

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING - FEBRUARY 28, 2000

### JUDGE WELSH HEARING ROOM

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Chairman, Betty Steele-Jeffers opened the meeting at 7 PM, noting the following attendees: Board of Selectmen members: Elizabeth Steele-Jeffers, Mary-Jo Avellar, David Atkinson, Richard Prowell and Vernon Porter, Secretary to the Board of Selectmen. Absent: Cheryl Andrews. Other attendees: Keith A. Bergman -Town Manager, David Guertin - DPW Director, Mark White, PE and Paul Gabriel, PE from Environmental Partners Group, Inc., and John Goodrich – Facilitator.

The following are minutes, in brief.

#### 1 LAND BANK ACQUISITION PRIORITIES

Programmatic Spending Plan, Procedures

(1) **MOTION:** *Move that the Board of Selectmen vote to approve the programmatic proposal on use of the Town of Provincetown's borrowing authority under the twenty-year Land Bank program, as proposed by the Open Space Committee, as follows: 21% for aquifer protection, 10% for affordable housing, 35.9% for pond frontage and 33.1% for natural preserve and active and passive recreation.*

**Motion by:** David Atkinson    **Seconded by:** Richard Prowell    Yea 4    Nay 0

(2) **MOTION:** *Move that the Board of Selectmen vote to adopt the following procedures endorsed by the Finance Committee with respect to proposed Land Bank purchases:*

*"Prior to the establishment of an appropriation for this purpose, in those cases where the Open Space Committee and the Town Manager agree that an appraisal is necessary to determine purchase price prior to a town meeting vote authorizing purchase of a property with Land Bank funds, the Town Manager shall request a Reserve Fund transfer from the Finance Committee for said appraisal.*

*The Finance Committee shall not consider such a Reserve Fund transfer request unless the Open Space Committee has submitted a comprehensive programmatic spending plan to the Board of Selectmen, which has been approved by said board.*

*In the event that Town Meeting subsequently approves purchase of the property, then the authorizing article shall be used to reimburse the Reserve Fund for the expense of the appraisal, but not otherwise.*

*Further, the Town Manager serve as the negotiating agent for the Town of Provincetown with respect to purchase of properties with Land Bank funds.*

**Motion by:** Mary-Jo Avellar    **Seconded by:** Betty Steele-Jeffers    Yea 4    Nay 0

(3) **MOTION:** *Move that the Board of Selectmen vote to have the Town Manager insert an article in the Special Town Meeting for an appropriation for a pre-acquisition expenses for Land Bank purchases. (\$10,000)*

**Motion by:** Mary-Jo Avellar    **Seconded by:** Betty Steele-Jeffers    Yea 4    Nay 0

## 1B **LAND BANK ACQUISITION PRIORITIES: Locke Property**

Refer to Cape Cod Commission for DRI Review

**MOTION:** *Move that the Board of Selectmen vote, pursuant to Chapter 716 of the Acts of 1989, as amended, to refer the Locke Property, so-called, a/k/a Bohm Heights Subdivision, to the Cape Cod Commission for review as a limited and discretionary Development of Regional Impact.*

**Motion by:** David Atkinson    **Seconded by:** Richard Prowell    **Yea 4 Nay 0**

## 2 **PUBLIC STATEMENTS**

**Custodio Silva** - Suggestions for item #4 – excellent meeting with DPW & Water Dept. Conservation ideas - stickers for mirrors and information brochures.

Water & Sewer Board will be sending several memo's to the Selectmen as to the purpose of the Water & Sewer Board – what is our authority? - what we are and what is our vision? Users of the system - are the all treated as one? We need your guidance and advise.

Rules of procedure – if there is a motion to table is there a discussion? Mary-Jo Avellar – motion to a time certain must be established in order to table.

Conflict of interest – individuals have to make their own decision when to step down.

**Carol MacDonnell** - concerned over retaining wall that will be addressed by Planning Board Wednesday evening. Hope this will be referred to Cape Cod Commission.

