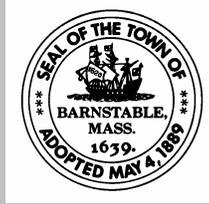


TOWN COUNCIL MEETING



March 19, 2009

A quorum being duly present, Council President Frederick Chirigotis called the regular meeting of the Barnstable Town Council to order at 7:00 pm, on March 19, 2009, at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Janice Barton, Richard Barry, Ann Canedy, Frederick Chirigotis, James Crocker, Jr. Leah Curtis, Janet Joakim, J. Gregory Milne, James Munafa, Jr., Thomas Rugo, James M. Tinsley, Jr., Harold Tobey **ABSENT:** Henry Farnham

The Pledge of Allegiance was led by President Chirigotis, followed by a Moment of Silence. The audience was asked to remember John "Dundee" Atsalis, who passed away recently.

PUBLIC COMMENT

- Francis Broadhurst from the Coast Guard Museum asked the council to look favorably on 2009-074, when they address it on April 2, 2009. It is an amendment to the sign code, which the museum needs to have passed.
- Jon Julius sees a lot of items on the agenda relative to water. It is long past the time for consolidation of water and fire. We need to break the lease of the Kmart mall so we can get the monies. People are leaving Massachusetts because of lack of leadership. Money does not grow on trees.
- Chris Kelsey and other representatives from the various unions of the Town of Barnstable have a coalition of those organizations that want more information on the budget. They have multiple questions and are looking for answers.
- John Alden from the Charter Commission announced that the next hearing will be on Wednesday the 25th of March at the high school. They welcome input.
- Eric Schwaab stated that no one responded to his issues the last time he addressed the council. He noted a couple of items in the strategic plan that addressed consolidation and decreasing the cost of services. He noted that the agenda had a number of spending items for Hyannis Water. Nowhere is the word consolidation. We have the highest water rates in town. Nowhere are you addressing reducing costs.

Acceptance of the Strategic Plan

Upon motion duly made and seconded, it was voted to accept the Strategic Plan (see Exhibit "A" attached).

VOTE: 11 Yes 1 No (Munafa)

Adopt the FY10 Budget Policy

- ✓ Councilor Milne asked if this was by priority (no it is not in order of priority).
- ✓ Councilor Curtis said it is helpful to have the items not be prioritized. She asked the Manager if it adversely affected him.
- ✓ Town Manager John C. Klimm said it is helpful to adopt a policy. We have a series of workshops ahead of us and if next year is like the recent years, by the time we get through the hearings and meetings, I will end up knowing what your priorities are.
- ✓ Councilor Canedy would like it noted that the Strategic Plan which has been reviewed over several meetings by the Council is prioritized. The Budget Priority document had not been newly reviewed by the Council. When presented initially for Council approval, it was prioritized. At request of Council, the words "in order of priority" were removed. The Budget Policy is no longer prioritized.
- ✓ Councilor Munafò thought there was going to be additional discussion on the budget policy under d. iii and m.
- ✓ Councilor Canedy said we should have a conversation about budget formula allocation, but it is too late to affect for the 2010 budget. The School Budget has already been approved based on current formula. We should have that discussion right after this budget is over and get together a committee to discuss whether there should be any changes.
- ✓ Councilor Joakim wanted it noted that we are looking at working on the strategic plan. We do need to work on the strategic plan as soon as the budget is over so the Manager can work on the budget with that in place.

Upon motion duly made and seconded it was voted to move the question.

VOTE: 11 yes 1 no (Munafò)

Upon motion duly made and seconded, it was voted to accept the Budget Policy Statement (see Exhibit "B" attached).

VOTE: 11 Yes 1 No (Munafò)

COUNCIL RESPONSE TO PUBLIC COMMENT

- Councilor Joakim noted that, regarding the homes up for sale, many homeowners would prefer not to leave their homes. In Florida the foreclosures are even higher. We do have problems but other areas are worse.
- Councilor Curtis discussed the issues surrounding consolidation and the fact that there have been committees on this before. The results have been given to the council. There are many who look for consolidation of departments. Many residents do not understand the system in Barnstable. Consolidation needs to come from the districts. We have had a vote on consolidation and the people did not want it.
- Councilor Munafò attributed the lack of response issue to the fact that the speaker was a candidate at that time. He noted that individuals want improvements in the water company but they don't want to pay for them. These are costs that are needed.
- Councilor Milne noted that we have, on multiple occasions, worked on the fire district issue. The first council did perform a study and there was a ballot question. So the charter commission is not omitting anything that has not been done. Milne asked the manager for an update on the water department in Hyannis.
- Councilor Crocker said the districts go through the proper channels when it comes to water towers, etc. It is a long process. Centerville has voted on this issue and it began many years ago with the acquisition of the property. To have these discussions come to us is incorrect. If you want to discuss the water you have to go

talk to the districts. We are all separate districts and we have some of the best water.

