

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
March 17, 2011**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:0 PM, on Thursday, March 17, 2011, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

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

President Chirigotis led the body in the Pledge of Allegiance followed by a moment of silence.

Councilor Dagwan asked that Levi Hill, who passed away, be remembered.

PUBLIC COMMENT

Mary Ann Barboza thanked Debra Dagwan and John Klimm for asking the neighborhood what they needed and not assume what was needed. Everyone on the board, regardless of their precinct, should knock on doors to meet the people and be involved. How can the entire council vote on issues affecting Hyannis when they don't know the people or the area. She feels the board only listens to the community when it is convenient. The town builds up for tourists but ignores the homeless. She used the game room in the youth center as an example of giving the smallest space to the neighborhood's young people. The council needs to stop making special projects out of the homeless, the poor. They are the community.

Robert Tucker also spoke about Levi Hill; a person who he never heard cut people down. He was a wonderful man who knew about people. He again spoke about people who get off without paying their excise tax.

Dennis Connors, Manager of the Captain's Quarters Homeowners Association, located at Hirammar and Fresh Holes Roads, thanked all who helped with the clean up that occurred this weekend. Owners of the buildings are called "absentee landlords" which, in reality, is not the case. Money has been spent to keep the area neat. He has a \$72,000 budget from which he spends a goodly amount cleaning up other people's trash. He is the only employee and often is criticized for what wasn't done, not complemented for what was done. People need to pitch in or it will cost money to hire the help. Spring cleaning will cost \$3,500 to \$4,000. He is trying daily to keep the grounds neat.

COUNCILOR RESPONSE

Councilor Milne said that some of this is new information – especially the illegal dumping. He thanked the PD for their efforts. He suggested that the staff could assist the private sector to turn a corner and would like to see the council not loose sight of this.

President Chirigotis explained that the security cameras in the area are designed to record the license plates of those who drive in and see what they are doing. If they are dumping trash, they will be caught,

Councilor Joakim suggested more publicity on who is doing the illegal dumping – caught on camera.

Councilor Dagwan said the feed back needs to be forthcoming regularly and work with the landowners. Councilors Crocker, Munafo and former Councilor Tobey walked through the area with her. More recently Councilor Chirigotis has been involved with the camera issue. What happens in one village affects all. She suggested Mary Ann Barbosa try a more positive tone because she has great ideas that can be addressed positively.

Councilor Norman pointed out that all people make choices: to speed or not, to use a walkway or not. The Council is blamed for not doing enough for safety on a state road. However, the choice of not walking to the walkway and waiting for the light is personal. As an example, Norman said he was not personally contacted when someone in his neighborhood was arrested for having an arsenal of firearms. He votes with a town-wide perspective.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to accept the minutes of February 17, 2011

VOTE: Unanimous (Crocker abstained)

Upon a motion duly made and seconded it was voted to accept the minutes of March 3, 2011

VOTE: Unanimous

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

Councilor Barton reported that interviews for superintendent have been handed over to the School Committee to interview the finalists. On April 2 the United States Navy Show Band will perform at the high school. The No Place for Hate Committee the Barnstable Smart Safe and Sober Coalition will also be meeting.

Councilor Munafo said the issue of roosters crowing and keeping people up is being addressed. People should be able to sleep without such noise. On the resignation of the Council Administrator, he said the resignation was made under duress and given to the Council President. Munafo feels President Chirigotis has not considered what would be in the council's best interest and it shows contempt. The letter of resignation should be brought to the council for acceptance or not, not hidden. Munafo offered to read it so the council could act.

President Chirigotis said he did not receive a letter from Mr. Grissom. Grissom told him he was meeting with an attorney to discuss his situation, would think about it and get back to him after the weekend. The resignation was submitted to HR and Chirigotis did not receive a copy until early March. Grissom asked him not to say he had resigned so he could speak to each counselor individually. On the day of the last council meeting, he asked Chirigotis to tell each councilor that he had resigned. He offered to let any councilor read the letter since it was a public document. Grissom said he wanted to be treated with dignity, respect and consideration.

