

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MONDAY, AUGUST 26, 2002

JUDGE WELSH HEARING ROOM

Acting Chairman Cheryl Andrews opened the meeting at 6:00 PM noting the following attendees:

Board of Selectmen members: Cheryl Andrews, Michele Couture, Sarah Peake, Richard Olson.

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 CHIEF OF POLICE

Discussion with Board of Selectmen

Discussion ensued. Chief Meyer gave an update involving the number relating to PCs and also related that he discussed them with concerned citizens of the community as well as his Department. Statistics show that the exact number of PCs is the same for July to present in the years 2001 and 2002

The PC Working Group will be meeting this Wednesday at 1 PM at Town Hall to go over the General Order that sent to and returned by Town Counsel.

Michele Couture still concerned that there is not enough police coverage at Lopes Square. Chief said he would move one officer off midnight shift help with that.

Sarah Peake re: party at Bayberry that was broken up by complaints to the police. What are the general procedures, other than inviting all your neighbors, to ensure that you can have a party so that it will not have to be broken up by the police? Chief Meyer said he has not has a chance to look into that incident but will get back with a response as soon as possible.

The Board of Selectmen reiterated to Chief Meyer that they have absolute faith in him as well as the trust, competence and professionalism of all the officers of the department and asked that he pass this on to everyone in the department.

Cheryl Andrews stressed to the Chief that articles in the press are not to be taken to heart. Not to get your information from one source - talk to us, talk to the public, talk to you. If you live here long enough - you'll get used to it, every paper is that way.

There will be one more Monday night meeting with the Chief then a final update meeting with date to be determined.

Cheryl Andrews and Keith Bergman left the room.

1B CAPE END MANOR CARE CAMPUS

Update: Establishment of Non-Profit Board of Directors; Timeline

Michele Couture chaired this discussion. Dennis Anderson, Eileen Thomas and Robert Cabral joined the meeting.

Richard Olson disclosure statement. "I have a relative (my Aunt) who residing at the Cape End Manor. My disclosure form is on file in the Town Clerks Office."

Discussion ensued. Topic centered on nomination and selections process of new Board of Directors for

new CEM Care Campus. There will be 7 to 9 candidates with a core of 5. Nominating Committee will consists of a minimum of: 2 from current CEM BOD, 1 from Human Services (COA, Business Community, etc.) and 2 from the community at large.

We don't want anyone to be excluded from the current CEM BOD who may be interested in being on the new BOD's. They would not be on the nominating committee; they would step down.

Dennis Anderson - Timetable that has been established for the first five (5) BOD members (the majority of the 9), is the middle to late November of this year. Roush will recommend key players.

Roush Associates - is completing their business plan to include mission of the BOD, milestones to be accomplished with timetables and target dates; knowledge base that the new BOD will need to acquire over the nine months of orientation that's on your timeline.

It will be better for us to come back in two weeks with the first half being done - the nominating process.

What about legal counsel & budget? Dennis - Mass Development has agreed to assist us and they are waiting on us at this moment.

No motions made.

Cheryl Andrews and Keith Bergman returned.

1C **PUBLIC NOTICE: FLOAT SPACE 1W**

Transfer of Ownership Interest to Jon E. Salvador

MOTION: Move that the Board of Selectmen vote in accordance with Special Condition No. 7 of the Chapter 91 License for MacMillan Pier issued October 23, 1995, to approve the proposed transfer of ownership interest in Float Space 1W licensee, Salvador Corporation, from Edward Salvador to Jon E. Salvador; subject to verification of payment by both of all fees and taxes owed the Commonwealth of Massachusetts.

Motion by: Michele Couture

Seconded by: Sarah Peake

Yea 4 Nay 0

2. **PUBLIC STATEMENTS**

Bill Meadows - Commented on private party this past weekend held at a Bayberry residence. Would like Selectmen to work on revamping noise ordinance. Is there selective enforcement? Example was the party at the Monument vs. the Pier Dance Party.

Anne Howard - Guidance from the Board. Abutter to project that will be on the Planning Board Agenda on 9/4/02. Do I have to leave the room even if I step down? Answer: Yes.

