, for Phase I construction costs to repair the structural integrity of the Town Hall, including structural repair of the roof and comprehensive exterior damage at Town Hall, and including all costs incidental and related thereto, with said borrowing authority contingent upon approval by the voters of a Proposition 2 ½ debt exclusion ballot question, in accordance with the provisions of M.G.L. ch.59, §21C (m); and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum pursuant to M.G.L. ch. 44, §7(3A), or any other enabling authority, and to issue bonds or notes of the Town therefore; or to take any other action relative thereto.**

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5   Nay 0**

**Article 6. Town Hall Renovations. To see if the Town will vote to appropriate and borrow a sum of \$500,000.00, more or less, for Phase II design costs for the comprehensive restoration and renovation of Town Hall, which phase includes the interior and mechanical systems at Town Hall, including costs of architectural design development and preparation of construction documents and including all costs incidental and related thereto, with said borrowing authority contingent upon the voters approval of a Proposition 2 ½ debt exclusion ballot question, in accordance with the provisions of M.G.L. ch. 59, §21C(m); and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under any pursuant to M.G.L. ch. 44, §7(3A), or any other enabling authority, and to issue bonds or notes of the Town therefore; or to take any other action relative thereto.**

**Motion by: Elaine Anderson      Seconded by: David Bedard      Yea 5   Nay 0**

**Article 7. Relocate and Alteration of Layouts of Alden St., Cemetery Road, and Standish St. To see if the Town will vote to accept the altered and relocated layouts as public ways of Alden Street, Cemetery Road, and Standish Street to include within the layouts of Cemetery Road and Standish Street the parcel of land located at the intersection of Cemetery Road and Standish Street and shown as “Alteration A=113 Sq.Ft.± To Become a Portion of Cemetery Road” on a plan of land entitled “Plan of Land in Provincetown Showing Alterations to the Layouts of Cemetery Road, Standish Street and Alden Road,” dated June 30, 2008, prepared by Slade Associates, Inc., and on file with the Town Clerk, and to exclude from the layouts of Alden Street and Cemetery Road the parcel of land located at the intersection of Alden Street and Cemetery Road and shown as “Area to be Abandoned” on the aforesaid plan; and to authorize the Board of Selectmen to acquire on behalf of the Town, by gift or eminent domain, easements to use the land within said ways as so relocated and altered, and in particular an easement to use the parcel of land shown as “Alteration A=113 Sq. Ft.± To Become a Portion of Cemetery Road” on the aforesaid plan for all purposes for which public ways are used in the Town of Provincetown; and further to authorize the Board of Selectmen to convey all of the Town’s right, title and interest in the parcel of land shown on the aforesaid plan as “Area to be Abandoned” on such terms and conditions, and for such consideration, which may be nominal consideration, as the Selectmen deem appropriate; or take any other action relative thereto.**

**Motion by: Austin Knight      Seconded by: Mary-Jo Avellar      Yea 5   Nay 0**

**Article 8. Town Acceptance of Mortgage at Private Property Location. To see if the Town will vote to authorize the Board of Selectmen to accept on behalf of the Town a mortgage upon property located at 467**

*Commercial Street, Provincetown, Massachusetts, which the Selectmen may amend and subordinate from time to time, and to enforce said mortgage, including the statutory power of sale there under, to secure the payment to the Town of an amount of money due to the Town and the performance of other obligations of M. L. Bryant, LLC, and Eugene A. Bryant (separately or together "Bryant") under a certain agreement between the Town and Bryant dated November 14, 2007, and of the obligations of Bryant under any promissory note or notes given to the Town pursuant to said agreement to evidence said monetary obligation, and to authorize the Treasurer of the Town to accept and hold said note or notes until paid in full, or take any action relative thereto.*

**Motion by: David Bedard      Seconded by: Elaine Anderson      Yea 5   Nay 0**

**Article 9. *Acceptance of M.G.L. ch.90, §20A ½ -Schedule of Fines for Parking Violations***  
*To see if the Town will vote to rescind its acceptance of M.G.L. ch.90, §20A and to accept M.G.L. ch.90, §20A1/2, effective January 1, 2009, which authorizes the Board of Selectmen to establish by regulation a schedule of fines for parking violations, or take any action relative thereto.*

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5   Nay 0**

**Article 10. *Use of Free Cash to Fund FY2009 Budget***  
*To see if the Town will vote to transfer from free cash the sum or sums to fund the operating budget of the Town for the fiscal year beginning July first, two thousand and eight, or take any other action relative thereto.*

**Motion by: Mary-Jo Avellar      Seconded by: Elaine Anderson      Yea 5   Nay 0**

**Article 11. *Use of Free Cash for Capital Projects.***  
*To see if the Town will vote to transfer from free cash the sum or sums to the various capital projects as listed below, or any other capital project, or to take any other action relative thereto.*

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5   Nay 0**

**Article 12. *Use of Free Cash for Special Revenue Funds.***  
*To see if the Town will vote to transfer from free cash the sum or sums to the various special revenue funds as listed below, or any other special revenue fund or to take any other action relative thereto.*



**Motion by: David Bedard      Seconded by: Mary-Jo Avellar      Yea 5   Nay 0**

**Article 13. *Stabilization Fund.***  
*To see if the Town will vote to transfer from free cash the sum of \$250,000 to the stabilization fund or to take any other action relative thereto.*