Councilor Munafo started to read a letter dated March 13 from Grissom as Chirigotis stated what was being read was not the letter of resignation. Chirigotis offered to read the February 18th letter Mr. Grissom gave to personnel. Councilor Munafo persisted and was ruled out-of-order, then was told he could continue. Councilor Milne wondered why the letter was submitted to HR rather than the council. The letter of resignation was not submitted to President Chirigotis. Councilor Crocker suggested getting the facts straight pointing out that Donald Grissom was his friend, a good man and served the town for over 10 years. He felt Grissom served at a high level suitable to his talents and abilities.

Lynn Poyant spoke about the impact of Levi Hill passing.

She also presented a plaque to Council President Chirigotis from the Massachusetts Recreation and Park Association for the design of the HYCC. A camel is a horse built by committee and HYCC is an example of an excellent committee. (See Exhibit A) Councilor Joakim said the council worked together to get this done and should stand together and take a bow. President Chirigotis thanked Councilor Crocker for his insistence on getting it right.

ORDERS OF THE DAY

OLD BUSINESS

2011-064 ACCEPT A \$2,000,000 GRANT FROM MASSWORKS INFRASTRUCTURE 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 \$2,000,000 from the Commonwealth Of Massachusetts MassWorks Infrastructure Program

Town Manager John Klimm gave the rationale. The grant does not require a match from the town.

Joanne Buntich, Director of Growth Management said the Hyannis Area Chamber of Commerce, the Hyannis Fire District and the Main St Business Improvement District have been involved. The grant supports an integrated economic strategy beyond the actual construction. The new evaluation criteria looks at all the works a town is doing. This gave Barnstable an advantage.

Councilor Canedy asked if traffic signals at High School Street and South Street were included. No, it would be a separate project.

Councilor Tinsley asked if there were anything planned at the intersection of Stephens St. and North St.

Mark Ells, Director DPW, said the entire roadway will be reconfigured. It is a significant emergency response site. They are coming to the final stages of the construction planning. Jobs that were created and spurred on by various projects downtown were the reason we received the grant. He thanked the council for their support of an Economic Development Coordinator.

Councilor Farnham asked for a report from the Manager regarding Marcia King's activities and grant successes. Manager Klimm said he was planning to be describing it during the budget process but can move it up if necessary. Farnham said with the budget is fine.

Councilor Norman asked when the \$2M of tax dollars would be coming back into the community. Grants require much time and effort completing paperwork, etc.

On Item 2011-064

VOTE: Unanimous

NEW BUSINESS

2011-086 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND HSR REALTY TRUST

Attorney Michael Ford spoke on behalf of Wayne Kurker. The property is located in an office, multifamily and GIZ as well as an AP groundwater protection district. He gave a very detailed account of what changes would occur. The fact that boat work can occur inside at this location will save up to 7 jobs that would normally be lost at the marina by allowing boat work during the winter. The project had two public hearings with the Planning Board. Phase two allows other uses as well as the prior use of an auto dealership. Ford explained that this is a creative regulatory agreement that meets the economic needs of the times. (See Exhibit B)

Councilor Munafo asked if the lighting study, which was in compliance with Cape Cod Commission standards, meant the project had to go before them. Attorney Ford said there was no need.

Councilor Canedy was struck by the proponent's outreach to the community. Consideration was given to nearby residences.

Councilor Farnham saw the Planning Board discussions and is in favor and suggested the item be voted tonight.

Councilor Tinsley agreed. He took a tour of this facility and dropped in at another facility and was well received. Enhancements were needed and the outreach was excellent. The outreach makes for a smoother transition.

A motion was made and seconded to move the question.

VOTE: Unanimous

2011-086 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND HSR REALTY TRUST

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 HSR Realty Trust, Developer, for the property shown on Barnstable Assessor’s Map 309 as Parcels 265 and 215 and located within the Office and Multifamily (OM) zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the redevelopment of the existing site at 90 High School Road and 67 Winter Street, Hyannis; and hereby granting a waiver from the provisions of the Barnstable Ordinances Section 240-24.1.6 as follows: allowing as principal permitted uses a Class I Automobile Dealership, Auto Body Repair and Vehicle Liner uses, educational facility, indoor storage and service of boats, retail and mixed use of retail and office, food retail and sales including public markets and/or specialty food markets, in addition to the allowed by-right and conditional uses in the OM District.

