

**TOWN OF BARNSTABLE  
TOWN COUNCIL MEETING  
December 3, 2009**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:00 PM, on Thursday, December 3, 2009, at the Barnstable Town Hall, 2<sup>nd</sup> Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

**PRESENT:** Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Debra Dagwan, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafò, Jr., John Norman, Thomas Rugo, and James M. Tinsley, Jr.

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

**PUBLIC COMMENT**

Frank Cuphone spoke on behalf of the people of Stewarts Creek. He suggested that no vote on other sewer systems be taken until the financing is better thought out. There is still confusion; perhaps accurate information is not getting out. There needs to be a clear outline of the options or the project should wait until there are options.

Ray Mitchell supported sewers thinking it would cost between six and ten thousand dollars. He was shocked at the cost and believes realtors are not handling Barnstable properties until it sorts out. He has become anxious. Falmouth is doing the same with a 50% betterment. He wanted the sewer but can't afford it. He would like not to have to sell his house.

Charlie Hetzel thanked the police chief, the police officers, President Chirigotis and Councilor Milne for help in making the Sea Street neighborhood safer. He is also thankful for the new recreation center.

Al Baker spoke about misinformation on various issues and the importance of getting the correct information out. He hopes there is still a chance to get some stimulus money, even though the deadline was missed. In addition, he said that there has not been a justified recall. Being recalled for how one votes is not acceptable. He is glad the charter failed, although some of it was good. He made some announcements of upcoming activities.

Robert Tucker spoke of the problem of too many people living illegally in apartments and too many cars in the yards.

Wendell Moore is 70, retired and lives here. He also hopes for an alternative to the cost of the sewer system. An alternate plan is needed perhaps with federal funding or bond issues.

Elaine Cuphone is appalled by the sewer controversy. She is still trying to find out what is fact versus what is fiction. The truth is that the Stewarts Creek residents cannot live with 100% betterments. Lake Wequaquet could be next. She suggested putting the detail of the agenda on the website.

Louise DeCecca said the neighborhood had a residents' meeting recently. The sewer issue will force many from their homes. The fear of losing their homes is not irrational. The people of Stewarts Creek are being sacrificed. She cannot make ends meet well enough to pay for this. She read a note from another resident that also echoes the sentiment.

Meredith Farnsworth said her trust in the council to do right was shattered. She cannot afford anything close to a 100% betterment. No one would pay such betterments. There has been no information from the subcommittee of CFAC or other citizens' groups.

**COUNCIL RESPONSE TO PUBLIC COMMENT**

- Councilor Milne is pleased to see many people come to give input. He pointed out that nothing on any town council vote said there would be a 100% betterment. The word "betterment" has been used as an accounting term, needed by the legal department. In addition, the amount of any

betterment would be an executive decision not a legislative one. He agrees there is a need for quality information, and the Council does not get a high mark on this. Financing and stimulus money is still available. CFAC will advance a financing proposal. Milne also complemented the chief for his leadership and facilitation ability especially in the Hyannis area.

- Councilor Joakim asked about having missed the stimulus. Mark Ells, DPW Director replied that the opportunity for stimulus money has not been missed.
- Councilor Tinsley pointed out that the entire agenda is on the website with all pages.
- Councilor Canedy explained that the CFAC committee is a long-standing committee. President Chirigotis has charged them and a citizen's group with looking into all areas of sewer financing. She apologized for not reaching out better in the past and explained that a 100% betterment has never been embraced.
- President Chirigotis explained the CFAC and its role. CFAC formed a three member sub-committee months ago, to look at all possible sewer funding options. The first meeting of the Citizens' Advisory Committee – a different group – will occur next week. CFAC will also work with them. This is where it begins and all need to work together to find a fair and equitable process.
- Councilor Rugo asked if there would be another vote to authorize funding. This would mean the door is still open. President Chirigotis said there was no policy, funding mechanism, or contracts yet. In response to Councilor Rugo, John Klimm, Town Manager, stated that any alternative funding mechanism, such as an override or a general taxing, would have to come back to the council. President Chirigotis said at that time, he will have a public workshop.

### **Coastal Resources Management Plan Report**

Robert Jones, Chairman of the Coastal Resources Management Committee presented the final draft of the report (Exhibit A) He introduced the committee present: John Fallon, Jr., property owner; George Gilmore, Dock Construction Industry; Dennis Houle, Chairman, Conservation Committee.