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5   Nay 0**

**Article 14. *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.*

**Motion by: Mary-Jo Avellar      Seconded by: Elaine Anderson      Yea 5   Nay 0**

**6C**    **INSERT BALLOT QUESTIONS**  
November 19, 2008 Special Town Election

**MOTION:** *Move that the Board of Selectmen vote to insert the following questions on to the November 19, 2008 Special Town Election.*

*1) Shall the Town of Provincetown be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to repair the structural integrity of the Town Hall, including structural repair of roof and comprehensive exterior damage at Town Hall, and including all costs incidental and related thereto?*

*2) Shall the Town of Provincetown be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund Phase II design costs for the comprehensive restoration and renovation of Town Hall, which phase includes the interior and mechanical systems at Town Hall, including costs of architectural design development and preparation of construction documents?*

**Motion by:** Mary-Jo Avellar                      **Seconded by:** Elaine Anderson                      Yea 5    Nay 0

**6D**    **CAPE COD MUNICIPAL HEALTH GROUP**  
Change of Alternate Representative

**MOTION:** *Move that the Board of Selectmen vote to appoint Employee Benefits Administrator Pam Hudson to the position of Alternate Member of the Cape Cod Municipal Health Group.*

**Motion by:** Mary-Jo Avellar                      **Seconded by:** Austin Knight                      Yea 5    Nay 0

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

Three weeks away from move to trailers. Inmates are working at the library and we are feeding them. Thanks to Paul Fanizzi of Fanizzi's Restaurant for donating Dinner for the workers tonight.

**6E1**    **ALTERATION OF LAYOUTS FOR ALDEN, CEMETERY & STANDISH  
ORDER OF RELOCATION**

**MOTION:** *Move that the BOARD OF SELECTMEN of the TOWN OF PROVINCETOWN, acting pursuant to G.L. c.82, §§21-24, having deemed that common convenience and necessity require the relocation and alteration of the layouts as public ways of Alden Street, Cemetery Road, and Standish Street, hereby relocate and alters the layouts of Alden Street, Cemetery Road, and Standish Street as public ways as shown on the plan referenced below, and the boundaries of Cemetery Road and Standish Street as public ways are hereby relocated and altered to include within the layout of said roadways the parcel of land located at the intersection of Cemetery Road and Standish Street and shown as "Alteration A=113 Sq.Ft.+ To Become a Portion of Cemetery Road" on a plan of land entitled "Plan of Land in Provincetown Showing Alterations to the Layouts of Cemetery Road, Standish Street and Alden Road," dated June 30, 2008, prepared by Slad Associates, Inc., and the boundaries of Alden Street and Cemetery Road as public ways are hereby relocated and altered to exclude from the layout of said roadways the parcel of land located at the intersection of Alden Street and Cemetery Road, and shown as "Area to be Abandoned" on the aforesaid plan.*

**Motion by:** Mary-Jo Avellar                      **Seconded by:** David Bedard                      Yea 5    Nay 0

**6E2**    **TREASURER'S TRANSFER**  
John Anderson Francis Scholarship Fund

**MOTION:** *Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$21,250.00 from the John Anderson Francis Scholarship Fund for the payment of scholarship(s).*

**Motion by:** Mary-Jo Avellar                      **Seconded by:** David Bedard                      Yea 5    Nay 0

**6E3** **TREASURER'S TRANSFER**

Captain Joseph F. Oliver Scholarship Fund

***MOTION: Move that the Board of Selectmen vote, as Commissioners of the Scholarship Funds, to approve the transfer of \$18,000.00 from the Captain Joseph F. Oliver Scholarship Fund for the payment of scholarship(s).***

**Motion by: Mary-Jo Avellar      Seconded by: Austin Knight      Yea 5 Nay 0**

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

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

**Motion by: David Bedard      Seconded by: Elaine Anderson      Yea 4 Nay 0**

***MOTION: Move that the Board of Selectmen vote to approve the minutes of October 1, 2008 (Regular Mtg.) as printed.***

**Motion by: David Bedard      Seconded by: Elaine Anderson      Yea 4 Nay 0**

**8.** **CLOSING STATEMENTS**

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

**David Bedard.**

***MOTION: Move that the Board of Selectmen vote to send a thank you to Paul Fanizzi for his donation of dinner for the Crew at the Library.***

**Motion by: David Bedard      Seconded by: Mary-Jo Avellar      Yea 4 Nay 0**

I have been attending PPPC meetings and find that they have been doing quite a good job.

**Austin Knight**

Letter from gallery owners. (David Gardner– I've talked with Darlene and she has addressed the issue.)

**9.** **EXECUTIVE SESSION**

***MOTION: Move that the Board of Selectmen vote, pursuant to MGL C. 39, §23B, clause 3 to go into executive session for the purpose of discussing non-union; and not to convene in open session thereafter. [Roll Call Vote]***

***Mary-Jo Avellar – Yes***

***Austin Knight – Yes***

***David Bedard – Yes***

***Elaine Anderson – Yes***

***Michele Couture – Yes***

**Motion by: David Bedard      Seconded by: Austin Knight**

**Yea 5 Nay 0 - Motion Passes -**

The Board went into executive session at 9:50 PM

Minutes transcribed by: Vernon G. Porter, Secretary to Board of Selectmen  
October 21, 2008