Neva Hansen - Read statement into record. (See attachment #1)

Bob Kelley - Was also at the party on Sunday at Bayberry home and the owner was told that he would be arrested if he did not have all his guest leave within 20 minutes. Then nobody can have a party in Provincetown. Is this is how we are going to enforce the noise ordinance in town?

Gabriel Brook - Very happy to be part of the PC Working Group and the Dog Working Group and hope that one of the Selectmen could attend. Also wanted to let you know that the gossip on the Street the last couple of weeks has been much more positive.

Mark Bosner ? - Party shutdown on Saturday. Good idea mentioned early by one of the Selectmen to ask the Chief to come up with a standard so people where know where to go, what to do. Would be nice for the Selectmen to ask the Chief to set a date when this will be done.

Bill Jorgensen - Met with Town Manager and Chief on questions that were submitted in writing and during the meeting was informed that I would have to pay to have the statistics to come up with. I said I would not do that, I said I would hire an off-duty policeman to do that. The issues are, what is accountability, who will be held accountable and on what statistical basis will we do so? . Who is doing what? It behooves this town to ask all of the questions not just to be using selective statistics for what ever they were. Delighted that the Chief says he is not enforcing the leash law. Gave Uniform Crime Recording Handbook to ATM, published by FBI - every questioned he asked is contained in this handbook

Rachel White - Read letter into record concerning Police Chief policies. (Attachment #2)

Lorraine Adams - Agrees with everything previous speaker said. Noise pollution should be enforced.

Robert Cahill - Endorses Police Chief - let him do his job - the laws apply to everyone. In time he will become accustomed to the way we are accustomed to doing business - which is: tolerance, always fair-handed, if you get caught for OUI or whatever - you pay the consequences. I endorse Ted and I endorse law and order for Provincetown.

Pier and adjoining area - Was an eyewitness when the big anchor let go at Lopes Square the other day - young boy hanging on the anchor and the stock of the anchor has been rotting away for a few years - and all of a sudden it let go. Luckily the young guy got off safely. Maybe DPW ought to review all the Provincetown property open to the public - especially where the town is liable. Lastly, was down at the Pier and some of the concrete decking at the foot of the pier is exhibiting cracking and it should be looked into ASAP.

Jim Golden - Pleased to hear the Boards positive comments about the Police Department. There has been very little of that either in the written or spoken word. Just like to remind everybody respectfully, that Cops are part of their community and I think they deserve better that what they have gotten in the past couple of weeks.

3. SELECTMEN'S STATEMENTS

Cheryl Andrews

Received letters of resignation from Estherann Czyozski and Peter Bez who served on the Zoning Board of Appeals.

MOTION: Move that the Board of Selectmen send a letter of thanks to Estherann Czyozski for her service on the Zoning Board of Appeals.

Motion by: Michele Couture Seconded by: Sarah Peake Yea 4 Nay 0

MOTION: Move that the Board of Selectmen send a letter of thanks to Peter Bez for his service on the Zoning Board of Appeals.

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

To our Planning Board member, my understanding is that Mr. Bergman's comments to you are absolutely right, that you should be out of the room based on policy, but I think in the past what has happened to some of us in your situation is that you end up getting a representative. You're legally allowed to do that and always encourage to do that. That is your best approach and I appreciate you bringing that forward.

Re: Police Department - we are in the information gathering phase and listening and reevaluating and seeing how we are doing - sounds like that we are moving in the right direction. The only thing I'd like to mention is the Noise By-Law - people have talked about this just about every year that I have been involved with the Board in the sense that some folks feel it is not applied. One member of the Board of Selectmen has been telling us that for a long time. Then, obviously, there are issues when it is applied because sometimes people feel like it's arbitrarily on certain neighbors or certain competitors. There is a decibel level mentioned in the by-law. My question is how would the Board like to move forward on gathering information on this? Mr. Bergman can you have the Chief respond to some of the public comments we heard tonight that would be helpful. I just send the comments to my colleagues and I will be interested in hearing from you. I wouldn't mind a discussion, maybe over the winter before town meeting, as to whether we are interested in altering

the by-law or expanding on it. Certainly it is one that people have been talking about for years.

Michele Couture

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Want to correct something that was said at Public Statements by one of the citizens. The Chief never said that we were not enforcing the Leash Law.

