

# TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

## REGULAR MEETING - MARCH 27, 2000

### JUDGE WELSH HEARING ROOM

**The following minutes are available on-line as a service and are not the official record due to changes in formatting for the Internet. The minutes may have attachments that are not included here in this format. The official, complete paper copy can be viewed during regular office hours, Monday - Friday: 8 a.m. to 5 p.m. in the Office of the Town Clerk, 260 Commercial St. Provincetown, MA 02657.**

Chairman, Betty Steele-Jeffers opened the meeting at 7 PM, noting the following attendees: Board of Selectmen members: Elizabeth Steele-Jeffers, Mary-Jo Avellar, Cheryl Andrews, David Atkinson, Richard Prowell (arrived at 7:15 PM) and Vernon Porter, Secretary to the Board of Selectmen. Other attendees: Keith A. Bergman -Town Manager, David Guertin - DPW Director and other interested parties.

The following are minutes, in brief.

#### 1A PUBLIC HEARING: CAPE LIGHT COMPACT

Proposed Power Supply Contract with Select Energy, Inc.

**MOTION:** *Move that the Board of Selectmen vote to authorize Elizabeth Steele-Jeffers, Chairman to execute the Electric Supply Agreement with Select Energy and the Cape Light Compact in substantially the form contained in the draft dated March 8, 2000 on behalf of the Town of Provincetown and to improve minor, non-substantive changes to such agreement, provided, however, that such execution shall not take place until after approval of such Electric Supply Agreement by the Massachusetts Department of Telecommunications and Energy.*

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

#### 1B PUBLIC NOTICE: MacMillan Pier Float Space 6W

Transfer of Ownership Interest in Ranger V Corporation

**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 MacMillan Pier Float Space 6W Licensee Ranger V Corporation [Gerald Costa, Sr., Truro, MA, manager] to Portuguese Princess Excursions, Inc. [Dana Goddell, Boston, MA and George Hilton, Newburyport, MA, stockholders].*

**Motion by:** Mary-Jo Avellar **Seconded by:** David Atkinson  
Yea 2 Nay 3 (Cheryl Andrews /Betty Steele-Jeffers / Richard Prowell)  
*Motion Does Not Pass*

**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, and to take no action on the proposed transfer of ownership interest in MacMillan Pier Float Space 6W Licensee Ranger V Corporation [Gerald Costa, Sr., Truro, MA, manager] to Portuguese Princess Excursions, Inc. [Dana Goddell, Boston, MA and George Hilton, Newburyport, MA, stockholders].*

**Motion by:** Cheryl Andrews **Seconded by:** Richard Prowell  
Yea 3 Nay 2 (Mary-Jo Avellar / David Atkinson)

## 2 PUBLIC STATEMENTS

- **Phillip Tarvers** – Re: Ranger V – May I ask a question? Is there a strong possibility that when the by-laws were put in and the grandfathering that everyone is dealing with in Town, at that time, and the State wasn't even considered and Chapter 91 came in and all of those by-laws died. They're not germane at all because now the State controls that part of the waterfront and the pier on that 55 feet. I think you will find the State will say that.

- **Dana Goddel** – How could we resolve this matter? **Betty Steele-Jeffers** – We do not respond during public statements. If you want to either Town Counsel or Mr. Bergman – you can.

- **Pat Costa** - Re: Ranger V – Portuguese Princess. This woman is in dire need and I think you could be a little more considerate to her. She has a nice company that wants to help her and get her out of trouble.

- **Alix Ritchie** – 1) Base Legal Fund meeting tomorrow in Executive Session. There has been some progress made in permit language. Privatize MWRA. 2) Proposed shuttle service. Highly suggest that the proposal will not forget the West of the suggested cut-off at West Vine Street. There are over 300 or more accommodations – a high demand area that needs to be serviced. If that is the case, then I ask that the Board take action to incorporate this area.

- **Elizabeth Patrick** - Re: Whaler's Wharf – infringing on land court deeded property. Damage to her property. Asked for stop order but DRM. Zoning said it 3 “ or 4” either way doesn't matter. Ask the board to take a serious look at what is happening at this site.

**Peter Sousa** - Re: Clapps Pond area. Against wastewater site. Town neglectful of its obligations in this area. Reporting information to Attorney General. Road out there is beyond repair. Quoted 1950 Annual Town Mtg. Article #55.

