

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING – MARCH 25, 2002

### JUDGE WELSH HEARING ROOM

Betty Steele-Jeffers, Chairman opened the meeting 6:00 PM noting the following attendees: Board of Selectmen members: Betty Steele-Jeffers, Cheryl Andrews, David Atkinson, Michele Couture. Excused Absence: Mary-Jo Avellar

Other attendees: Town Manager Keith Bergman, Assistant Town Manager Mark Latour

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

#### **1A** APRIL 1, 2002 ANNUAL & SPECIAL TOWN MEETINGS

Adoption of Board of Selectmen's Recommendations on Articles

*See Agenda Item 1A attached for full description of each article and recorded vote.*

Keith Bergman and Cheryl Andrews left the room during the voting of STM 1 through STM 6 and returned thereafter for the rest of the meeting.

#### **1B** CAPE END MANOR CARE CAMPUS

Discussion with Roush & Associates re: Non-Profit Board of Directors

Open discussion with the Board of Selectmen and the CEM Board of Directors on how the non-profit's board of directors can be chosen.

Mr. Jon Banton from Roush & Associates emphasized that one of the cornerstones in their proposal was that there be a community based board. The recommendation that Roush would make is that the Selectmen and the existing Board of Directors of the CEM select among the volunteers and initial group of members to participate on the board. It could be a total number of 7 or as few as 3 to constitute a board at this time. However, it is up to you to select as few or as many as you would like. On the advise of counsel, if up to three initial board member were selected (President, Treasurer and Secretary) that would be enough to meet the legal requirements for filing.

**Betty Steele-Jeffers** – Would you not have to pick 4 people to constitute a majority?

**Jon Banton**: I think that it would be fine. Let's look at it that way. It is up to you. The three number was the least number recommended by counsel.

**Bobby Cabral** – I think this is a very rare and an excellent opportunity to finally answer the main question that people are concerned about – who really owns the manor? It is surprising how many people in this town who don't realize they own the manor. We all own the manor – it is our manor. We have an excellent group of professional who will come in here and start us off on the right track on the new manor and manage it for us and finally get us out of debt. I don't understand how anybody with common sense would look at this proposal and be against it.

**David Atkinson** - Would you recommend we advertise for applicants before town meeting?

**Jon Banton** - As a consultant, to proceed pragmatically as opposed to in a rush, I would suggest after town meeting.

**Michele Couture** - I don't think we have to do it before town meeting. I think it would be helpful to have some procedure in place and define what it is we are looking for. I would like to have local people on the board; someone with financial expertise; development expertise; someone with human services to round things out; and maybe a few members of the CEM Board of Directors if they want to make that transition. I would not want to interfere with anyone from the Board of Directors being involved. (Betty and David agree.)

**Marilyn Downey** - I attended the COA meeting today and they very definitely have the opinion that this is town owned land and that the Board of Selectmen should be part of making the selection.

**Betty Steele-Jeffers** - I think it is premature to put the ad in. I would like to put our criteria together and run it by town counsel first.

**Bobby Cabral** - Most people are expecting, and are grateful, that the Board of Selectmen will oversee this project like you do the Airport, Schools, Fire Department and Police Department and everybody else. This is very much a part of our town in much the same way and if you allow a BOD to get in there and help these people to manage it and advise them, I think it will be the best for everybody.

**Betty Steele-Jeffers** – So you are saying; #1 - that the responsibility for appointing the first four beginning group is the responsibility of the Board of Selectmen?

**Bobby Cabral** – Yes. **Jon Banton**: Yes, that is exactly what we had envisioned. Why don't you say no less than 4 and up to 7 to leave the flexibility in case you have a flood of applications.

**Michele Couture** - I think if we can start out with a group of 7 and not limit ourselves to 7, as I was thinking of a group of 9. **Betty Steele-Jeffers** – I was thinking nine as well.

**David Atkinson** - I agree, in case some are absent, etc.

**Jon Banton** – Documents will be rewritten so that the founding group can expand the board and can write true bylaws. They are going to have the responsibility. If you want to start with 9 that is a good number as well.

**Michele Couture** - I was envisioning two people from the CEM Board, one or two human services people, financial expert and a development person.