ACT ON MINUTES

Upon motion duly made and seconded, it was voted to approve the minutes of March 5, 2009.

VOTE: 11 Yes 1 Abstention (Tinsley)

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

- ✓ Councilor Milne read a resolve 2005-038 that had been passed by the council relative to the televising of meetings of boards and committees. He noted that a recent Airport meeting was not televised because Mr. Santos (from the board) told the videographer not to televise it. The manager addressed the issue and Mr. Santos has apologized. Milne was looking for a motion to acknowledge the resolves and vote that the council is still in favor.
- ✓ Vice President Tobey noted that every councilor takes the resolves and ordinances seriously. To have us vote to support what we have already voted could cause us to be here all week. There are no hidden agendas. We address things that fall through the cracks. No need to take a vote.
- ✓ Councilor Canedy asked if the meeting was open and public. Yes it was.
- ✓ Councilor Curtis was disappointed when the charter commission had a big meeting at the high school and the meeting was not televised. That was a case when things happen. She said they had plenty of room here at the Town Hall and it could have been televised
- ✓ Pres. Chirigotis read a letter from the President of the NAACP, where they expressed gratitude for helping to make the Zion Museum a reality. They thanked the manager, former assistant town manager, recognized Councilor Tobey and also John Reed for their efforts and devotion to the museum.
- ✓ Lynne Poyant, Director of Community Services, accepted an award from Common Cause, the 2009 E-Government Award for website presentations. She, in turn, gave it to President Chirigotis.
- ✓ Councilor Crocker made a motion, which was seconded and approved (one no vote), to post the award at the podium under glass. It was also noted that the Town of Barnstable has received the award repeatedly since 2006.
- ✓ Manager Klimm wanted it noted that this award is made possible because of our employees who have taken the responsibility for their departments seriously; and he wanted to specifically thank the IT department, as well.
- ✓ Ms. Poyant announced that the final skate at the Kennedy Skating Rink will be this coming Sunday and welcomed all for a free skate.

- ✓ Councilor Barton thanked Chief MacDonald.

ORDERS OF THE DAY OLD BUSINESS

2009-078 was taken out of order.

2009-078 APPOINTMENT OF INTERIM TRUSTEE & AGENT-ENOCH COBB TRUST INTRO: 03/19/09

- Attorney Ruth Weil gave the rationale. Finding a replacement for David Cole is not quick and easy; and since there are current issues pending that need to be addressed, they need to appoint Debra Blanchette. She is bonded, is the treasurer, has reviewed the Cobb statements and is on top of it.
- Councilor Canedy believes that the person appointed should not be a town employee or be on the same side as the town in contract or land negotiations.
- Weil spoke to Anastasia Welch Perrino (Registrar of Probate) and she said there is no problem. Blanchette will act in a caretaker roll. Nothing between the town and the trust will go forward during this time.
- President Chirigotis felt that the treasurer is the appropriate person for the time. We have applicants and it is a process. We need someone to have control over the funds and do the ministerial duties.
- Councilor Crocker is grateful for Ms. Blanchette. Crocker noted the PTOs are questioning what is happening, etc. Chirigotis is going to have a meeting next week and will need to get some questions answered.
- Councilor Munafo noted that this vote will not make her interim.
- President Chirigotis explained that the nomination must be approved by the Attorney General and followed up by a notice in the probate court (roughly 60 days for an appointment). The interim appointment will be in place until a permanent trustee is duly located, nominated, etc.
- Attorney Weil said the school is looking at the possibility of the PTO up-fronting the money and getting reimbursed.
- Councilor Crocker asked if we have a replacement do we ask Debra to step down. Attorney Weil said that Debra is a reluctant volunteer. We can at any time make a motion to replace and remove her.
- Treasurer Blanchette noted that she is only stepping in to help facilitate and continue the plan of David Cole. She noted that there are pending issues such as school trips and a celebration for the after prom event. She is only offering services to help this situation along.