**Heather Wishik** – same concerns as Carol O'Donnell - would hope the Board of Selectmen's referral to the Planning Board would be before Wednesday so as to stop any decisions being made that would be harmful to the environment.

**Neva Hansen** - Read letter into record concerning Lovetts Court. (Attachment #1)

**Peter Sousa** – (1) never heard of Land Bank funds being used to clear cut land for a ball field or worse yet fill in a wetlands for a ball field. (2) objection to proposal of waste water treatment plant in a wetland area. Town of Provincetown has been neglectful in managing the Clapps Pond area which was deeded to the Town by the State back in the late 50's or early 60's for recreational purposes and not for municipal purposes. "I have people working on that now." Proposed treatment plant is in the middle of the fresh water recharge area that recharges Shankpainter Pond. Plant is going to ruin any kind of passive or active recreational activities in the proposed wildlife sanctuary. Hopes that the Cape Cod Commission scrutinizes the Town of Provincetown. "Thanks to Mary-Jo Avellar and Richard Prowell for having the insight to see the insanity of this whole deal."

**Sheila Benzer** - same concerns as Peter Sousa over treatment plant; digging up the streets - pipes everywhere. Concerned for wildlife in the area; leaching fields. Why haven't we done more research in cluster systems?

## **SELECTMEN'S STATEMENTS**

**David Atkinson** - Want to respond to Peter Sousa's comments. The other night Mr. Sousa and I had a conversation in Tedeschi's - and he ended the conversation by saying, "if the sewage treatment plant was build at the old burn dump he would blow it up."

Neva Hansen's note – I think a PRIVATE PROPERTY sign probably would stop people from going in there.

Carol McDonald's comments – why wasn't the Conservation Commission the first board that anyone goes to rather than the Planning Board? (Keith: The applicants get to choose which board they want to go to.)

Memo from DRM dated 2/22/00 re: 143 Commercial St. – I want to compliment the Staff for keeping us abreast of this situation.

**MOTION:** Move that the Board of Selectmen request copies of the letters referencing 143 Commercial Street be sent to the abutters.

**Motion by: David Atkinson    Seconded by: Mary-Jo Avellar**  
**Yea 3 Nay 1 (Richard Prowell)**

Stephan Nofield memo of 2/16/00 – reporting on the committees he does not have minutes from. I want to congratulate Stephan for the job he did and also want to congratulate the Airport Commission, Assessors, the By-Law Revision, Charter Enforcement, Disability Commission, Board of Fire Engineers, Housing Authority, Human Services Commission for being up-to-date with their minutes.

Express concern that four committees are missing more than 100 sets of minutes. Building missing 23; Licensing Board missing 23; Planning Board missing 25 and Local Housing is missing 38.

Question is - if the minutes are important and the Town Clerk is suppose to be keeping them - are we setting ourselves up for liability and more Town Counsel expense by not keeping up to date and maybe we should apply some pressure to these committees that are so late.

**MOTION:** Move that the Board of Selectmen send a letter to all Boards and Committees reiterating that their minutes of meetings have to be completed and put on file with the Town Clerk.

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

**Richard Prowell** - I would like to see Neva Hansen's letter put on the Traffic Hearing.

Discussion: Traffic Hearing closed for this year. Betty Steele-Jeffers - Maybe a staff report with recommendations then we could go to a public hearing. Keith - we can definitely get a staff report and recommendation and we can follow it up. Richard: I live in this area and I've seen a number of traffic jams in the last month (February).

Re: Mr. Sousa – I received a number of telephone calls and had a number of visits with several old Portuguese residents who were around in the 1950's when the old burn dump was being used and it cause a big stink back then. I really hope this treatment facility is going to be fool proof and not stink because this is the area we are planning on dumping our tourist in and shuttling them to town. I hope this matter is well thought out before it is approved out there. The main concern I heard over the past week was the growth capacity for this treatment facility. How big will this facility be able to go to? 500K gallons a day? 700K per day? I'd hate to put up a 300K gallons facility and find that all these people wanting to hook up and we have to build another facility somewhere else. We have to deal with long range planning for this in the right way. If we're going to need 500K gallons per day then we better put up a 500K per day with some growth management for this facility. Staff will be asked this question at Town meeting and I don't want Staff to look like a bunch of idiots – even though I am on the other side of the coin. We need to think this out very carefully and we need to have the information and we need to hold the engineers accountable for this.- because if this turns out to be a poor facility and this does go through then I think we need to seek legal action.