***MOTION: Move that the Board of Selectmen vote to ask for guidance from Town Counsel in what input, if any, the current CEM Board of Directors should have in the process of selecting candidates to the CEM Care Campus Board of Directors. Further what the criteria should be for the Board of Selectmen in selecting candidates to the CEM Care Campus Board of Directors.***

**Motion by: David Atkinson      Seconded by: Michele Couture      Yea 3    Nay 0**

## **2. PUBLIC STATEMENTS**

**Allan Gallant** – Re: Selections of grants for VSB. Came to respond to an article that I read in the Banner announcing a grant for the Holiday Fest for \$5K to the Big & Loud Theatre Company of Haverhill, MA. Suggest that a mechanism needs to be made to the public before a decision is made by the VSB. I was technical director for the Big & Loud Theatre Company this winter and it was a financial disaster with a report from the producer of a \$10K loss. I agreed to accept a \$200 payment for my services – negotiated down from a fee in excess of \$1000. I called in a lot of favors. The Unitarian Church bill of \$250 (a savings of approximately \$1250) is still unpaid at this time. An Innkeeper in town is owed two weeks worth of lodging; a restaurant is owed a couple of thousand of dollars. I don't mind losing \$200 but when my church loaned all this equipment to put this production forth was stiffed it doesn't speak well of the image left in town - especially when people

confuse names and theatre companies. I don't know where you want it to go from here, but I just needed to speak to you and I think their needs to be some financial accountability on where money is spent by some organization. Also, I hope if the money is awarded to them that it is not used to pay for the bills from last year.

Peter Sousa – Disappointed on the boards vote on exotic animals. Congratulations to everyone at the DPW for all their hard and excellent work in the capping of the Burn Dump. Can't say enough about them.

Noticed that there are 10 citizens appealing the Conservation Commissions decision on the Wetlands at Site Y. I have been looking through the appeal and what strikes my interest is that they claim Site Y is comprised of a wetlands surrounded by vegetated coastal sand dunes and the soil, when tested, is very deep, etc. If we have to go by their standards then every development that is being constructed now or proposed will be build on a coastal dune which comes under very stringent standards.

3. **SELECTMEN'S STATEMENTS**

**Michele Couture**

***MOTION: Move that the Board of Selectmen vote to send a letter to the CCNS advising them that the Board is against their policy of annual Pheasant stocking by the Massachusetts Division of Fish and Wildlife for recreational hunting in the CCNS.***

**Motion by: Michele Couture      Seconded by: David Atkinson  
Yea 2    Nay 1 (Cheryl Andrews) Abstain 1 (Betty Steele-Jeffers)**

Letter from Bill Fitzpatrick dated 3/20/02 re: 5 Conant Street.

***MOTION: Move that the Board of Selectmen ask Staff to bring a report back re: parking space at 5 Conant Street.***

**Motion by: Michele Couture      Seconded by: David Atkinson    Yea 4    Nay 0**

Cape Wind Farms – interested in making a presentation to us on their project to build an offshore wind energy park in Nantucket Sound. Is anyone else interested? Will bring this up again sometime in May.

Habitant for Humanity – should have a report on 5 Fritz Way? It has been over a month that I have been waiting for this report and I have a couple of questions. People are waiting to get started on this. Mark Latour - At the moment we're waiting on them and they are expecting to submit something and to have everything on site without any kind of a variance hopefully within the next week or two.

Cultural Council – talked to Marion Ross – the State wants the Cultural Council to have matching funds from the Town instead of going out and raising funds. I want to make sure that the Cultural Council is included in the VSB expenditure budget.

***MOTION: Move that the Board of Selectmen vote to support the Cultural Council in receiving this grant.***

**Motion by: Michele Couture      Seconded by: - No Second -**

**Cheryl Andrews**

***MOTION: Move that the Board of Selectmen vote to approve the Senior Americorps beach clean up in April with the support of the DPW.***

**Motion by: Cheryl Andrews      Seconded by: Michele Couture    Yea 4    Nay 0**

***MOTION: Move that the Board of Selectmen vote to send a thank you letter to the fire departments and all those involved in the recent fire on Commercial Street.***

**Motion by: Cheryl Andrews      Seconded by: David Atkinson      Yea 4 Nay 0**

Thank you to DPW for lowering Fire Station #2 ... to my level! Reminder that Warren Alexander has the old signs.