## 3 SELECTMEN'S STATEMENTS

### CHERYL ANDREWS

**Whaler's Wharf** – perception in town that the place is too big.

**MOTION:** *Move that the Board of Selectmen request, through Mr. Bergman, that he have a personal discussion with DRM and issue a full report as to whether or not a stop order should be issued on the Whaler's Wharf property and whether or not construction is going on as planned.*

- **Motion by:** Cheryl Andrews      **Seconded by:** Mary-Jo Avellar  
Yea 4    Nay 1 (Richard Prowell)

**Pigeons** - even thought it is not a Town matter what is going on on private property, the Board of Health's regulation to ban feeding in that area, makes a lot of sense to me because that is what is part of the problem. So many birds in the street that vehicles are hitting them and dead carcass are in the street. It only makes sense that if anyone in this Town cares about birds, then they should encourage everybody not to feed the birds.

**BETTY STEELE-JEFFERS** - Pass

### MARY-JO AVELLAR

- **Whaler's Wharf issue** – Restaurant and movie theatre licenses – my understanding that entertainment license had to be very specific about the types of entertainment that would be offered and that under our more

restrictive licensing and zoning provisions that these things had to be spelled out.

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**DAVID ATKINSON**

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**Whaler's Wharf** – Had a personal experience there. Where snack bar was a one story building. A tree was growing through it and I removed it. Beyond that was a screened in area with shelves in it with no building whatsoever. Now all of it is three stories and I am told that there is no more square feet there now than there was before, and I can't believe it. I was told that the reason they could go back further was because of the Chapter 91 license from the State saying that if you keep it open so that people can walk through it 24 hours a day, seven days a week, we'll let you go further on the beach and we had nothing to do with that. Mary-Jo Avellar – That's the other problem with Chapter 91 – this is a good example where Chapter 91 license is in conflict with our local ordinances and zoning by-laws.

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**INFO BOARDS** – letter from Patricia Fitzpatrick asking for Board of Selectmen support – and I vote to approve them.

**WIRE UNDERGROUND** – letter from Shirley Gomes and she ask that we encourage a bill that would help us put wires underground if we ever chose to because it would allow a bonding for this purpose.

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***MOTION: Move that the Board of Selectmen vote to contact Senator Edward J. Clancy, JR's office and relate our support for Senate Bill #949 that would afford municipalities the option of bonding for the cost of putting utility wires underground.***

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

**RICHARD PROWELL**

**Whaler's Wharf** – had a personal tour of the construction site and was asked to extend an invitation for all of you to tour the site. I was assured that everything has conformed to what had been there before.

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**Peter Sousa** – Reference the 1992 Town Article concerning the Shankpainter and Clapp's Pond area – I asked the Town Clerk about this and he has not gotten back to me as of yet – but he did say that there might be another article that superceded this article.

4   **MacMillan PIER PROJECT**  
Director Public Works' Update on Budget, Permits, Design.

Discussion Dependent

5A   **SHANKPAINTER POND UPLANDS MANAGEMENT PLAN**

Approval of Plan Required for Self-Help Grant Reimbursement

***MOTION: Move that the Board of Selectmen vote to approve the Management Plan for the Shankpainter Pond Uplands Property, as adopted by the Open Space Committee following its public hearing on February 15, 2000, with incorporation of amendments dated March 23, 2000; and to submit a request for reimbursement to the Division of Conservation Services under its Self-Help Grant for \$250,000 to the Town of Provincetown.***

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

5B CAPE COD NATIONAL SEASHORE

**MOTION:** *Move that the Board of Selectmen vote to submit a letter to the Secretary of the Interior nominating Town Manager Keith A. Bergman as the Town of Provincetown's alternate member of the Cape Cod National Seashore Advisory Commission, in the form prescribed by the chairman of said commission.*

**Motion by:** Mary-Jo Avellar    **Seconded by:** Cheryl Andrews    Yea 5    Nay 0

**Comments – Betty Steele-Jeffers** – Beach being friendlier in the off-season for those that visit the area with their dog – no barrels to put necessary items in. Suggestion was made – what if the Park found a way to put barrels out at Herring Cove parking lot in some manner that they would not be blown all over the place. Cheryl Andrews – I'd rather see the Seashore have a contract with a local truck hauling company. Mary-Jo Avellar - I think Cheryl Andrews is right. I doesn't make sense for them to have a regulation and then not assist people in its enforcement. They should have an option of putting in the barrels and taking care of them or hire a local company to do it.

**Mary-Jo Avellar** – Clearly states in the deed that land will be made available for dumping purposes. Should be asking for some kind of relief in some other form to satisfy that Quid Pro Quo. Schedule future agenda item - have Town Manager explore what our options with CCNS.