Upon motion duly made and seconded, it was

RESOLVED, That the Town Council does hereby appoint Town Treasurer, Debra M. Blanchette, to serve as Trustee and Agent under the will of Enoch T. Cobb. This appointment is intended to be an interim appointment until such time as the Town Council completes its search for a permanent successor Trustee and Agent under the will of Enoch T. Cobb.

VOTE: 12 yes

2009-058 APPROPRIATION AND TRANSFER ORDER FOR FY09 PARKING ENFORCEMENT OPERATING EXPENSES INTRO: 01/08/09, 01/22/09, 02/05/09, 02/26/09, 03/05/09, 03/19/09

Upon motion duly made and seconded, it was voted to postpone this item until April 16, 2009:

VOTE: 12 yes

2009-070 AMEND GENERAL ORDINANCES – WATER SERVICE FEE COLLECTION PROCEDURES INTRO: 03/05/09, 03/19/09

DPW Director Mark Ells stated that this item is a recommendation of the water board. It was noted that as a new water company, we did not have the ability to place a lien against the accounts. Collections have been worked on. They are adopting language not unlike what is utilized with collections at the water pollution control.

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing 2009-070.

VOTE: Unanimous

Eric Schwaab said water rates are going up to over 8%. There was not a single councilor present at the water board meetings. He suggested: delay the implementation of this until the end of the summer so individuals can catch up with their bills; try to help people work out these balances over a 12 month period of time; and, you set the penalty at 14%, why not ask for 7% for 1 year.

Mark Ells answered that we do offer assistance to all customers and we will work on a payment plan; so this is not the first option. We go through payment plan options first. The changes that were recommended can be taken to the water board at any time.

Upon motion duly made and seconded it was voted to go out of public hearing.

VOTE: Unanimous

- Councilor Munafo asked about the 14% and if this was set arbitrarily. Mark Milne, Finance Director said that is a statutory rate set by the state. Munafo asked if we could reduce the rate and Milne said that we would have to go to the state.
- Councilor Munafo asked about waiting until the end of the summer. Milne said that at the end of the fiscal year what is left unpaid would get added to the subsequent tax bill. Milne said it will help the collection rates of the Hyannis Water system by adding it at that time. The more money collected will help improve the rates. We can keep the rate increases to a lesser degree by keeping up with collections.

- Councilor Joakim said this is an opportunity to work with the customers and they can work out a payment plan.
- Councilor Canedy asked if an amnesty plan could be instituted for the first year, or are these delinquencies since we have taken over. Ells said this is from our customers. This is necessary to complete the process. We are sensitive to the economy. We have about \$300,000 outstanding. Weil said we are not capturing the bills on property transfers so we are losing those funds.
- Councilor Milne said he thought the rates were to be about 5% - and it is now about 8%? Did we restructure the rates? Ells said we no longer have a descending rate. The more you use the more you would pay. The outstanding balance is not a surprising number. Ells said we want quality, efficiency and cost effectiveness. There was no capital plan. We now have plans. We are looking for gifts, and grants and revolving fund loans – we are determined to avoid having to go for rate increases. If none come through then we will look at increasing the rates.
- President Chirigotis gave an explanation of municipal liens.

Upon motion duly made and seconded, it was voted to move the question.

VOTE: 12 yes

Upon motion duly made and seconded it was:

ORDERED, That Chapter 184, Sewers, of the General Ordinances of the Code of the Town of Barnstable be and hereby is amended as follows.

SECTION 1. By changing the title from “SEWERS” to “SEWERS AND WATER”

SECTION 2. By adding an Article III to Chapter 184 containing the following -

“ARTICLE III, Collection of Water Use Charges.

§ 184-12. Adoption of statutory provisions.

The provisions of §§ 42A through 42F, inclusive, of Chapter 40 of the General Laws, with respect to the collection of water use charges by the Water Supply Division of the Department of Public Works, are hereby adopted by reference as a part of the general ordinances of the Town.

§ 184-13. Authority to follow statutory collection methods.