Town Hall Doors - Comments to Mr. Bergman: Contract with Donald Faber Woodworking - We've paid them over \$4K two years ago. Two years later we are still waiting for the hardware. Ms. Turner from DPW is frustrated as well. Can you ask Town Counsel what we can do to resolve this matter?

Towing - Does the Town have a towing contract with Rod's? If so, does the additional \$35 fee violate the contract?

Read letter into the record letter re: MassHealth - being sent to Governor with cc: O'Leary and Gomes and encouraged any members of the public to send letters as well.

Lights at Bas Relief - Understand from Ms. Turner that we are in a discussion with NSTAR; since we are in the light business ourselves that there is a debate as to whether they are or not are honoring the contract.

Richard Olson

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I want to say that we fully support impartial enforcement of the laws in Provincetown. At the same time no one is trying to be a moral arbitrator or moral police to this town and if it appears to anybody that we are going in that directions, I know that people will step forward and say, "Hey that is not your job!" Yes, we are well known as a bit of a party town and as a very permissive town, and a good part of our economy, but by no means, by no stretch, is all of our economy is predicated on that. We also have other visitors, including families with strollers and they contribute to our economy. We have a year round population, our own citizens, including families that want to raise their children in a reasonably wholesome atmosphere. This is what is called diversity. Now, this leads me to wonder if those who fear that we are trying to put a lid on partying could help us, and help themselves and their businesses, by reminding their prospective guests before they arrive here or as they are checking in that they have some responsibility to exercise a degree of self-restraint in return for the permissive atmosphere that they have come here to enjoy. As Justice Oliver Wendell Holmes once referred to the laws, and I approve of the reference, "those wise restraints which make men free." - women too, I am sure he intended. The laws need not even come into it if our guests exercise a decent self-restraint on their own.

Sarah Peake

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Noise Ordinance - Agree with Ms. Andrews in taking a look at this. Mr. Bergman maybe you can provide us with a copy of the by-law.

SCADA System - nice to see that it will be in place this week at our Police Station.

Memo from Tourism Director Pat Fitzpatrick on the proposal for the September 11th Memorial - I look forward to participating in it.

MOTION: *Move that the Board of Selectmen vote to take Agenda Item 4B out of order.*

Motion by: Michele Couture **Seconded by:** Sarah Peake **Yea 4 Nay 0**

4B SKATE PARK UPDATE

Recreation Commission, Staff Reports

MOTION: *Move that the Board of Selectmen vote to have Staff prepare a report for the September 9, 2002 meeting on the \$85,000 alternative comparing portions of Wastewater Disposal Area D (East, West and middle).*

Motion by: Michele Couture **Seconded by:** Sarah Peake **Yea 4 Nay 0**

4A1 MASS. COMMUNITY DEVELOPMENT BLOCK GRANT

Schedule Public Hearing on Application: September 9, 2002

MOTION: Move that the Board of Selectmen vote to schedule a public hearing for Monday, September 9, 2002 at 6 p.m. for the Town of Provincetown's application under the October 2002 Massachusetts Community Development Block Grant program for housing rehabilitation, the Provincetown Business Development Center, and general administration, for a total of \$700,000.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

4A2 MCDBG GRANT PREREQUISITES

E.O. 418 Housing Certification; Community Development Strategy

MOTION: Move that the Board of Selectmen vote to authorize submission of the following to the Massachusetts Department of Housing and Community Development, as prerequisites for funding under the MCDBG program: (1) housing certification for the Town of Provincetown under Executive Order 418 and (2) community development strategy.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

4A3 2002 MCDBG GRANT - WATER TRANSMISSION MAIN

Construction / Robert B. Our Co., Inc. / \$519,400.70

MOTION: Move that the Board of Selectmen vote to approve and execute a contract with low bidder Robert B. Our, Co. of Harwich, Massachusetts in the base bid amount of \$519,400.70 for Phase 2 construction of the Water Transmission Main Replacement project funded by the Massachusetts Department of Housing and Community Development under its 2002 Massachusetts Community Development Block Grant program; and, further, to authorize execution of said contract by the Board upon receipt of all required bonds and insurance.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

MOTION: Move that the Board of Selectmen send a letter of special thanks to Grant Administrator Michelle Jarusiewicz for her grant writing efforts on behalf of the town throughout her years of service. Terrific job!