I also want to stress that just because I voted against the Old Burn Dump does not mean that I wanted it across the road in the Transfer Station or the Highway Department either.

So, I hope residents in this area don't feel just because I voted against the old burn dump site that I want it in their back yard too. I want this plan of action for the treatment facility thought out well. I don't want Provincetown to look like a bunch of saps down here and that we don't have a well thought out facility. I have been for this waste water facility from day one since I became a selectman I have no problem with having a waste water facility but I want it in the right place. I don't feel that the Town of Provincetown should have paid \$1.6M for a piece of property and then put a treatment facility on the other side of the road that could possibly jeopardize this – and I want to make sure that it doesn't.

Keith – we do have an answer from the Engineers and I think we are certainly right that we are going to hold them to it. The answer to the question of treatment building capacity is that, while we are planning for 300K now we are at Phase I of a multi phase approach and that the figure of 500K per day is the building capacity at this particular site. The question was proposed to the Engineers in one or more of the public meetings that we have had – what are the expansion capabilities within the ¼ acre under 500 ft. building that they are proposing and that there would be capacity for ½ million.

Richard – My concern is that it wasn't even a week that went by that we had Provincetown Inn asking to be hooked up and it makes me wonder how many more are going to want to hook up before this project is even off the ground. We need to plan for this.

Betty Steele-Jeffers - comments by Carol McDonald and Heather Wishik about the Locke property and the request to the Cape Cod Commission, I assume that it will be done pronto and the Planning Board will know. (Keith – they will, and on that point – I was taking a look at the categories of discretionary referral and trying to figure which – just want to make sure we check and address the issue of the dune and probably the category of coastal resource, which is listed here. It is my sense from the discussion that we want to address the dune issue and I can check on the coastal resources in addition to wetlands, wildlife, plant habitat and open space. )

Follow-up Custodio's comments – need to set a meeting – don't want that to get lost.

As abutters – received notice of public hearing for Thursday, March 2, 2000 – application by Ted Tyne on behalf of Cape Tip Inn Inc. for a special permit for live theatre and dancing by patrons at 258 Commercial Street – our next door neighbor. I wanted to know whether the Board, as an abutter, and representing the Town, want to make any comments to them – basically in terms of containing and confining their noise.

Discussion: David Atkinson – if they don't hang the speakers, we are going to have the same problem night after night. If they hang the speakers the sound will not be transferred into the building foundation and the neighborhood. Mary-Jo Avellar - the neighborhood is planning on going to oppose this – making a special permit permanent – that's the issue. Several people are objecting and attending or sending letters. I am objecting because I am the one who hears it every single night. We've been in this very room and have heard it ourselves. I plan on attending. Betty Steele-Jeffers – maybe we can have Keith put together a little letter.

Mary-Jo Avellar - Conflict issue – think that I brought this up at last meeting about exactly what the procedures are and that notification should go out to all the boards – and I asked that we get a report from Town Counsel about the fact that one person voted. (Keith – I talked to them on that issue and did get the verbal report back that that was not a valid vote. You have to have a quorum and if you are left with less than a quorum, because others have left the room, then you cease to have a quorum.

#### 4A **REQUEST: DUNE TOUR**

Schedule Public Hearing on Use of Taxi Spaces for Dune Tour Business

**MOTION:** *Move that the Board of Selectmen vote to schedule a public hearing for March 14, 2000 at 7 p.m. on the request of Keith and Priscilla Silva, 121 Kenny St., Manchester, N.H. for a revocable license to share the use of the existing taxi spaces on Standish Street with other related businesses for the purpose of drop-off and pick-up of passengers in connection with a dune tour business in the Town of Provincetown, contingent upon the Silva's obtaining an Incidental Business Permit from Cape Cod National Seashore; and to set the fee therefor.*