Once the council has reviewed the report, Jones would like a workshop scheduled for an in-depth review.

President Chirigotis thanked him and the committee for their work. He will have a workshop.

### **Nomination of Officers**

Assistant Town Clerk Lucia Fulco explained the procedure for electing the officers.

Fulco opened the floor for nominations for the office of Town Council President.

Councilor Joakim nominated Frederick Chirigotis; Councilor Crocker seconded the motion.

A motion was duly made and seconded to close the nominations for President.

**VOTE: Unanimous**

Fulco opened the floor for nominations for the office of Town Council Vice President.

Councilor Farnham made a motion to nominate James Crocker; Councilor Munafo seconded the motion.

Councilor Barry made a motion to nominate Janice Barton; Councilor Joakim seconded the motion.

A motion was duly made and seconded to close the nominations for Vice President.

**VOTE: Unanimous**

Councilor Munafo made a motion which was seconded to suspend the rules in order to elect officers tonight.

Councilor Joakim suggested following the charter and wait to elect until the next meeting.

Councilor Milne agreed. His seat is pending the result of a recall election on the same day as the next council meeting. He would like the recall decision to take its course and suggested taking the vote once the election returns are in.

Councilor Farnham pointed out that the council has suspended the rules every year. The time for the nominations has already allowed for the politics to occur. He is ready to vote today. He stated that these offices represent us, not the constituents.

Councilor Munafo clarified that the election of officers was in the Rules not the Charter. Councilor Joakim asked all to follow the Rules.

A motion was made and seconded to move the question.

**VOTE: Unanimous consent**

On the motion to suspend the rules:

**VOTE: 3 Yes, 10 No (Roll Call) (Yes: Farnham, Munafo, Norman)**

A motion was duly made and seconded to have the election at the next meeting after the announcement of the recall results.

**VOTE: 11 Yes, 2 No (Norman, Munafo)**

### **ACT ON MINUTES**

Upon a motion duly made and seconded it was voted to accept the minutes of October 15, 2009 as amended.

**VOTE: 11 Yes (Norman, Dagwan recused)**

Upon a motion duly made and seconded it was voted to accept the minutes of November 19, 2009 as presented

**VOTE: Unanimous**

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

Councilors Munafo, Canedy, Joakim, Tinsley, Farnham, Dagwan and Barry all announced a variety of Christmas activities in their villages over the next several weekends.

Councilor Barton announced the annual Memorial For The Homeless on Dec 21, and a sleep-out in tents on Dec. 18, both in memory of those who have died. She also reported that Operation In From The Streets is under the wing of the Duffy Health Center.

Councilor Milne mentioned the send-off dinner for Chris Clark also attended by Councilor Farnham. She is now working on a shellfish program for the Wampanoag Tribe. He mentioned the upcoming meeting of the Citizen's Advisory Committee on wastewater as well as thanking the Chief and Town Manager for their efforts on the meeting of the Sea Street area. BHS Red Raiders won the Thanksgiving game. In keeping with the annual tradition, this year the Falmouth Selectmen have agreed to change their "payment" when Falmouth loses, from cranberries to quahogs and maybe oysters. Delivery will occur on the 17<sup>th</sup>.

Councilor Farnham suggested the council review the new fees proposed by the Growth Management Department. They have increased a lot.

Councilor Dagwan announced the Grand Opening of the United Cultures Room at the new Youth Center.

Councilor Barry thanked Tom Marcotti, Doug Kalweit and Chris Clark for their efforts on cultivating oyster in various areas over the years. It has been a great program – the best bang for the buck!

### **ORDERS OF THE DAY**

#### **OLD BUSINESS**

#### **2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET-ASIDE FOR OPEN SPACE**

A motion was duly made and seconded to reschedule this item to the meeting of February 4, 2010.

Councilor Barry explained the reasoning for the postponement. There is some consternation between the Town and the DEP regarding a conservation restriction, so the town is now looking for an easement. This will provide time to get everyone on the same page.

**VOTE: Unanimous consent.**

### **2010-049 APPROPRIATION \$40,000 FOR GRAPHIC DEPICTION – FAA REGULATED AIRSPACE**

Town Manager John Klimm gave the rationale. This will be a valuable planning tool for the town.

