

TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
July 17, 2008

A quorum being duly present, Council President Janet Joakim called the meeting of the Barnstable Town Council to order at 6:05 pm, on Thursday, July 17, 2008, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

PRESENT: Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker prior to 6:20 pm), Jr., Henry Farnham, Janet Joakim, Leah C. Curtis, J. Gregory Milne (prior to 6:20 pm), James Munafo, Jr., Thomas Rugo (prior to 6:20 pm), James M. Tinsley, Jr. and Harold Tobey.

President Joakim led the Council in the Pledge of Allegiance and a moment of silence.

Recognition of Debra Blanchette

President Joakim read a statement expressing appreciation and gave a Certificate of Recognition to Town Treasurer, Debra Blanchette for her heroic efforts performing CPR on the late Mr. Robert Steenstra on two separate occasions. (See Exhibits A & B) Mr. Steenstra's family, sons Eric and Curt, daughter Dawn, and girlfriend Ruth Jenks, presented Ms Blanchette with a flowering plant. There was a standing ovation.

President Joakim announced that the public hearings for Items 2008-131, 2008-160 and 2008-161 will be postponed to the Aug, 21, 2008 meeting.

PUBLIC COMMENT

Jon Julius offered his personal thanks, as well as thanks from many townspeople, to the members of the ZBA who recently resigned. The individuals have years of experience. The reasons that caused their resignations were reprehensible. He said the town needs a brand new government.

Al Baker would support a 4-day workweek to save fuel and travel expenses. He suggests that the destruction of the former Red Coach Grill property should be farmed out to DPW employees instead of jobbing it out.

Taryn Thoman also thanked the former ZBA members for decades of service and the courage to stand up to those trying to compromise the integrity of the board. She said the Council President did not try to mitigate the situation. Leadership is needed to unite not drive people apart. She asked the public to support the West Barnstable councilor in his demand to ask the president to resign. She will submit signatures to the Town Clerk to begin the recall process.

Mary Clements said that improving the quality of life is a noble goal and the national work done by Democrats has been laudable. She also spoke of the ZBA issue. She said the president was not fit to continue serving as a councilor. Citizens for Open Government is demanding her resignation.

Pat Butler spoke about the appointment process. Criteria used to determine an appointment or reappointment should involve the faithful performance of duties and applied legal standards without prejudice. Having represented clients before the ZBA, he feels members have applied those standards. He suggests taking a deep breath, stepping back and rethinking, in an attempt to learn about what has occurred over last few weeks.

John Norman (former ZBA alternate member) thanked the council for letting him serve for a few years. "ZBA had a good flavor." He would have appreciated candor; a call telling him they were moving on would have been fine. Instead he was contacted about being put forth for a term as a permanent member. His name was forwarded to the committee; there was no further communication. He was very uncomfortable with how it was handled. In the end, each board member individually decided they had had enough. He noted that even attorneys bring their acolytes to ZBA meetings so the novices can learn how to present zoning petitions. He accepts the results but really wished he had been contacted.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Curtis offered her apology to anyone whose feelings were hurt by the actions of last month. She didn't feel anyone was singled out. ZBA questions have been complicated for a long time and she takes responsibility as the Appointments Committee chair. Lack of communication was an issue. There was an attempt to reach a position in which the stability of the ZBA would be assured, but that didn't happen. What occurred does not preclude anyone from reconsidering reappointment.

Councilor Tobey also apologized. He is very respectful of the ZBA; they are hard working. The town has lost something very precious.

Councilor Milne suggested the council put their apology on paper. Six members of the council who voted believe in the associate system. The council has to pick the best people and walk away. Anything else is un-American. The appearance that sometimes an appointment is on the line due to a particular vote or decision cannot occur. He would like to move that, as a body, an apology be given to the individuals.

Councilor Munafo said the day he heard about the ZBA resignations was a sad day and it left the town in a precarious situation. The actions were wrong, but the nomination process in place worked. In the future, the council should pay attention to the process.

Councilor Farnham said what transpired was a slap in the face to the community and a huge deal. He thanked Mr. Norman for his honest and thoughtful comments.

Councilor Barton felt Mr. Norman was caught smack dab in the middle. She feels that the Appointments Committee under Leah Curtis should go forward.