***MOTION: Move that the Board of Selectmen vote to ask DRM and the Assessor to check out the sidewalk construction at Gabriel's.- is this her sidewalk and property?***

**Motion by: Cheryl Andrews      Seconded by: Betty Steele-Jeffers  
Yea 3 Nay 1 (David Atkinson)**

**Betty Steele-Jeffers**

Thank you to Peter Sousa for his support of the DPW.

VSB Grants – was very pleased the way they were put together this year.

Question to Pat Fitzpatrick: Can you clarify again – when people literally get money – do they have to submit bills? Answer: Yes. They have to invoice the Grant Coordinator and only after she is satisfied it is a true bill will she then pay them. They do not get a lump sum.

Annual evaluation for Town Manager and Board of Selectmen Secretary will be April 22, 2002. Will try to get information out to you by April 5<sup>th</sup> and you can get it back to me by April 12, 2002. (Cheryl Andrews - need input from board members to do the letter from outgoing board to the incoming board.)

**David Atkinson**

Re: VSB Grants – is there a way that we could publicize the applicants requesting grants in the paper before they are voted on by the VSB - so that if there is any outstanding bills in town or problems, we would know about it before we gave them any more money?

Pat Fitzpatrick – my recommendation would be that if throughout the year anyone in the local community has problems with the grantors that they let us know.

Call from abutter to town pier debris – we are now handling it ourselves? Is it going to be trucked out? Keith - Yes. At the Noon's property in Truro. There was not anyone complaining. DEP made an onsite inspection in advance of the Stop & Shop proposal and found that there is a solid waste processing operation going on there that DEP never licensed. Fortunately, our DPW volunteered to store the material at our garage site until AGM takes it out – and it looks as if that will be within the next several weeks or so. It will get removed and we have retainer of \$500K.

***MOTION: Move that the Board of Selectmen vote to forward the Elena Hall letter to the Town Moderator.***

**Motion by: David Atkinson      Seconded by: Cheryl Andrews      Yea 4 Nay 0**

Affordable housing - manufactured homes. Our bylaws say that we can have manufactured Home Park or subdivision in two locations in town - they are: Downtown and Shank Painter.

**4A VISITOR SERVICES BOARD – FY 2002 TOURISM FUND**

Provincetown Chorale, Monument Yard Sale, “The Climb”

***MOTION: Move that the Board of Selectmen vote to make the following amendments to FY 2002 Tourism Promotional Budget expenditures, as recommended by the Visitor Services Board on January 29, 2002: (1) \$750 from 4/2/01 STM Article 20 for the Provincetown Chorale for a Spring 2002 concert; (2) \$2,500 from***

*the FY 2002 699 budget for the PBG's Monumental Yard Sale on May 18-20, 2002.*

**Motion by: Cheryl Andrews      Seconded by: David Atkinson      Yea 4 Nay 0**

Betty Steele-Jeffers left the room.

**MOTION:** *Move that the Board of Selectmen vote to make the following amendments to FY 2002 Tourism Promotional Budget expenditures, as recommended by the Visitor Services Board on January 29, 2002: \$3,000 from said Article 20 and the 699 budget for "The Climb" sponsored by the Pilgrim Monument and the National Multiple Sclerosis Society on June 5 & 6, 2002.*

**Motion by: David Atkinson      Seconded by: Michele Couture      Yea 3 Nay 0**

Betty Steele-Jeffers returned.

**4B      AIRPORT COMMISSION**

Federal Aviation Administration Grant Agreement: Amendment No. 1

**MOTION:** *Move that the Board of Selectmen vote to approve execution of Amendment No. 1 to the grant agreement with the Federal Aviation Administration related to the Town's project to reconstruct Runway 07-25 and relocate lighting and navigation facilities at Provincetown Municipal Airport, to increase said agreement by \$17,428, from \$287,100 to \$304,528.*

**Motion by: David Atkinson      Seconded by: Cheryl Andrews      Yea 4 Nay 0**

**4C      PROFISH – MacMILLIAN PIER SPACE**

Seafood Offloading Lease/Cape Cod Bay Fisheries, Inc./\$21,1557 per year

**MOTION:** *Move that the Board of Selectmen vote to table this item so that the motion can be worked on and brought back to the board before the end of this meeting.*