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

#### 4B **REQUEST: John Thomas re: CCNS**

General Management Plan Implementation Advisory Committee

**MOTION:** *Move that the Board of Selectmen vote to insert an article onto the warrant for the April 3, 2000*

*Annual Town Meeting to establish a Cape Cod National Seashore General Management Plan Implementation Advisory Committee, as requested by John Thomas.*

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

**4D      GRANT ADMINISTRATOR**

Approve Visitor Services Board Recommendations/FY 2000 Tourism Fund

***MOTION:*** *Move that the Board of Selectmen vote to reduce by \$300 the amount approved on 6/14/99 for the Fall Arts Festival and to approve the Visitor Services Board's recommendation for \$500 for a Year Rounder's Festival event through Michael Noons.*

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

**4E1      TREASURER'S TRANSFER**

John Anderson Francis Family Scholarship Fund

***MOTION:*** *Move that the Board of Selectmen vote, as Commissioners of Scholarship Funds, to approve the transfer of \$36,250.00 from the John Anderson Francis Scholarship Fund for the payment of scholarship awards.*

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

**4E2      TREASURER'S TRANSFER**

Captain Joseph F. Oliver Scholarship Fund

***MOTION:*** *Move that the Board of Selectmen vote, as Commissioners of Scholarship Funds, to approve the transfer of \$1,000.00 from the Capt. Joseph F. Scholarship Fund for the payment of scholarship awards.*

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

**4F      APPROVAL OF FEES**

Water & Sewer Board: Water Rates/Peak Period Pricing

***MOTION:*** *Move that the Board of Selectmen vote, pursuant to MGL C.40,§22F, to approve water rates to be charged by the Provincetown Water System for the period March 15, 2000 through April 30, 2001, including the institution of semi-annual billing and peak period pricing, as approved by the Water & Sewer Board at a public hearing be held on February 24, 2000.*

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

**5      APRIL 3, 2000 ANNUAL & SPECIAL TOWN MEETINGS**

Insert Articles Onto the Warrant

***MOTIONS:*** *Move that the Board of Selectmen vote to place articles on the warrants for the April 3, 2000 Annual and Special Town Meeting, as recommended by Town Manager and with changes so noted.*

**SPECIAL TOWN MEETING**

**Article 2.** Add 'action' to line 4 – change to read: any other *action* thereto. Approved as amended.

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

**Article 4 & 5.** Approve as printed

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

**Article 6.** Approve as printed

**Motion by: Mary-Jo Avellar      Seconded by: David Atkinson  
Yea 3   Nay 0   Abstain 1 (Richard Prowell)**

**Article 7.8.9,10.** Approve as printed

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

**Article 13 & 15.** Approve as printed

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

**Article 16 & 17 -** Approve as printed

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

**ANNUAL TOWN MEETING**

**Article 1,2,3.** Approve as printed

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

**Article 4,5,6.** Approve as printed

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

**Article 7,8,16.** Approve as printed

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

**Article 17 -** 14-5 Restricted Water Uses. a) Line 2 change uses to **users**. Approve as printed

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

**Article 18.** Approve as printed

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

**Article 19.** Approve as printed

**Motion by: Mary-Jo Avellar      Seconded by: Betty Steele-Jeffers  
Yea 3   Nay 1 (David Atkinson)**

**Additional request for Articles by David Atkinson as follows:**

***MOTION: Move that the Board of Selectmen request the Town of Provincetown to amend its' charter to pay a stipend to the members of the Board of Selectmen at \$1,000 each and \$1,500 for the Chair.***

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

***MOTION: Move that the Board of Selectmen request the Town of Provincetown will amend the dog leash law to require two plastic bags be visible on the leash to encourage picking up of dog waste. Police may ticket for non display at \$50 per violation.***

**Motion by: David Atkinson      Seconded by: Mary-Jo Avellar**

**MOTION:** *Move that the Board of Selectmen request the Town of Provincetown to amend its' litter law to specify cigarette butts as litter and to triple the current fine for violating the law.*