Councilor Canedy regrets how it went down. There were a series of missteps that cannot be placed at anyone's feet. It goes beyond the ZBA. The Council needs to talk to and listen to members of other boards. It was a serious learning experience.

Councilor Crocker feels so many coincidental items have occurred over the last 60 days. All 13 councilors are accountable. The entire council doesn't always know why someone was nominated or that a seat was available. That is why there is a first reading where others can be nominated. There are no guarantees. He has supported alternates for permanent positions and sometimes not supported alternates. He did support Mr. Norman.

President Joakim thanked Mr. Norman for speaking and apologized for the lack of communication. What this has taught the council will be applied.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to approve the minutes of June 19, 2008 as submitted.

VOTE: Unanimous

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS

Councilor Joakim suggested a Village News program to allow councilors to get their individual items to their public. She has formed a Council Advisory Sub-committee of Councilors Farnham, Curtis, Barry and Rugo to seek applications to present to the Appointments Committee.

Town Manager John Klimm reported on a variety of items.

- The timing of a discussion of the strategic plan before the start of next year's budget cycle is a plus.

- He would also like to discuss the capital plan in general terms at that time.
- Senior managers are going out into the community. He listed some of the activities and community meetings they have attended.
- He has issued an executive order regarding overtime spending to tighten the reins.
- The youth community center is ahead of schedule and under budget.
- The house was saved from Stevens Street, will be situated on a town owned site and used for affordable housing.
- Freezer Point will be leased for 6 months using state funds to allow for the exploration of options and possible ownership.
- Despite the national economic slowdown, there have been frequent meetings with companies who wish to invest in Main Street.
- Staff recently attended the annual National Civic League conference, attending various workshops. This conference is especially efficacious for obtaining ideas that can be implemented here. In addition, Lynne Poyant has been asked to write several articles by the National Review. Next year there will be a major conference of all communities that have won an All American City award. Funding for this meeting has come from the private sector and the annual travel budget.
- Both the Police and Public Works Departments are looking at purchasing hybrid vehicles.
- Manager Klimm thanked Gail Nightingale from ZBA who has been his appointee as the hearings officer for affordable housing hearings.
- The new Osterville Bay Committee is overseeing bids that will be due August 1st.
- A tourism grant was received recently.
- The manager thanked Councilor Farnham for his input on a shooting range issue.

Councilor Tobey thanked the DPW for their work on landscaping at the Zion Union Heritage Museum.

Councilor Munafo objects to the fullness of the summer schedule. He felt the third trip to the National Civic League conference in Florida, although fully vetted, was not given the publicity as the other two. He suggested better disclosure in the future. He also gave praise for the work on the 4th of July parade.

Councilor Milne said residents could not see the fireworks. There was an alternate date that could have been used. He agrees councilors should know how the Appointments Committee votes and why. Minutes should be forwarded to all councilors. Councilor Curtis said she has never received a request from him for minutes. Meetings are open and posted and sent to the Town Clerk for filing. Milne would like a routine memo relative to the Appointments Committee.

Councilor Milne made a motion that was not seconded relative to the council sending a letter of apology to each of the ZBA members. President Joakim suggested that an apology be considered by the Appointments Committee.

Councilor Barton congratulated the Town Manager and staff for attending the National Civic League. She congratulated the Indian Ponds Association on their 50th Anniversary that was celebrated at their recent annual meeting, which she attended.

Councilor Farnham explained that people who have issues at the shooting range should contact the PD not the DNR as previously believed. He has been receiving many comments on how spectacular the Hyannis downtown area has become.

Councilor Canedy said it was important for the Manager to participate in National Civic League. The Assistant Town Manager and Council President should also attend when the issues are pertinent. Prior announcement to the council would be helpful.

ORDERS OF THE DAY

OLD BUSINESS

2008-131 APPROPRIATION & TRANSFER ORDER OF COMMUNITY PRESERVATION FUNDS FOR COMMUNITY HOUSING IMPROVEMENTS AT 770 INDEPENDENCE DRIVE, HYANNIS

Upon a motion duly made and seconded this item was postponed to the meeting of August 21, 2008.