**Motion by: Cheryl Andrews      Seconded by: Michele Couture      Yea 4 Nay 0**

**MOTION:** *Move that the Board of Selectmen vote to extend the lease with Cape Cod Bay Fisheries, Inc. for rent in the amount of \$21,557 per year or \$0.0035 per pound, whichever is greater, a lease beginning April 1, 2002 and ending as soon as the Pier Corporation has legally come into being, or on December 31, 2002, whichever comes first, subject to the restriction that use thereof shall be limited to seafood offloading/handling and activities related thereto, and that the lessee shall allow other fish buyers to pack-out thereat, for MacMillan Pier Space Two: an area comprised of 4,900 square feet, more or less, now located on the southeast end of the "T" in a 30 foot by 163.6 foot area.*

**Motion by: David Atkinson      Seconded by: Cheryl Andrews**

Joe Vinagra joined the meeting and expressed his disapproval and the unfairness of the Board to vote on any changes to the original motion without him having a chance to look over the changes and how it would affect his business.

**MOTION:** *Move to withdraw the previous motion.*

**Motion by: David Atkinson      Seconded by: Cheryl Andrews**

**MOTION:** *Move that the Board of Selectmen vote to reschedule this agenda item until the April 22, 2002 Board of Selectmen's meeting.*

**Motion by: Michele Couture      Seconded by: Cheryl Andrews      Yea 4 Nay 0**

**5A      DPW: CHAPTER 90 FUNDS/DRAINAGE IMPROVEMENTS**

Award Contract/J.W. Dubis & Sons, Inc./\$44,500

***MOTION: Move that the Board of Selectmen vote to award a contract for drainage improvements to low bidder J.W. Dubis & Sons, Inc. of Chatham in the amount of \$44,500, funded by Chapter 90 MassHighway Funds.***

**Motion by: David Atkinson      Seconded by: Michele Couture      Yea 4 Nay 0**

**5B      CCRTA SUMMER SHUTTLE**

FY 2002 Reduced Schedule

***MOTION: Move that the Board of Selectmen vote to accept the recommendation of the Provincetown/Truro Shuttle Committee for reduced service to make up for this spring's \$8,899 Shuttle funding shortfall.***

**Motion by: David Atkinson      Seconded by: Michele Couture      Yea 4 Nay 0**

**6.      APPOINTMENTS**

***MOTION: Move that the Board of Selectmen vote to appoint Howard A. Berman of 4 Hensche Lane, Provincetown, MA. as a Regular Member of the Historic District Study Committee with term expiration date of January 31, 2002.***

**Motion by: Cheryl Andrews      Seconded by: Betty Steele-Jeffers  
Yea 3 Nay 1 (David Atkinson)**

**7.      CLOSING STATEMENTS**

**Michele Couture**

Barry Clifford's letter re: his concern of danger of people docking. Keith – It has gone to Town Counsel. It is a matter of Chapter 91.

***MOTION: Move that the Board of Selectmen send a letter of thanks to Sandra Turner and Jeff Perry for the excellent cleanup on Gosnold Beach.***

**Motion by: Michele Couture      Seconded by: David Atkinson      Yea 4 Nay 0**

**Cheryl Andrews**

Need colleagues help on preparing for town meeting on the Town Planner Article. Given the fact this article did not come from Town Manager's nor the Board of Selectmen's budget, it would seem appropriate for the Town Manager be prepared to reasonably defend our position not to include it in our budget.

On-going question - partisan politics in town hall. What is legal? Keith will ask town counsel for more info on this matter.

**Betty Steele-Jeffers**

Sandy Turner's memo of March 15, 2002 re: VSB Municipal Grant Application: Public Restrooms. Is she hoping to get all this money? Keith: Yes

**David Atkinson**

**MOTION:** *Move that the Board of Selectmen ask the DPW for an update on the town hall doors.*

**Motion by:** David Atkinson      **Seconded by:** Cheryl Andrews      Yea 4 Nay 0

8. **LITIGATION STRATEGY**

Beede Waste Oil Superfund Site – Large De Minimis Contributor

**MOTION:** *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, section 23B, clause 3, to go into executive session for the purpose of discussing strategy with respect to litigation.*

**Motion by:** David Atkinson      **Seconded by:** Michele Couture

**Roll Call:**

David Atkinson - Yes

Michele Couture - Yes

Betty Steele-Jeffers - Yes

Cheryl Andrews - Yes

Motion to go into Executive Session at 8:40 PM

Minutes transcribed by: Vernon Porter, Secretary  
March 7, 2002