Bud Breault, Airport Manager, introduced Bill Richardson, contract engineer from Jacob's Engineering. Mr. Breault gave a PowerPoint presentation. (See Exhibit B).

Upon a motion duly made and seconded it was voted to open the public hearing on this item at 8:40 PM.

**VOTE: Unanimous Consent**

Al Baker liked that this was going to be paid by surplus funds. He also pointed out that the Marstons Mills airport was more an airfield. Richardson concurred that it was different from the Barnstable Municipal Airport. Breault pointed out that the funding, which is 95% reimbursable, is coming from Airport enterprise funds not surplus funds.

Upon a motion duly made and seconded it was voted to close the public hearing at 8:43 PM.

**VOTE: No Objections**

- Councilor Canedy also asked about enterprise funds. The airport enterprise fund is separate from the town enterprise fund – there is no 'savings account'. There should be no impact due to the slow economy. The airport is getting the full allotment from FAA and there should be no issue with using that allotment at this time. Canedy also asked about any future negative effect on airport needs if the money is used for this purpose.
- Councilor Munafo asked if the 95% reimbursal would be automatic. Breault explained that it is an FAA decision and there is no likelihood of denial. The mapping will be a planning tool for the town.
- Farnham asked if the map will be using the FAA requirements as a base. It will.
- Growth Management Director Joanne Buntich had viewed a demo of the product relating to Logan Airport. The two-dimensional product can be overlaid on the town's zoning map. The product can more easily point out what the safe height is over any building within the map, making the process less cumbersome. The product will be able to assist in determining a safe height for wind turbines, etc. No immediate zoning changes are needed.
- Councilor Crocker feels it is essential that this be advanced.
- Councilor Milne asked if the enterprise account reimbursed town staff time. Manager Klimm said it did not; this is an incredible benefit to the town as a whole. Without this information the staff would have to start from scratch. The money spent without the availability of this asset would far outweigh the money not reimbursed for staff time.
- Attorney Charles McLaughlin encourages this to go forward. Engineer Richardson added that use of this mapping asset could be expanded to water and other areas.

A motion was duly made and seconded to move the question.

**VOTE: Unanimous consent**

### **2010-049 APPROPRIATION \$40,000 FOR GRAPHIC DEPICTION – FAA REGULATED AIRSPACE**

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of Forty Thousand Dollars and no cents (\$40,000.00) be appropriated for the purposes of funding the development of a computer GIS-based graphic depiction of Federal Aviation Administration (FAA)-regulated airspace; and that to meet this appropriation, \$40,000 be transferred from available funds within the Airport Reserve Fund, 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.

**VOTE: 13 Yes (Roll Call)**

#### **2010-052 APPROPRIATION \$126,000 FOR ADDITIONAL FY10 ELECTIONS EXPENSES**

Klimm gave the rationale.

Upon a motion duly made and seconded it was voted to open the public hearing on this item at 9:00 PM.

**VOTE: No Objection**

Al Baker suggested that some of the one-time elections be combined.

Upon a motion duly made and seconded it was voted to close the public hearing at 9:02 PM.

**VOTE: No objection.**

Councilor Crocker made a motion, which was seconded, to add the following to the end of the order: "and that the Town Clerk report the true cost of said additional elections to the town council in March 2010."

**VOTE: Unanimous**

A motion was duly made and seconded to move the question.

**VOTE: Unanimous**

#### **2010-052 APPROPRIATION \$126,000 FOR ADDITIONAL FY10 ELECTIONS EXPENSES**

Upon a motion duly made and seconded it was

**ORDERED:** That the Barnstable Town Council hereby appropriates \$126,000 for the FY 2010 Administrative Services Department budget and that this amount be used to cover the costs associated with conducting five additional elections in FY 2010; and that the Town Clerk report the true cost of said additional elections to the town council in March 2010.

**VOTE: 13 Yes (Roll Call)**

#### **2010-057 ADOPT THE BUDGET POLICY FOR FY11**

Klimm gave the rationale. There are some very minor changes. He is not wanting to rush this.