5C APRIL 3, 2000 ANNUAL & SPECIAL TOWN MEETINGS

Adoption of Board of Selectmen's Recommendations on Articles

**MOTION:** *Move that the Board of Selectmen vote to recommend Article 9 of the Special Town Meeting.*

**Motion by:** Mary-Jo Avellar    **Seconded by:** Betty Steele-Jeffers  
Yea 4    Nay 0    Abstain 1 (Cheryl Andrews)

5D APPROVAL OF APPOINTMENT

Assistant Town Manager Mark L. Latour

**MOTION:** *Move that the Board of Selectmen vote, pursuant to Charter section 7-2-5-c, to approve the Town Manager's appointment of Mark L. Latour of Takoma Park, Maryland as Assistant Town Manager, effective May 1, 2000.*

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

6 TREASURER'S REQUEST

Bond Anticipation Note (B.A.N.) #982

**MOTION:** *Move that the Board of Selectmen vote to issue Bond Anticipation Note # 982 in the amount of \$162,988.00 dated February 28, 2000 at 4.0% interest payable at maturity to Cape Cod Bank & Trust Company on May 15, 2000.*

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

7 BOARD OF SELECTMEN APPOINTMENTS

***MOTION: Move that the Board of Selectmen appoint Rex McKinsey as a Regular Member of the Harbor Committee with a term expiration date of June 30, 2002.***

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

**8        MINUTES OF BOARD OF SELECTMEN'S MEETINGS**

**MOTIONS:** Move that the Board of Selectmen vote to approve the minutes of:

March 13, 2000 with the following change: Page 5 first motion – change to **Motion by: Betty Steele-Jeffers**

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

March 14, 2000 and March 20, 2000 as submitted.

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

March 21,2000 as submitted.

**Motion by: Mary-Jo Avellar    Seconded by: David Atkinson  
Yea 4    Nay 0    Abstain 1 (Richard Prowell)**

**9        CLOSING STATEMENTS**

**Cheryl Andrews** - I think that it is important that the things we do in talking about the pier project – if we have to go as far as making motions so that we can submit into the record what we agreed to.

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**Mary-Jo Avellar** – Letter received that was anonymous. Don't every want to see this type of mail in my file.  
(All fellow Board members agreed.)

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**David Atkinson**

**MOTION: Move that the Board of Selectmen endorse the “Resolution To Increase Recycling and to Reduce Waste Generation In Massachusetts” as proposed by the Mass Coalition to Reduce Waste, C/o Clean Water Action, 76 Summer Street, Boston, MA.**

**Motion by: David Atkinson    Seconded by: Mary-Jo Avellar  
Yea 4    Nay 1 (Richard Prowell)**

**Richard Prowell and Betty Steele-Jeffers** - None

**10A        DEPLOYMENT OF SECURITY PERSONNEL**

Chief of Police: Update on Linda Silva Murder Investigation

**MOTION: Move that the Board of Selectmen vote, pursuant to MGL Chapter 39, section 223B, clause 4, to go into executive session for the purpose of discussing deployment of security personnel; and not to convene in open session thereafter.**

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

**Roll Call Vote:        Mary-Jo Avellar - I        David Atkinson - I  
                                 Richard Prowell - I        Cheryl Andrews - I  
                                 Betty Steele-Jeffers - No**

**10B        COLLECTIVE BARGAINING STRATEGY**

AFSCME Town-Wide Unit Negotiations

**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 collective bargaining; and not to convene in open session thereafter.***

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

**Roll Call Vote:        Mary-Jo Avellar - I        David Atkinson - I  
                                 Richard Prowell - I        Cheryl Andrews - I  
                                 Betty Steele-Jeffers - I**

**10C        NON-UNION CONTRACT STRATEGY**

Town Manager Employment Agreement

**MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C 39, s 23B, clause 3, to go into executive session to discuss strategy with respect to contract negotiations with non-union personnel; and not to convene in open session thereafter.***

**Motion by: Mary-Jo Avellar    Seconded by: Cheryl Andrews**

**Roll Call Vote:        Mary-Jo Avellar - I        David Atkinson - I  
                                 Richard Prowell - I        Cheryl Andrews - I  
                                 Betty Steele-Jeffers - No**

Meeting went in to executive session at 10:42 PM

**Minutes transcribed by: Vernon Porter, Secretary  
                                 March 30, 2000**