REGULATORY AGREEMENT
WAYNE KURKER
90 HIGH SCHOOL ROAD EXTENTION AND 67 WINTER STREET
HYANNIS, MA 02601

This regulatory agreement (“Agreement”) is entered into by and between the applicant, Wayne Kurker as Trustee of the HSR Realty Trust, (“Applicant” and “Developer”) and shall include successors and assigns, and the Town of Barnstable (“Town”), a municipal corporation, on this ____ day of _____, 2011 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, this Agreement shall establish the permitted uses, densities, and traffic within the Development, the duration of the Agreement, and any other terms of conditions mutually agreed upon between the Applicant and the Town;

WHEREAS, the Applicant is the legal owner of the Property (“Property”) at 90 High School Road Extension and 67 Winter Street, Hyannis, totaling approximately 3.79 acres as shown on Barnstable Assessor’s Map 309 as Parcels 265 and 215, the title to which is recorded in Barnstable County Registry of Deeds in Book 23928 Page 231, which is improved with a single story building totaling 53,857 gross square feet of which 3,085 square feet is a mezzanine area and that the Applicant desires to reuse pursuant to this Regulatory Agreement.

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 of the Barnstable Code;

WHEREAS, the Town and Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to the reuse of the Property;

WHEREAS, the Applicant is willing to commit itself to the reuse of the Property substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the reuse and therefore considers this Agreement to be in its best interests; and

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of the Agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety, or welfare;

WHEREAS, the reuse of the Property will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Property is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the reuse is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and the Applicant has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, the proposed reuse has undergone informal site plan review on December 9, 2010 and which site plan was found approvable for Phase I use of the site as defined in this Agreement.

WHEREAS, the proposal has undergone at least two public hearings on the Agreement application and received an affirmative majority vote from the Planning Board on January 24, 2011;

WHEREAS, the proposal has undergone a public meeting on the Agreement application before the Town Council and received a two-thirds vote approving the application on **[DATE PENDING]**;

WHEREAS, the Developer in accordance with Section 168-6. *Elements of Regulatory Agreements* acknowledges that additional mitigation as may be deemed necessary will be addressed as flexible permitting is implemented.

WHEREAS, the Town acknowledges that this Regulatory Agreement will result in the preservation of year-round jobs from the boat storage and service business related to Hyannis Marina to be conducted within a portion of the existing building.

WHEREAS, this Agreement authorizes only the uses, intensity of use, and mitigation stipulations specified herein. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Section 168-10.

WHEREAS, the development was constructed in 1968 and lacks sufficient site improvements and appropriate lighting and landscaping.

WHEREAS, the use of paints containing organotin compounds, such as tributyltin, on boats and ships has been shown to be harmful to human and environmental health, and particularly detrimental to shellfish populations;

WHEREAS, idling and parking of large trucks within the public ways has been shown to negatively impact the surrounding residential neighborhood.

WHEREAS, the Applicant has estimated that the number of boats proposed to be stored in a portion of the existing building is between forty (40) and no more than eighty (80), with the higher number of boats being stored and serviced from October through May.

NOW THEREFORE, in consideration of the agreement and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Applicant and the Town do enter into this Agreement, and hereby agree to covenant as follows:

1. The developer proposes to renovate and occupy the existing single-story 53,857 square foot building, of which 3,085 square feet is mezzanine space, with the following continued and or proposed uses:
 - A. Continued use as a Class I Automobile Dealership, with automobile and light truck sales, including related retail and office space and/or automobile and light truck service and repair, consisting of all or any of the following: auto and light truck sales, auto and light truck service,