- Councilor Canedy believed the revenue sharing with the school department – salary increases, etc. - was going to be revisited. It could be adopted with the exception of section 1d. There needs to be a workshop and real discussion on the issue.
- Councilor Munafo said the council did not give the Manager guidelines on negotiating the revenue sharing priorities.
- Councilor Farnham recalled a meeting where the budget was discussed, but was not sure if this piece had been discussed. He asked how the Manager and Finance Director Milne would like the council to proceed.
- Manager Klimm said some areas of the administrative code have been rewritten. He is not trying to rush the budget policy but needs a decision on whether to have a review meeting.
- Councilor Farnham agreed that is a most important issue and suggested possibly a Saturday workshop.
- Councilor Canedy suggested a Saturday in early January for a discussion of item 1d.
- Councilor Munafo concurs with a special meeting. Councilor Crocker is also concerned with items 1c and 1j. Councilor Joakim agrees with Crocker. What happens if this is not adopted between now and first January? Klimm stated that it would be a very big problem.
- Councilor Munafo suggested December 17<sup>th</sup> since the budget policy needs to be adopted before January 1. Councilor Rugo suggested the next Thursday. Councilor Barton suggested starting the regular council meeting earlier. Councilor Farnham suggested starting at five. Councilor Barry suggested everyone send in their concerns beforehand to save time.

An informal vote was taken to meet on Dec. 17, 2009 at 5:00PM for a FY 2011 budget policy discussion.

**VOTE: Majority in favor**

A motion was duly made and seconded to postpone Item 2010-057 to Dec 17, 2009.

**VOTE: Unanimous**

## **B. NEW BUSINESS**

### **2010-059 GRANT ACCEPTANCE - \$3,000 FROM CAPE COD COMMISSION**

Upon a motion duly made and seconded it was

**RESOLVED**, that the Town Council hereby accepts a grant award in the amount of \$3,000.00 from the Cape Cod Commission to be used to engage the services of an housing development consultant for the 46 Pearl Street project

Manager Klimm gave the rationale.

Councilor Farnham asked what resulted from the purchase of the 46 Pearl Street project.

Joanne Buntich said that 50 Pearl Street is artists' workspace. Forty-six Pearl Street is also artist work space and the artist lives in the rear. The town has staff on board to do the predevelopment and monitoring, but not in the development area. This allows a notch up on the expertise which is critical.

A motion was duly made and seconded to move the question.

**VOTE: Unanimous**

**On Item 2010-059:**

**VOTE: 12 Yes, 1 No (Farnham)**

### **2010-060 GRANT ACCEPTANCE - \$3,360 FROM CAPE COD COOPERATIVE EXTENSION**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council hereby accepts a Cape Cod Cooperative Extension Wildfire Assessment and Preparedness Program Land Management and Wildfire grant in the amount of \$3,360 for phase I of selective invasive plant management at the "Field of Dreams", West Barnstable Conservation Area

Manager Klimm gave the rationale.

- Councilor Munafo asked if work previously adopted is being done because of the grant. Consumer Affairs Director, Thomas Geiler said it builds on the county grant and maximizes the funds to do the regular maintenance and to bring the area back to a "field view." The money is available and comes back twice.
- Councilor Crocker is confused about the matching requirement which doesn't match. Geiler explained that the \$1,260 is a requirement of participation from the town; match may not be the best word. The town will already be spending the \$1,260; now we have more. The total spent will be \$4,620.

A motion was duly made and seconded to move the question.

**VOTE: Unanimous**

**On 2010-060:**

**VOTE: Unanimous**

John Klimm recognized Tom Geiler who will be honored tomorrow for 35 years of service to the Town.

Councilor Norman recused himself for the following item.

### **2010-061 FY10 SNOW & ICE REMOVAL OVERDRAFT ORDER**

Upon a motion duly made and seconded it was

**ORDERED:** That pursuant to Chapter 44, Section 31D MGL, which provides for the ability of the Town to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal; the Town Council approves expenditures in excess of available appropriation for snow and ice removal for fiscal year 2010, subject to further approval action by the Town Manager.

Manager Klimm gave the rationale.

Councilor Farnham pointed out that it is a standard item and appreciated the amount being appropriated;

A motion was duly made and seconded to move the question.

**VOTE: Unanimous**

**On 2010-061:**

**VOTE: Unanimous (Norman recused)**

Councilor Norman returned to the hall.

### **2010-062 DCPC IMPLEMENTING REGULATIONS – CRAIGVILLE BEACH DISTRICT**

Upon a motion duly made and seconded this item was referred to the Planning Board for a public hearing.