VOTE: Unanimous

2008-159 GRANT ACCEPTANCE OF \$75,000 FROM CAPE COD ECONOMIC DEVELOPMENT COUNCIL'S REGIONAL ECONOMIC DEVELOPMENT PILOT PROGRAM

Upon a motion duly made and seconded it was

RESOLVED that the Town Council does hereby accept the grant award in the amount of \$75,000 from the Cape Cod Economic Development Council's Regional Economic Development Pilot Program (REDPP).

Manager Klimm gave the rationale. This is the third year of the funding for design consultants and an events coordinator. Special Projects Coordinator position, currently held by Elizabeth Dillon, is funded, in part, through these funds.

VOTE: Unanimous

2008-160 APPROPRIATION ORDER FOR COMMUNITY PRESERVATION FUND FY09 DEBT SERVICE

Upon a motion duly made and seconded it was voted to postpone the public hearing on Item 2008-160 to August 21, 2008

VOTE: Unanimous

2008-161 COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES & APPROPRIATION FOR COMMUNITY PRESERVATION COMMITTEE ADMINISTRATIVE EXPENSES

Upon a motion duly made and seconded it was voted postpone the public hearing on Item 2008-161 to August 21, 2008.

VOTE: Unanimous

2008-162 APPOINTMENTS

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council appoint the following individual to a multiple-member board/committee/commission:

PLANNING BOARD

Paul R. Curley, 27 Lancaster Way, West Barnstable, as a member to a term expiring 06/30/2010

VOTE: Unanimous

2008-163 ADOPTION OF TOWN OF BARNSTABLE COMPREHENSIVE PLAN FOR 2008

Upon a motion duly made and seconded it was voted to open a public hearing on Item 2008-163 at 7:30 PM.

VOTE: Unanimous

Growth Management Director, Patty Daley, Planning Board Chairman, Marlene Weir, and Growth Management Assistant Director, Joanne Buntich, shared the presentation.

Marlene Weir thanked the members of the LCP committee and the staff. This review was two years overdue. An implementation plan, an easily readable format, a budget tie-in and village participation for visioning are included in the 2008 Plan. Each committee member chaired a sub-committee. Hot button issues (exhibit C) were identified. The committee was committed to a transparent process. When each section was completed, it went on the website. Ms Weir feels this

plan will be a watershed plan for the community and the peninsula, a tool of best practices in government.

Patty Daley pointed out that village plans are an integral part of the overall plan. It was a goal to pull village visions together.

Joanne Buntich gave a PowerPoint presentation. (See Exhibit D) The town creates the plan, the Cape Cod Commission reviews it, and finally, the plan is adopted by town. The plan has been sent to the Commission for an initial consistency review. They would like to have council comments before officially sending it to the Commission. Outreach and comment solicitation is continuing.

- Audrey Loughnane, chairman of the West Barnstable Local Comprehensive Plan Committee, said their committee has had approximately 50 meetings since 2003. They have six changes to the plan which are attached. Those changes were reviewed with Growth Management without objections. (See Exhibit E)
- Gabrielle Black requested that instead of Village 'Vision' the term Village 'Plan' be used.
- Pat Butler said any developer must comply with the LCP as well as other standards. The Health Care section is vitally important. Upon adoption, implementation of the plan means zoning changes, etc. This plan is much better than the current plan which is hard to read and understand exactly what it says. The definition section, etc. add clarity. Incentives for redevelopment are important.
- Councilor Canedy said that village plans are important and would like to see them as Section 8 rather than separate from the LCP. She asked if there was a reference to the Agricultural commission in the Land Use section. Ms Buntich said there was a reference to the Agricultural Commission but not certain of its location in the Plan. She also said that changes to the plan will be made all at once.
- Councilor Barry asked what credence will be given to village plans as regulatory requirements. Buntich said she was tasked with making it user friendly. Village plans will not be viewed as an appendix. One would look at the land use strategy and then what the village had to say. Both would be used with equal credence. Barry felt if village items were in conflict they would not be looked at as one plan. Buntich said area of affordable housing is where some village plans diverge. She is unsure whether the full import of the village's desire might carry any weight. If the overall requirement is 10%, then it is 10% regardless of a village vision plan.
- Councilor Barton thanked them for including a human services portion.
- Councilor Crocker wants village plans to be a part of the plan and be reviewed by the Commission. If his village plan were not included, the breadth of the BA zone in Osterville will be overlooked. Actions in which the villages have been aggressive must be recognized by the LCP. Buntich said the implementation plan is realistic. It requires some valid and practical thought regarding which actions are accomplished when. The final action plan will have the action boxes completed.
- Councilor Munafo asked how the council will know what is in the plan when it is voted. The changes will be made in the form of a motion to insure the changes made are those authorized. Buntich added that any other changes would have to go back before council. Munafo also had concerns that issues in the village plans would be perceived as in conflict with the LCP – the village concepts vs. global concerns. Buntich believes all of the concepts from the villages have been incorporated except for those about housing because they do not meet the standard.

