

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## SPECIAL MEETING - WEDNESDAY, OCTOBER 22, 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: Assistant Town Manager David Gardner, Municipal Finance Director Alix Heilala

Recorder: Vernon G. Porter

The following are meeting minutes, in brief:

1. **TOWN HALL TRANSITION**  
Move to Jerome Smith Parking Lot

This item could not be discussed as it was not advertised for two consecutive weeks. It has been scheduled for Monday, October 27, 2008 at 5 PM.

2. **INSERT TOWN MEETING WARRANT ARTICLES**  
November 17, 2008 Special Town Meeting

**MOTION**: *Move that the Board of Selectmen vote to place article 1,4,5 and 6 of the Warrant after Article 16 thereby changing the order of the article to:*

2 becomes #1; 3 becomes #2, 7 becomes #3, 8 becomes #4, 9 becomes #5  
10 becomes #6; 11 becomes #7, 12 becomes #8, 13 becomes #9, 14 becomes #10  
15 becomes #11; 1 becomes #12, 4 becomes #13, 5 becomes #14, 6 becomes #15  
16, 17 and 18 remain the same.

**Motion by**: Mary-Jo Avellar      **Seconded by**: Austin Knight

Yea 2    Nay 3 (David Bedard/Elaine Anderson/Michele Couture)

- Motion Does Not Pass -

**MOTION**: *Move that the Board of Selectmen vote to accept the ordering of the articles in the warrant for the November 17, 2008 Special Town Meeting as presented by the Town Manager. (See below)*

**Motion by**: David Bedard      **Seconded by**: Elaine Anderson

Yea 3    Nay 2 (Mary-Jo Avellar/Austin Knight)

**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.

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

**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.

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

**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.

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

**Article 4. *Capital Projects Fund Transfer*** To see if the Town will vote to transfer from the appropriation under Article 71 of the 1999 Annual Town Meeting, or any other available fund, the sum of \$492,955, more or less, to fund 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; or to take any other action thereto.

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

**Article 5. *Town Hall Renovations.*** To see if the Town will vote to raise and appropriate, or transfer from available funds, or borrow the 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; or to take any other action relative thereto.

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

**Article 6. *Town Hall Renovations.*** To see if the Town will vote to raise and appropriate, or transfer from available funds, or borrow the 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; or to take any other action relative thereto.

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

**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.

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

**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.

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

**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.

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

**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.

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

**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.



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

**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.



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

**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.

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

**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.

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

**Article 15. 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.

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

**Article 16. 1% Real Estate Transfer Fee – A Home Rule Petition**

**Whereas:** The need for revenue is great. Our Town Hall has been condemned and needs repair, estimated at 6 million dollars or more and Provincetown has reached its debt limit, and has had to vote overrides to pay for our Police, etc.

**Whereas:** Provincetown is a unique community with a Summer population 10 times the year round population requiring us to provide water, garbage disposal, police, ambulance, health and building inspectors, etc. for 40-50,000 people, rather than 4-5,000.

**Whereas:** The vast majority of real estate sales last year were properties owned by non-residents.

**Whereas:** Real Estate Transfer Fees are widely used and common across the Nation.

**Therefore:**

**Section I:** I move 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 Real Estate Sale Transfer Fee equal to 1%, paid for by the seller on the sale of all property and payable to the Town of Provincetown General Fund, providing that:

**A:** All residential property held by the owner(s) who have lived in Provincetown for 20 years or more are exempt from this fee.

**Section II:** The following transfers shall be exempt from the Real Estate Transfer Fee:

**A:** Transfers to the Government of the United States, the Commonwealth, the Town of Provincetown and any of their instrumentalities, agencies or subdivisions, such as the Provincetown Housing Authority.

**B:** Transfers without additional consideration to confirm, correct, modify or supplement a transfer previously made.

**C:** Transfers of convenience with consideration under \$100 which include name change, into trusts, out of trusts, etc.

**D:** Transfers to any charitable organization as defined in clause Third of Section Five of Chapter Fifty-nine of the General Laws, or any religious organization, providing that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purpose.

**E:** Transfers between family members, marriage partners, parents and children, step-parents and step-children, brothers and sisters.

**Section III:** **A:** The fee imposed shall be due at the time of the transfer of the real property interest and shall be paid to the Town of Provincetown General Fund.

**B:** The Seller shall pay interest on any unpaid amount of the fee at the rate of 14% per annum.

**C:** The Town shall notify a Seller by Registered or Certified Mail of any failure to discharge the amount in full the amount of fee due.

**D:** All fees and interest required to be paid under this act shall constitute a personal debt of the Seller and may be recovered in an action of contract.

The General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approves 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 this petition or take any action

relative thereto.

*[Requested by Barbara Rushmore and others]*

**Article 17. Community Preservation Act Money for Town Hall Repairs**

**Whereas:** The Town has need of money to rebuild our historic Town Hall;

**Whereas:** A fee of 3% of our Real Estate Taxes has been given, under the Community Preservation Act (CPA) which allots, by law, 10% to historical preservation, 10% to affordable housing and 10% to open space, and the remaining 70% as the Community Preservation Committee votes with the approval of Town Meeting;

**Whereas:** The uncommitted CPA funds now amount to over 1.8 million dollars;

**Therefore:** I move to see if the Town will vote to change the percent for historical preservation from 10% to 80% and the percent for affordable housing from 80% to 10%, letting open space remain at 10%, and to release CPA funds for the renovation of Town Hall after all indebtedness, such as the affordable housing projects at Seashore Point, Sandy Hill Lane and Shank Painter Road, and any open space projects already voted are paid or put in reserve before the dollars are released for rebuilding our historic Town Hall or take any other action relative thereto.

*[Requested by Barbara Rushmore and others]*

**Article 18. Open Space Purchase** To see if the Town will vote to use the Open Space funds to purchase lot 31 and 30 to make a "greenway" and preserve blueberries for a town garden of wild edible blueberries in perpetuity part of the Provincetown Conservation Trust, or take any other action relative thereto.

*[Requested by Olga Opsahl and others]*

Motion to adjourn by Mary-Jo Avellar at 6:25 PM

Minutes transcribed by: Vernon G. Porter, Secretary to Board of Selectmen  
October 22, 2008