- Councilor Canedy asked about the process at this point. Buntich explained that the Planning Board hears this item and votes when they are done. It comes back to the council for its own public hearing. It is like a new DCPC but has to be done within the time frame of the Cape Cod Commission moratorium.
- Councilor Crocker asked about the Planning Board sub-committees and process. Buntich said it is basically the same item: dates have changed and some other citations have changed. The Planning Board is comfortable with the regulations and it will be an open process of public hearing at their regular meetings.
- Councilor Munafo asked about public workshops/meetings. Buntich explained that it is the same ordinance; the public process is now public hearings which will be done by the Planning Board; then the council will have its own public hearing process. Buntich assures the council that all the legal public procedures have been followed.
- Councilor Farnham asked if this is the final document that was submitted before. Buntich confirmed that it was the same. However, there is nothing preventing new amendments. Buntich explained that it is not a joint hearing process; the Planning Board will recommend; the council can still amend after that. The Planning Board does not have to check back in. Council has the final word.

**On Item 2010-062**

**VOTE: Unanimous**

### **2010-063 APPROVAL OF A CONSERVATION RESTRICTION IN BARNSTABLE VILLAGE (WELSH & MITCHELL, GRANTORS)**

### **2010-064 APPROVAL OF A CONSERVATION RESTRICTION IN BARNSTABLE VILLAGE (KAESS GRANTORS)**

Jaci Barton from the Barnstable Land Trust made the presentation for both items via a PowerPoint presentation (See Exhibit C)

There are many similarities, from the difficult curve on Route 6A, to abutting the Sandy Neck/Barnstable Harbor area. Families have owned the houses and they are historic; the property tax consequences are minimal to none. An access trail is proposed on the Mitchell parcel. Liability to the owners is huge. In this case the insurance will be paid by the Trust. The Kaess property can be used to store boats and park cars. Land is significant and needs to be preserved. The Cape is sunk if there is a loss of the

environment. There is a history of voters raising their property taxes to preserve land. However, the match is in the 30% arena, no longer 100%. Donated conservation restrictions have no cash outlay to the town. The Federal government is offering tax incentives to encourage conservation restrictions by Dec 31<sup>st</sup>. (See Exhibit D for fiscal impacts.)

**On Item 2010-063**

Upon a motion duly made and seconded this item was referred to a second reading on December 17, 2009.

**VOTE: Unanimous**

**On Item 2010-064**

Upon a motion duly made and seconded this item was referred to a second reading on December 17, 2009.

**VOTE: Unanimous**

**2010-065 AMEND ADMINISTRATIVE CODE ADDING SECTION 241-54.2 ESTABLISHING A RENEWABLE ENERGY COMMISSION**

Upon a motion duly made and seconded this item was referred to a public hearing on January 21, 2010.

**VOTE: Unanimous**

**TOWN MANAGER COMMUNICATIONS**

Town Manager Klimm reported on a visit to Nantucket, meeting with their Town Manager and department heads to open up lines of communication and opportunities for collaboration. He met with CFAC regarding revising the financial code now under review.

He thanked Councilor Milne and all the Hyannis delegation for support of the staff. He said the decision to hire Police Chief McDonald and take the position out of civil service was a success; A person was selected with the best credentials not someone who has passed a test.

He announced the Years of Service Awards Luncheon. He also announced the departure of Andy Gobeil who is the new news anchor for Channel 6 @ 5 am. Klimm replaced Andy with Nick Cortes from WQRC reporting for Barnstable Today and adding a new program, Barnstable This Morning.

He thanked the council for their decision on the budget. There will be a review of fees – to make them comparable to the actual cost of service. He encouraged citizens to respond to the proposals. Growth Management managers and regulatory committees value the professional staff assistance. A realistic cost of service was done so fees match the service.

Councilor Canedy asked if the council could be apprised of the meetings regarding fees. Was phasing in the fees over several years considered? Klimm said phasing-in was discussed; they weighed in the value of phasing, but if you can't have the staff, what does the phasing do? Canedy hopes a balance can be worked out.

Councilor Farnham pointed out that the growth management efforts go to development of commercial space which brings in money and creates economic development. Klimm pointed out that Tom Geiler's areas are self supporting – no sense to cut in these areas. Farnham would rather see wage freezes and cuts rather than increasing charges.

Upon a motion duly made and seconded the meeting was adjourned at 10:30 PM.

**VOTE: Unanimous**

Respectfully submitted,

Lucia Fulco,  
Assistant Town Clerk