The Town Manager, together with the other officials of the Town therein named, are hereby authorized to follow the methods set forth therein in the collection of such charges.”

VOTE: (Roll Call) 12 yes

<p>2009-072 APPROPRIATION & TRANSFER ORDER FOR THE HYANNIS WATER SUPPLY SYSTEM INTRO: 03/05/09, 03/19/09</p>

Director Mark Ells gave the rationale. We were initially asking for the preliminary monies. We have begun that process and decided to try to get additional funds, so we modified the request and went up to the full request for all design, permitting and bids. They have 5 sites that might be feasible.

Councilor Curtis made a motion, which was seconded to cross out the words “preliminary design” and insert “complete design and permitting process” .

VOTE: Unanimous in favor of the amendment

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing 2009-072.

VOTE: Unanimous

Eric Schwaab said that the Manager has placed on the website a notation about the rates being 8.75%. He suggested that the percentage be changed if it is going to be lower. Schwaab said this is premature. You can't site it and design it until you know what you can afford. Why do you need a rate study? You can't afford a new water tower or water main. Take a step back. No public scrutiny of the public expenditures has been made. Refer the spending to a public body and let them bless it.

Upon motion duly made and seconded it was voted to go out of public hearing at: 8:48 p.m.

VOTE: Unanimous

Attorney Weil said we are in a nationwide law suit and Hyannis was awarded some monies. MTE was detected and it was a good settlement. Munafo said the monies are available. You can't make everyone happy. Munafo did have a problem with taking away the right of the council to approve any grants. Weil said the last sentence is standard language. Munafo has a problem with the language.

President Chirigotis then suggested adding language to the end of the item.

Therefore, upon motion duly made and seconded, it was voted to amend the item by adding at the end “, subject to the council approval.”

VOTE: Unanimous in favor of the amendment.

Councilor Crocker said there were no rate increases when we were negotiating the acquisition of Hyannis Water. The fact that the rates are increasing is no surprise, we all knew that there were issues that needed to be addressed. Once Hyannis gets in place all the new piping etc., it will be great.

Upon motion duly made and seconded it was:

ORDERED, That the sum of \$378,000 be appropriated for the purposes of funding the complete design and permitting process of a new water storage tank within the water distribution system for the Hyannis Water Supply System; and to meet this appropriation that \$378,000 be transferred from the mitigation funds received by the Town from the MTBE lawsuit; and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and be authorized to accept any grants or gifts in relation thereto, subject to the council approval.

VOTE: (Roll Call) 12 yes

B. NEW BUSINESS

**2009-074 AMEND ZONING ORDINANCE - ADDITIONAL TEMPORARY SIGN USE
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a joint public hearing with the planning board on April 2, 2009.

VOTE: Unanimous in favor of referral

**2009-075 AMEND ZONING ORDINANCE - AN EXCEPTION TO THE SIGN CODE
INTRO: 03/19/2009**

Upon motion duly made and seconded, it was voted to refer this item to a joint public hearing with the planning board on April 2, 2009.

VOTE: Unanimous in favor of referral

**2009-076 APPROPRIATION OF \$26,000 FROM INSURANCE RECOVERY FUND
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 2, 2009.

VOTE: Unanimous in favor of referral

**2009-077 AMEND THE ZONING ORDINANCE - TIME PERIODS FOR SPECIAL PERMITS
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a joint public hearing with the planning board on April 2, 2009.

VOTE: Unanimous in favor of referral

**2009-080 ACCEPTANCE OF A \$77,695 GRANT FROM THE EXECUTIVE OFFICE OF
ELDER AFFAIRS FOR THE BARNSTABLE SENIOR CENTER INTRO: 03/19/09**

Senior Services Director Madeline Taylor explained that the grant funds a number of positions at the center and is the same money that they received last year.

Councilor Canedy asked for a breakdown of the positions and the amount of monies for each. Ms. Taylor gave the amounts.

Upon motion duly made and seconded, it was voted to move the question.

VOTE: Unanimous in favor

Upon motion duly made and seconded, it was

RESOLVED, That the Town of Barnstable hereby accepts a grant of \$77,695 from the Executive Office of Elder Affairs to support staff salaries and programs of the Barnstable Senior Center.