- auto body repair, parts storage and sales, car wash, auto detailing, and related retail and office space.
- B. Continued Auto Body Repair and Vehicle liner uses.
 - C. Proposed use as an educational facility.
 - D. Proposed use for indoor storage and service of boats. Boat storage and service shall not be permitted in the westerly most 15,407 square foot portion of the building.
 - E. Proposed use of retail and mixed use of retail and office.
 - F. Food retail and sales with delivery, including a public market and/or specialty food markets
 - G. Any other uses permitted under applicable provisions of the OM District.
2. All of the authorized uses will be conducted within the existing structure except to the extent that those uses are customarily conducted in the open air.
 3. Notwithstanding the provisions of Paragraph 2, outdoor boat storage or service of boats is prohibited on 90 High School Road and 67 Winter Street properties.
 4. Any proposed expansion, partial demolition, or total demolition of the existing building shall constitute a substantial change to the Property and require review by the Planning Board and Town Council pursuant to Section 168-10.
 5. Phasing.
 - A. The parties agree that the initial use of the Property, so-called Phase I use, will be as follows:
 - i. Continuation of the Auto Body Shop in 6,155 sq. ft in the area shown on the Plans filed herewith;
 - ii. Continuation of the Vehicle Liner Shop in 1,500 sq. ft in the area shown on the Plans filed herewith;
 - iii. Use of the middle section of the building, which may constitute between 15,680 square feet and 27,710 square feet of space, for boat storage and service.
 - iv. Completion of the following site improvements prior to June 30, 2011 or October 15, 2011 as specified on the attached Landscape Phasing Plan agreed to on January 13, 2011:
 - a) Installation of landscaping in accordance with plans entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Peter Hansen Landscape Design, dated December 22, 2010, which shall be signed and stamped by a Massachusetts registered landscape architect.
 - b) Installation of a landscape buffer on the Property along Stevens Street in compliance with Paragraph 13 herein.
 - c) Replacement of any unshielded building-mounted light fixtures on the Stevens Street façade with full-cut off light fixtures that do not spill over or cause glare on neighboring properties.
 - d) Installation of a bike rack, to contribute to the travel demand management goals of the Hyannis Growth Incentive Zone.
 - B. Phase II use of the Property shall consist of:
 - i. Use of any of the westerly most portion of the building, which may constitute between 15,407 square feet and 50,772 square feet of space, as well as 3,085 square feet of mezzanine space, for a use(s) authorized under this Agreement.
 - ii. Completion of the following building and site improvements, subject to approval of the Planning Board and Building Commissioner as required under Paragraph 8 below:
 - a) Improvements to the building façade and building exterior in compliance with Design and Infrastructure Plan standards;
 - b) Interior parking lot landscape improvements, including the addition of parking lot islands, planted in compliance with § 240-53 (E);
 - c) Parking spaces and drive aisles in compliance with zoning regulations;
 - d) Improvements to site lighting in compliance with Paragraph 16 herein;
 - e) Any improvements necessary to ensure adequate and safe circulation between 90 High School Road Extension and 67 Winter Street;

- f) Other site modifications as deemed necessary by the Planning Board upon the advice of the Building Commissioner and Site Plan Review Committee to ensure public health and safety, including safe access for fire-fighting and emergency rescue vehicles. Said improvements shall be completed prior to the first Certificate of Occupancy issued in Phase II.
6. To offset the impacts of increased development in the Hyannis GIZ, the applicant is proposing substantial on-site mitigation of the existing, underutilized site. The applicant shall make initial improvements specified in Paragraph 5A prior to June 30, 2011 or October 15, 2011 as specified on the attached Landscape Phasing Plan agreed to on January 13, 2011. In Phase II, the Applicant shall make improvements specified in Paragraph 5B, which will be further delineated by the Planning Board, pursuant to Paragraph 9 below.
 7. The indoor storage and service of boats on the Property will retain an estimated six to ten (6-10) year-round jobs in the Town of Barnstable.
 8. Upon identification of a building tenant(s), the Building Commissioner shall determine if the proposed use is authorized under the terms of this Agreement. The Building Commissioner may solicit the advice of the Planning Board prior to making such determination.
 9. Upon identification of an authorized Phase II building tenant, the Applicant shall submit plans for site and building improvements required under Phase II of this Agreement. Landscape plans shall be signed and sealed by a Massachusetts certified landscape architect. Plans shall be reviewed and approved by the Planning Board and Site Plan Review Committee prior to issuance of a building permit. Plans shall also be found to be consistent with the Design and Infrastructure Plan by the Director of the Growth Management Department or designee.
 10. Any expansion or intensification of the pre-existing Auto Body Repair or Vehicle Liner uses shall constitute a substantial modification of this agreement and require review pursuant to Section 168-10.
 11. The parties agree that the attached parking schedule adequately shows that, for uses proposed under Phase I as defined in this Agreement, there is sufficient parking on site for those uses. As the Developer commences uses beyond Phase I, the Building Commissioner shall review the proposed use(s) to ensure adequate parking is provided on site.
 12. Should the Building Commissioner find that uses authorized under this Agreement produce parking demands in excess of the number spaces provided on site or require other zoning relief, an amendment to this Regulatory Agreement, pursuant to the terms of Section 168-10, shall be required to permit such uses.
 13. The Applicant shall maintain a dense, year-round landscape screen along the frontage of Stevens Street across from residential property. The Applicant shall establish a landscape buffer on the Property in Phase I. The landscape buffer shall be located entirely on the Property, between the two curb cuts on Stevens Street, and shall be at least five (5) feet in depth. The Applicant shall complete improvements as shown the Landscape Plan entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Peter Hansen Landscape Design, dated December 22, 2010 and shall install improvements as specified in Paragraph 15 herein.
 14. For Phase I and Phase II landscape improvements, the Applicant shall provide surety for maintenance and replacement of dead or dying landscape material shown on the approved plans. The surety provided shall be 150% of the value of the landscape materials and shall be held until the landscape improvements are installed according to the plan entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Hansen Landscape Design, dated December 22, 2010 as determined by the Building Commissioner. Should the Developer fail to install the landscape improvements within two years from the date of this agreement the Town shall use the surety to install the landscape improvements. Said surety shall be in a form and content acceptable to the Town Attorney and the Town Treasurer's office. Surety for Phase I improvements shall be submitted prior to June 30, 2011 and surety for Phase II improvements shall be submitted prior to the first Certificate of Occupancy. Prior to October 15, 2011, the applicant shall execute a temporary