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

4C PARADE PERMIT REQUEST

National Multiple Sclerosis Society

MOTION: Move that the Board of Selectmen vote to approve the Parade application submitted by Deirdre Moynihan, Vice-President of Development for the National Multiple Sclerosis Society, Waltham, Massachusetts for the purpose of holding their Multiple Sclerosis Challenge Walk to be held on Friday, September 13, 2002 starting at 8:45 AM. No rain date.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

5A AWARD CONTRACT: MARINE DEPARTMENT BOAT

Offshore Performance Inflatables \$97,715 (Art. 4-5, 4/1/02 ATM)

MOTION: Move that the Board of Selectmen to award the contract for the purchase of a 28-foot rigid

inflatable boat for the Provincetown Marine Department to sole bidder Performance Inflatables, Inc. of Buzzards Bay, Massachusetts, in the amount of \$97,715.

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

5B 8 LOVETT'S COURT

Planning Board Site Plan Review: 428 Commercial Street

Discussion ensued. Michele Couture emphasized her utmost dissatisfaction that there is nothing the Board of Selectmen can do to rectify this matter. And further the length of time it has taken to come to this conclusion and that the parties now have to settle this matter in civil court.

5C BOARD APPOINTMENT: CONSERVATION COMMISSION

Town Manager's Appointment of Roger Chauvette

MOTION: *Move that the Board of Selectmen vote approve the Town Manager's appointment of Roger Chauvette of 14 Center Street, to a term as a full member of the Conservation Commission expiring December 31, 2004, pursuant to Charter §6-6-1.*

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

6. MINUTES OF MEETING

MOTION: *Move that the Board of Selectmen approve the minutes of July 8, 2002 (Reg. Mtg.) as printed. (All Present)*

Motion by: Michele Couture Seconded by: Richard Olson Yea 4 Nay 0

7. CLOSING STATEMENTS

Cheryl Andrews

Committee 70 - Public meeting at Barnstable Town Hall with various reps, town officials and concerned citizens from the Cape - could tell our Legislative Representatives face to face in front of TV cameras basically what they have been saying for a number of years - which is, they are not very happy about the way State Aid for Education Funding is dealt with on the Cape. A videotape of the event will be sent to us shortly.

Person ticketing - Anytime someone emails me and there is a threat of litigation or a person has already been involved with ticketing - it puts me in an odd spot as a town official to carry on a dialogue with so I have refrained from answering them.

Michele Couture

Report on Miller Hill Road - has been referred to Town Counsel.

Request from Mr. Guertin on the public statement re: the concrete cracks on the Pier.

Richard Olson

Getting a lot of mail re: 16 Thistle more Road. What is it all about? Answer: Correspondence is from the abutters. Has nothing to do with us in the office.

Observation prompted by others comments - the sidewalk on Bradford Street - just below the crest of the hill -

coming down from the Gifford House near the crosswalk - the sidewalk is so narrow. Is there any way that can be widened? Keith - let us look at it.

Cigarette Disposal - we need some form of cigarette disposal - especially going from Town Hall towards Lopes Square. Possibly something wall mounted.

MOTION: *Move that the Board of Selectmen send a letter of accommodation to all Departments who contributed to the success of the Carnival.*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0

Sarah Peake

Thank you to Mr. Guertin for taking care of that treacherous anchor.

Thank you to Dr. Andrews for the use of her Jeep and skilled driving job during Carnival and for Jen for her decoration.

8. **MacMILLAN PIER LEASE, PROFISH SUB-LEASE**

MGL C.39,§23B Clause 6

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, section 23B, clause 6, to go into executive session to consider the lease and sub-lease of MacMillian Pier, and not to convene in open session thereafter.*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 4 Nay 0
[Roll Call Vote]

Sarah Peake - Yes **Cheryl Andrews** - Yes

Michele Couture - Yes **Richard Olson** - Yes

Board went into Executive Session at 8:35 PM.

Minutes transcribed by: Vernon Porter, Secretary
August 30, 2002