VOTE: 12 yes

2009-081 ACCEPTANCE OF A \$5,000 GRANT FROM THE CC FIVE CENTS SAVINGS BANK CHARITABLE FOUNDATION FOR BARNSTABLE SENIOR CENTER INTRO: 03/19/09

Ms. Taylor said Cape Cod Five has been very generous. They are promoting all of the services of the center this year. She also thanked the Town Manager for his recent visit.

Upon motion duly made and seconded it was voted to move the question.

VOTE: Unanimous in favor

Upon motion duly made and seconded, it was

RESOLVED, That the Town of Barnstable hereby accepts a grant from the Cape Cod Five Cents Savings Bank Charitable Foundation in the amount of \$5,000 to support a marketing initiative to increase awareness of the programs and services of the Barnstable Senior Center.

VOTE: 12 yes

President Chirigotis asked that the Town Council vote on referring items #2009-082 through 2009-095 as a unit – with the following amendment being added to the end of each item, “subject to the approval of the town council. A motion to that effect was made and seconded. (However, the title of each item and the amount were read into the record by the town councilors).

VOTE: 12 Yes to refer

2009-082 APPROPRIATION FOR COST STUDY - HYANNIS WATER SUPPLY SYSTEM INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-083 APPROPRIATION FOR DESIGN OF WATER MAIN UPGRADE-HYANNIS INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-084 APPROPRIATION-REPAIR WATER TANK - HYANNIS WATER SYSTEM INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

**2009-085 APPROPRIATION-WATER QUALITY STUDY-HYANNIS WATER SUPPLY
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

**2009-086 AN ORDINANCE TO WAIVE WATER TOWER CONSTRUCTION FEES
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 2, 2009.

VOTE: Unanimous in favor of referral

**2009-087 CIP APPROPRIATION –SEWER RESERVE ENTERPRISE FUND
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

**2009-088 CIP APPROPRIATION –SEWER RESERVE ENTERPRISE FUND
INTRO: 03/19/2009**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

**2009-089 CIP APPROPRIATION –SEWER RESERVE ENTERPRISE FUND
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

**2009-090 CIP APPROPRIATION –WATER SUPPLY RESERVE ENTERPRISE FUND
INTRO: 03/19/09**

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-091 CIP APPROPRIATION – \$3,250,000 CAPITAL TRUST FUND

INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-092 CIP APPROPRIATION – \$220,000 CAPITAL TRUST FUND

INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-093 CIP APPROPRIATION – \$200,000 CAPITAL TRUST FUND

INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-094 CIP APPROPRIATION – \$725,000 CAPITAL TRUST FUND

INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-095 CIP APPROPRIATION – \$936,600 CAPITAL TRUST FUND

INTRO: 03/19/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

The following three items were late files.

2009-096 – CIP APPROPRIATION & LOAN ORDER/SEWER COLLECTION SYSTEM

INTRO: 03/19/2009

Upon motion duly made and seconded it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-097 – CIP APPROPRIATION & LOAN ORDER/HYANNIS WATER SYSTEM

INTRO: 03/19/2009

Upon motion duly made and seconded it was voted to refer this item to a public hearing on April 16, 2009.

VOTE: Unanimous in favor of referral

2009-098 - APPOINTMENTS

INTRO: 03/19/2009

Upon motion duly made and seconded it was voted to send this item to a second reading on April 2, 2009.

VOTE: 12 Yes

TOWN MANAGER COMMUNICATIONS

Town Manager Klimm said former Supt. Of Schools, Tom McDonald, and Manager Klimm appeared in Worcester with mayors and managers for a presentation on consolidation of school and town services such as human resources. They read about us in the MMA digest. The town received accolades. Manager Klimm passed it on to the council and thanked them for their support.

Klimm also said that he had the opportunity to participate in the Meals on Wheels program (60 and over housebound individuals). All of the deliveries are done by volunteers. He spent several hours with Sue Handy. The volunteers are doing it all for right reasons. It is a great service.

Vice President Tobey moved and it was seconded, to go in to Executive Session for the purpose of discussing strategy in collective bargaining and not return to open session, at 9:25 p.m.

VOTE: Roll Call 11 Yes 1 No (Tinsley) to go into Ex. Session

Respectfully submitted,

Linda E. Hutchenrider, MMC/CMMC
Town Clerk/Town of Barnstable

NEXT MEETING: April 2nd