President Joakim asked councilors to forward amendments, etc. to Ms. Buntich.

Upon a motion duly made and seconded it was voted to continue the public hearing to August 21, 2008.

VOTE: Unanimous

Prior to reading in the Item, Councilor Curtis announced that none of the names under ZBA Reappointments would be read in or voted this evening.

Several address corrections were made.

2008-164 REAPPOINTMENTS – as amended and corrected

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council reappoint the following individuals to a multiple-member board/committee/commission:

AGRICULTURAL COMMISSION

Mary Knoble, 40 Asa Meigs Rd, Marstons Mills 02648 to a term expiring 06/30/2011

AIRPORT COMMISSION

Donald Megathlin, 71 St. Joseph Street, Hyannis, 02601 to a term expiring 06/30/2011

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Lois R. Andre, 139 Woodside Road, West Barnstable, 02668; term expires 06/30/2011

Jeanine Marshall, 195 Willow Street, West Barnstable, 02668; term expires 06/30/2011

Christopher Kehoe, 78 Sylvan Drive, Hyannis, 02601; term expires 06/30/2011

BOARD OF ASSESSORS

Jeremy Gilmore, 83 Dunaskin Road, Centerville, 02632; term expires 06/30/2011

BOARD OF HEALTH

Paul Canniff, 106 Hayes Road, Centerville, 02632; term expires 06/30/2011

CABLE TV ADVISORY COMMITTEE

Joseph Garodnick, 56 Wild Goose Way, Centerville, 02632; term expires 06/30/2011

COMMUNITY PRESERVATION COMMITTEE

Terry Duenas, 690 Cedar St, West Barnstable, 02668; term expires 06/30/2011

Patrick Princi, (Planning Board representative) 29 Wayside Lane, West Barnstable, 02668; term expires 06/30/2011

CONSERVATION COMMISSION

Lawrence Morin, 74 Studley Rd., Hyannis, 02601; term expires 06/30/2011

John Abodeely, 476 Baxters Neck Road, Marstons Mills, 02648; term expires 6/30/2011

COUNCIL ON AGING

John Ross, 40 High Street, PO Box 452, West Barnstable, A 02668; term expires 06/30/2011

Ril Handrick Christin, 46 Bayberry Lane, Cummaquid, 02637; term expires 06/30/2011

Edward E. Perron, 85 Outpost Lane, Centerville, 02632; term expires 06/30/2011

Haskell Kennedy, 59 Pontiac St, Hyannis, 02601; term expires 06/30/2011

DISABILITY COMMISSION

Jim Berks, 402 Prince Hinckley Road, Centerville, 02632; term expires 06/30/2011

Linda Cook, 82 Gleneagle Drive, Centerville, 02632; term expires 06/30/2011

GOLF COMMITTEE

Terry Duenas, 690 Cedar St, West Barnstable, 02668; term expires 06/30/2011

HISTORICAL COMMISSION

Jessica Rapp Grasseti, 1611 Main St, Cotuit, 02635; term expires 06/30/2011

Barbara Flinn, 104 Pine Avenue, Hyannis, 02601; term expires 06/30/2011

Nancy Shoemaker, 21 Meadow Lane, W. Barnstable; A 02668, term expires 06/30/2011

HOUSING COMMITTEE

Larry Gordon, 97 Loomis Lane, Centerville, 02632; term expires 06/30/2011

Paul Hebert, (BHA representative) 142 Strawberry Hill Rd, Centerville 02632 term expires 06/30/2011

Michael Schulz, 81 Meadow Lark Lane, Osterville; 02655 term expires 06/30/2011

HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION

David Dumont, 298 Main St, STE 7, Hyannis, 02601; term expires 06/30/2011

Joseph Dunn, 30 Chestnut St, Hyannis, 02601; term expires 06/30/2011

Barbara Flinn, (Historical Commission rep) 104 Pine Avenue, Hyannis, 02601; term expires 06/30/2011