license, in a form acceptable to the Town Attorney, which allows the town to enter the premises for the purpose of replacing dead or dying landscape material as described herein.

15. The Phase I landscape improvements shall be made according to the plan entitled Proposed Landscape Plan (former Puritan Pontiac Building) Prepared for Wayne Kurker, drawn and stamped by Peter Hansen Landscape Design, dated December 22, 2010, and installed according to the attached Landscaping Phasing Plan agreed to on January 13, 2011. The Applicant shall make those improvements shown in yellow on the Landscaping Phasing Plan no later than June 30, 2011 and all other landscaping improvements shown on the Plan no later than October 15, 2011. The Applicant shall work with the Town Department of Public Works with respect to the timing of landscaping along the Stevens Street portion of the Property where existing, healthy arborvitaes are currently planted. Should the Stevens Street reconstruction necessitate removal of the healthy arborvitaes, the Applicant shall reestablish the landscape screen as soon as feasible on the Property, as determined by the Building Commissioner in consultation with the Department of Public Works. The Applicant shall remove the dead, diseased, or dying arborvitaes and reestablish a landscape screen on the Property in this location, as shown on the plan, prior to June 30, 2011.
16. Exterior site and building lighting shall be compliant with the requirements of the Downtown Hyannis Design and Infrastructure Plan and the Cape Cod Commission standards for Exterior Lighting Design, as cited in Technical Bulletin 95-001. All lighting shall be located on the site and full cut-off fixtures shall be utilized to ensure light or glare does not impact neighboring properties.
17. In Phase I, access and egress to the parcel at 90 High School Road shall not be permitted from the parcel at 67 Winter Street. Any future modification of existing curb cuts on Winter Street shall require Site Plan Review and, if applicable, a Road Opening Permit from the Department of Public Works. The applicant shall be responsible for the cost and construction of a new ADA compliant sidewalk along Winter Street should access/egress modifications commence.
18. Changes to the building in Phase II may include expansion of the height and width of four existing overhead doors on the south side of the Property, and may include the installation of one new overhead door also on the south side of the Property. Changes shall be found to be consistent with the Design and Infrastructure Plan, as approved by the Director of Growth Management or designee.
19. All dumpsters and trash containers shall be screened in conformance with the requirements of § 240-24.1.10, § 240-103, and all other applicable standards.
20. Trash or recycling collection shall not occur between the hours of 8 p.m. and 7 a.m., seven days a week.
21. There shall be no commercial deliveries between the hours of 10 p.m. and 7 a.m., seven days a week.
22. Should an Automobile Dealership use commence, signs shall be erected on High School Road and Stevens Street prohibiting idling between 10 p.m. and 7 a.m., seven days a week. The applicant shall be responsible for the cost of the signage and its installation.
23. Upon commencement of a use in Phase II, the Applicant shall remove the two car ramps from the Property. The car ramps shall be removed prior to issuance of the first Certificate of Occupancy in Phase II.
24. All new signage shall be in compliance with the zoning regulations and the Design and Infrastructure Plan and will require permits from the Building Division.
25. Use of paints containing tributyltin or other organotin compounds is prohibited on the Property.
26. All of the terms, conditions, and obligations contained in this Regulatory Agreement shall be binding on any successor or assignee of the Applicant.
27. This Regulatory Agreement shall be transferable to a person or entity other than the Applicant with prior written notice to the Planning Board and the Town Manager. However, no such notice to the Town shall be effective unless it includes a written acknowledgement by the person or entity to whom the Property is transferred that they have read this Regulatory Agreement, and any amendments thereto, and they agree to be bound by all the terms and conditions set forth therein.