**Motion by:** David Atkinson      **Seconded by:** Mary-Jo Avellar  
Yea 3 Nay 1 (Betty Steele-Jeffers)

**6**      **1999 ANNUAL TOWN REPORT DEDICATION**

Town Board Members, Employees Who Died in 1999

**MOTION:** *Move that the Board of Selectmen vote to dedicate the 1999 Annual Town report to those current and former Town board members and employees who died during calendar year 1999, as contained in the list of names submitted by Town Clerk Stephan J. Nofield*

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

**7A**      **CAPE COD NATIONAL SEASHORE**

General Agreement for Environmental Assessment

**MOTION:** *Move hat the Board of Selectmen vote to authorize execution of a General Agreement (GA) with Cape Cod National Seashore to undertake an Environmental Assessment (EA) of the Town's proposed five-year continued use of the North Truro Air Force Base Wells.*

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

**7B**      **BAY STATE CONTRACTING CHANGE ORDER #2**

Heritage Museum Repairs

**MOTION:** *Move that the Board of Selectmen vote to approve Change Order #2 in the amount of \$20,895.25 to the contract with Bay State Contracting for repairs to the Heritage Museum, as recommended by Coastal Engineers and the Director of Public Works for additional water intrusion repairs.*

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

**7C**      **GRANT ADMINISTRATOR**

Approve submission of Library Culture Council Operating Grant Application

**MOTION:** *Move that the Board of Selectmen vote to submit a grant application under the Massachusetts Cultural Council for a three year operating support grant for cultural programming for approximately \$3,500 per year.*

**Motion by:** Mary-Jo Avellar      **Seconded by:** Betty Steele-Jeffers  
Yea 3 Nay 1 (David Atkinson)

**8**      **PERFORMANCE APPRAISAL INSTRUMENT**

For Board of Selectmen's Use with Town Manager

**MOTION:** *Move that the Board of Selectmen vote to approve the Performance Appraisal Policy for the Town Manager, which document shall be "Attachment A" referenced in the Town Manager's employment agreement with the Board of Selectmen.*

**Motion by:** Mary-Jo Avellar      **Seconded by:** Richard Prowell      **Yea 4 Nay 0**

9      **BAS RELIEF UPDATE** - Discussion Dependent

Remove stick-on hooks attached to granite. Conclusion: Wait for Beautification report to come in.

10      **BOARD OF SELECTMEN APPOINTMENTS**

**MOTION:** *Move that the Board of Selectmen appoint Peggy Prichett as a regular member of the Art Commission with a term expiring on December 31, 2001*

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

**MOTION:** *Move that the Board of Selectmen appoint Leslie Parsons as a regular member of the Board of Assessors with a term expiring on December 31, 2001*

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

**MOTION:** *Move that the Board of Selectmen appoint Gary Delius as a regular member of the Board of Health with a term expiring on December 31, 2002*

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

11      **MINUTES OF BOARD OF SELECTMEN MEETINGS** - None at this time.

12      **SELECTMEN'S STATEMENTS**

**DAVID ATKINSON** -

**Letter form Steve Fossella** re: Transfer Station rules – and his suggestion. Want to pass this on to DPW.

Memo from Don Richards – Redesign of **variable message sign**. Looks like he's on the right track and it will satisfy myself and Cheryl Andrews.

**Lovett's Court** – did some checking on that – and there is more there than what meets the eye. Neighborhood type of things.

**Richard Prowell** - None at this time

**Betty Steele-Jeffers** – Want to go back to the Special Permit.

**MOTION:** *Move that the Board of Selectmen ask the Town Manager to send a memo to the Zoning Board stating that the Board of Selectmen are not in favor of a "permanent special permit for live theatre and dancing at 258 Commercial St., Provincetown as the neighborhood noise has not been solved.*

**Motion by:** Betty Steele-Jeffers      **Seconded by:** Mary-Jo Avellar      **Yea 4 Nay 0**

**Mary-Jo Avellar - None at this time.**

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Motion to adjourn at 10 PM

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**Minutes transcribed by: Vernon Porter, Secretary  
March 2, 2000**