LICENSING AUTHORITY

Richard L. Boy, 50 Sterling Road, Hyannis, 02601 as an alternate member; term expires 06/30/2011

Martin Hoxie, 367 Nottingham Drive, Centerville, 02632; term expires 06/30/2011

MID CAPE REGIONAL CULTURAL COUNCIL

Patricia Austin, 82 Woodland Avenue, Hyannis, 02601; term expires 06/30/2011

PLANNING BOARD

Raymond B. Lang, 4 Jason's Lane, Osterville, 02655; term expires 06/30/2011

PUBLIC WORKS COMMISSION

Paul J. Canniff, 106 Hayes Road, Centerville, 02632; term expires 06/30/2011

RECREATION COMMISSION

Rene King, 192 Zeno Crocker Rd, Centerville, 02632; term expires 06/30/2011

Clyde Takala, 31 Cherry Tree Rd, Cotuit, 02632; term expires 06/30/2011

REGISTRAR OF VOTERS

John Sheehan, 100 Marston Lane, Cummaquid, 02675; term expires 06/30/2011

SANDY NECK BOARD

Nason F. King, 523 Whistleberry Drive, Marstons Mills, 02648; term expires 06/30/2011

Peter Sampou, (ConCom rep) 111 Cedar St, West Barnstable, 02668; term expires 06/30/2011

SCHOLARSHIP COMMITTEE

Janice Cliggott, 6 Tidal Lane, Hyannis, 02601; term expires 06/30/2011

SHELLFISH COMMITTEE

Matthew Ostrowski, (commercial permit) 91 Old Toll Road, W. Barnstable, 02601; term expires 06/30/2011

Andre P. Sampou, (family permit) 375 Cedar St, W. Barnstable, 02668; term expires 06/30/2011

TRUST FUND ADVISORY BOARD

Frances S. Parks, 1441 Old Post Road, Marstons Mills, 02648; term expires 06/30/2011

Jayne Scanlon, 160 South Main St, Osterville, MA, 02655; term expires 06/30/2011

WATER QUALITY COMMITTEE

Robert B. Wood, 216 Church Street, W. Barnstable, MA 02668; term expires 06/30/2011

WATERWAYS COMMITTEE

Steven Swain, 414 Phinney's Lane, Centerville, MA 02632; term expiring 06/30/2011

On the Item without ZBA members and with address corrections.

VOTE: Unanimous (President Joakim was not present)

B. NEW BUSINESS

2009-001 GIFT ACCEPTANCE UP TO \$2,500 FOR JUVENILE OYSTERS FROM THREE BAYS PRESERVATION, INC.

Upon a motion duly made and seconded it was

RESOLVED AND ORDERED: That the Town Council hereby accept a gift of payment from Three Bays Preservation Inc. for approximately 50,000 oyster seed not to exceed \$2,500. Three Bays Preservation Inc. wishes to contribute to the public oyster enhancement / propagation projects in the Three Bays as administered by the Natural Resources Program.

Town Manager Klimm gave the rationale.

VOTE: Unanimous

2009-002 TRANSFER ORDER FROM CONSERVATION DIVISION, GROUNDS LINE ITEM TO OVERTIME

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$2,300 be transferred from the Conservation Division, Grounds line item into the Division Overtime account to provide for the July 1- Sept.1 locking/unlocking of the entry gate at the Crocker Neck conservation area in Cotuit.

Manager Klimm gave the rationale.

Councilor Chirigotis asked about the time of opening and closing. Thomas Geiler, Director of Regulatory Services said passage of this item will allow opening at 8 AM and closing at sundown.

VOTE: Unanimous (Councilor Rugo was not present)

2009-003 REAPPOINTMENTS

Upon a motion duly made and seconded it was voted to refer this item to a second reading on August 21, 2008

VOTE: Unanimous (Councilor Rugo was not present)

2009-004 APPOINTMENTS

Upon a motion duly made and seconded it was voted to postpone the first reading of this item to August 21, 2008

VOTE: Unanimous (Councilors Rugo and Barry were not present)

2009-005 ORDER AUTHORIZING REGULATORY AGREEMENT BETWEEN TOWN AND ALAN GRANBY & ALICE HYLAND

Attorney John Kenney, representing the petitioners, submitted substitute text for Item 2009-005.