28. Uses authorized in Phase I as defined herein shall commence immediately upon the effective date of this Agreement. If uses authorized under Phase II have not commenced within five (5) years from the effective date of this Agreement, the Applicant shall appear before the Planning Board to review this Agreement and progress made towards completing the redevelopment actions outlined in Paragraph 5(B). The duration of this Agreement shall be ten (10) years from the effective date of this agreement.
29. In addition to the Principal Permitted uses allowed in the OM Office/Multifamily Residential District § 240-24.1.6.A.1, this Agreement provides for the following additional uses on the Property:
- A. Continued nonconforming use of a Class I Automobile Dealership, with sales and service and repair, including auto body repair, parts storage, and car wash;
(Note: Accessory retail and office space shall conform to § 240-24.1.6 (2) - Permitted accessory uses: Accessory retail uses shall not exceed 1,500 square feet and shall be directly related to a principal permitted use.)
 - B. Continued nonconforming use of an Auto Body Repair and Vehicle liner uses (expansion, however, is prohibited.);
 - C. Educational facility;
 - D. Indoor storage and service of boats;
(Note accessory retail and office space shall conform to § 240-24.1.6 (2) - Permitted accessory uses: Accessory retail uses shall not exceed 1,500 square feet and directly related to a principal permitted use.)
 - E. Retail and mixed use of retail and office; and
 - F. Food retail and sales with delivery, including a public market and/or specialty food markets.

VOTE: Unanimous (Roll Call)

2011-065 APPROPRIATION ORDER-- \$3,250,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-066 APPROPRIATION ORDER-- \$25,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-067 APPROPRIATION & LOAN ORDER-- \$430,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-068 APPROPRIATION & LOAN ORDER-- \$400,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-069 APPROPRIATION & LOAN ORDER-- \$665,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-070 APPROPRIATION & LOAN ORDER-- \$271,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-071 APPROPRIATION & LOAN ORDER -- \$600,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: Unanimous

2011-072 APPROPRIATION & LOAN ORDER-- \$1,764,000 CAPITAL TRUST FUND CIP

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-073 APPROPRIATION ORDER-- \$60,000 AIRPORT ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-074 APPROPRIATION ORDER -- \$500,000 AIRPORT ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-075 APPROPRIATION ORDER -- \$20,000 AIRPORT ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-076 APPROPRIATION ORDER -- \$400,000 AIRPORT ENTERPRISE FUND CAPITAL CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-077 APPROPRIATION ORDER -- \$50,000 AIRPORT ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-078 APPROPRIATION ORDER -- \$75,000 AIRPORT ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-079 APPROPRIATION ORDER -- \$207,000 AIRPORT ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-080 APPROPRIATION ORDER -- \$90,000 MARINA ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-081 APPROPRIATION ORDER -- \$20,000 MARINA ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-082 APPROPRIATION & LOAN ORDER-\$1,050,000 WATER SUPPLY ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-083 APPROPRIATION ORDER -- \$170,000 WATER SUPPLY ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-084 APPROPRIATION & LOAN ORDER--\$300,000 SEWER ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-085 APPROPRIATION ORDER -- \$50,000 SEWER ENTERPRISE FUND CIP
Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.
VOTE: Unanimous

2011-087 RE-SUBMIT PETITION- SPECIAL ACT FOR INFRASTRUCTURE EXPANSION PROGRAM

Upon a motion duly made and seconded it was

ORDERED: that the Town Manager re-submit a petition to the General Court of the Commonwealth for a Special Act to establish a sewer construction fund in the Town of Barnstable and authorizing the allocation to the sewer construction fund of receipts from the meals tax under M.G.L. c. 64L, § 2(a) and hotel/motel tax rates in excess of 4% under M.G.L. c. 64G, §3A.