Att'y. Kenney gave the rationale. He further described the site and showed the plans. Mr. Cook, project architect, discussed the building styles – coastal New England architecture. Kenny pointed out that this is 50% workforce housing which is double the required percentage. There is always concern about making sure affordable units are throughout the community, but market rate units should also be dispersed throughout the town, Mr. Mattson, project engineer, reviewed the site.

Ray Lang, Planning Board, has not favored this from the first. He feels the project is too dense for the area. The dumpster requires a variance. He voted against it; there was not a unanimous vote on

it from Planning Board. He suggested the council take it under advisement to see if the density can be reduced to make it more presentable.

David Munsell, Planning Board, said the majority of the board agreed with this project. The density is great but compared to elsewhere it is not dense.

Attorney Kenney felt it was inappropriate for a Planning Board member to comment since he had his opportunity at the Planning Board meeting. Kenney reviewed the zoning relief that is requested, explaining what the setback is currently and why it is needed.

Councilor Canedy said Mr. Lang was entitled, as a citizen and Planning Board member, to speak. She cannot vote on a new document tonight. Kenney expected the vote to occur another night.

Councilor Curtis wants to hear about what has been or will be done to insure the existing building, designated as workforce, has met code and will continue to do so. The Housing Committee had concerns about the condition of the buildings and what the owners were prepared to repair. Kenney hired inspectors to review the structure and appliances. His clients will repair anything that is below average or below a "c" inspection rating. Since this is not a Chapter 40B, you can differentiate between workforce and market rate housing. Mr. Kenney said the building will be maintained to keep the character of the street. Landscaping will be done throughout the property as a unit. Rental units might also be sold down the road.

Councilor Rugo agrees with the concerns of others, including the density. The workforce portion will have deed restrictions and monitoring.

Councilor Crocker asked about the curb cut and landscaping. Kenney explained that the developer must make the land nice looking because the newer unit will be behind the older ones. This project will raise the bar from the perceived valuation of properties in that area of Hyannis. In addition it provides a mixture of housing.

Upon a motion duly made and seconded it was voted to continue Item 2009-005 to August 21, 2008.

VOTE: Unanimous

2009-006 ORDER AUTHORIZING REGULATORY AGREEMENT BETWEEN TOWN AND ADAM WEINER, TRUSTEE, GUARANTEED FRESH PRODUCE

Attorney David Lawler, representing the petitioner, gave the rationale and distributed photos of the site. (See Exhibit F)

Att'y. Lawler explained that important relief for this project is allowing a return to a former use, not currently allowed in the district. Prior to the current business, the site housed the Bedford Fruit Co. This is for a fruit and produce company. The current business is a pool company with stores of chemicals. The change of use is for the wholesale and retail components. A retail store will be open from 10 AM to 3 PM. Residents will be able to buy at better prices. Mitigation is on-site. The business owners will revamp the façade, remove the ramp, landscape, etc. It makes sense and is a win-win for the town and citizens. Wholesale trucks will be gone by 7 AM.

Upon a motion duly made and seconded it was

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Adam Weiner, for the property shown on Barnstable Assessor's Map 343 Parcel 003, and located within the MS zoning district and the Downtown Hyannis Growth Incentive Zone, including zoning relief as follows:

Permitted Use: Relief is granted to continue but reduce the scope of the existing specialty retail and expand the use to include wholesale and storage operations of Guaranteed Fresh Produce in the Medical Services (MS) District as described on the approved plans and within this agreement.

Building setbacks: Relief is granted from Section 240.24.1.4.C (1) b, Setbacks and permission is granted to continue existing non-conforming building setbacks insofar as it is required to redevelop the site as shown on the approved Existing Conditions Plan Sheet C-3 and the Layout and Materials Plan Sheet C-4.

Parking: Relief is granted from Section 240.24.1.10.A.4.a, c, d, and e and permission is granted for the construction of the number, length and location of parking spaces insofar as it is required to redevelop the site as shown on the approved plans.

Street Trees: Relief is granted from Section 240.24.1.10.A (5) (f) to allow the street trees to be planted according to the approved landscape plan and as required herein.

Natural State/Impervious Coverage: Relief is granted from Section 240.1.4.C insofar as it is required to redevelop the site according to the approved plan and as required herein.

The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.

VOTE: Unanimous (Roll Call)

2009-007 ORDER AUTHORIZING AN AMENDED & RESTATED RESTRICTION – BEALE WAY/HINKLEY

Upon a motion duly made and seconded this item was referred to a second reading on August 21, 2008.

VOTE: 11 Yes (Munafa no, Tinsley out of room)

2009-008 AMENDMENT TO ZONING ORDINANCE, ARTICLE III DISTRICT REGULATIONS, S240-39 SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT

Upon a motion duly made and seconded it was voted to refer Item 2009-008 to a public hearing on August 21, 2008.

VOTE: 12 Yes, 1 No (Munafa)

2009-009 GIFT ACCEPTANCE OF SOLAR LIGHTING SYSTEM FROM MASSACHUSETTS TECHNOLOGY COLLABORATIVE

Upon a motion duly made and seconded it was

ORDERED: That the Town of Barnstable hereby accepts a gift of a solar lighting system from the Massachusetts Technology Collaborative to illuminate the flagpole at the Barnstable Senior Center.

Manager Klimm gave the rationale.

VOTE: Unanimous

2009-010 APPROPRIATION AND LOAN ORDER BARNSTABLE HARBOR DREDGE PROJECT

Upon a motion duly made and seconded Item 2009-010 was referred to a public hearing on August 21, 2008.

VOTE: 11 Yes, 2 No

2009-011 RESOLVE GIFT ACCEPTANCE FROM FRIENDS OF THE BARNSTABLE COUNCIL ON AGING

Upon a motion duly made and seconded it was

RESOLVED: That the Town of Barnstable hereby accepts a gift of a Wii Video Game system and related accessories from the Friends of the Barnstable Council on Aging.

Town Manager Klimm gave the rationale.

Councilor Farnham asked if this was a new form of adult entertainment. Senior Center Director Madeline Taylor said the seniors like the bowling.

VOTE: Unanimous

2009-012 GRANT ACCEPTANCE FROM IBM CORPORATION

Upon a motion duly made and seconded it was

RESOLVED: That the Town of Barnstable hereby accepts a grant in the amount of \$1,000 for the purchase of computer equipment and authorize the expenditure of monies for that purpose.

Manger Klimm gave the rationale.

VOTE: Unanimous

2009-013 AMENDMENT TO GENERAL ORDINANCES ADOPTING PROCEDURES FOR ABSENTEE MEMBERS OF BOARDS AT ADJUDICATORY HEARINGS

Upon a motion duly made and seconded Item 2009-013 was referred to a public hearing on August 21, 2008.

VOTE: 12 Yes, 1 No (Munafò)

2009-014 APPROPRIATION AND TRANSFER ORDER COMMUNITY PRESERVATION FUND \$108,000

Upon a motion duly made and seconded Item 2009-014 was referred to a public hearing on August 21, 2008.

VOTE: 12 Yes, 1 No (Munafò)

SUBSTITUTE TEXT

2009-015 APPROPRIATION AND TRANSFER ORDER FOR PROJECT COORDINATOR - BARNSTABLE COASTAL RESOURCES MANAGEMENT COMMITTEE

ORDERED, that the Town Council hereby appropriate the sum of \$40,620 to fund a one-year, half time, Special Projects Coordinator staff position to support the Barnstable Coastal Resources Management Committee, and to fund that appropriation, that \$40,620 be transferred from available funds.

Upon a motion duly made and seconded, Item 2009-015 was referred to a public hearing on August 21, 2008.

VOTE: 12 Yes, 1 No (Munafò)

LATE FILE

2009-016 ADMINISTRATIVE CODE AMENDMENT PROVIDING INTERIM APPOINTMENT TO REGULATORY BOARDS

Upon a motion duly made and seconded this item was referred to a second reading on August 21, 2008.

VOTE: 11 Yes, 2 No

Upon a motion duly made and seconded the council voted to go into executive session for the purpose of discussing land acquisition and related negotiations and not return to open session at 9:48 PM.

VOTE: Unanimous (Roll Call)

Respectfully submitted,

Lucia Fulco
Assistant Town Clerk