“AN ACT ESTABLISHING A SEWER CONSTRUCTION FUND FOR THE TOWN OF BARNSTABLE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by authority of the same, as follows.

SECTION 1. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Barnstable is hereby authorized to establish a Sewer Construction Fund to receive revenue under section three A of chapter sixty-four G of the General Laws, in the manner set forth in section two, and may appropriate monies in said fund for sewer construction.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the amount of the excise collected under section two A of chapter sixty-four L of the General Laws by the town of Barnstable beginning with fiscal year two thousand and eleven shall be credited to the Sewer Construction Fund without further appropriation.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the amount of the excise based on rates in excess of 4% collected under section three A of chapter sixty-four G of the General Laws by the town of Barnstable beginning with fiscal year two thousand and eleven shall be credited to the Sewer Construction Fund without further appropriation.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, any interest shall be added to and become part of the Sewer Construction Fund. The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

SECTION 5. This act shall take effect upon its passage.”

Councilor Crocker asked about the effect on the major change to federal funding that might impact the increase in taxes. Finance Director Mark Milne said it was too early to predict. The town has some matching funds and may be in a better position to receive partial federal funding. This funding is separately tracked. It will accumulate until and if the legislation is passed.

Councilor Milne said that some money had been dedicated to the Stewarts Creek project and where does this money enter that picture. Director Milne said the town is eligible for a low interest loan paid back over 20 years; the two new revenue sources will bring in more than enough for both the Stewarts Creek project and the sewer construction.

Councilor Farnham asked what would happen to the funds if this item is not approved. They would continue to be collected. The additional tax would only end if the council passed another vote to end it.

A motion was made and seconded to amend the item by adding Councilors Tinsley and Rugo as sponsors.

VOTE: Unanimous.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2011-087

VOTE: 9 Yes, 3 No (Norman, Munafu, Canedy)

2011-088 AMEND ZONING ORDINANCE--UPDATED FLOODPLAIN REGULATION

Upon a motion duly made and seconded this item was referred to a joint public hearing with the Planning Board on April 7, 2011.

VOTE: Unanimous

Councilor Canedy asked where the maps, etc., would be found. Staff will make them available.

2011-089 APPROPRIATE \$27,846 TO FY11 POLICE BUDGET FROM ABANDONED PROPERTY RECEIPTS

Upon a motion duly made and seconded this item was referred to a public hearing on April 7, 2011.

VOTE: No objection

Councilor Farnham asked where the money comes from; is it auctioned?

Chief Paul MacDonald explained that this was many years worth of abandoned property that reverted to the Police Department after a lengthy process of notifications to the rightful owners failed to find them. The Chief now uses propertyroom.com.

2011-090 ACCEPTANCE -\$10,000 EXECUTIVE OFFICE OF PUBLIC SAFETY & SECURITY GRANT

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts an Underage Alcohol Enforcement Grant in the amount of \$10,000 from the Executive Office of Public Safety and Security, Highway Safety Division.

Manager Klimm gave the rationale.

Councilor Munafu confirmed that this was not a federal grant.

Chief MacDonald explained that two programs already paid for by the town are the match for this grant.

Councilor Crocker asked if this was the same as the past efforts. The Chief replied that this is the first year the town has been awarded a grant. All liquor license holders are notified and invited.

VOTE: Unanimous

2011-091 ACCEPTANCE OF A \$17,000 EMERGENCY MANAGEMENT PERFORMANCE GRANT

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts an Emergency Management Performance Grant in the amount of \$17,000.

Manager Klimm gave the rationale.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2011-091

VOTE: Unanimous

President Chirigotis moved that the Town council go into executive session to conduct contract negotiations with non union personnel and to return to open session thereafter.

VOTE: 11 Yes, 1 No (Tinsley) (Roll Call)

Executive Session from 8:50 PM to 9:18 PM.

NOTE: Councilor Canedy did not return to the open session.

Councilor Norman thanked the COMM Fire Department for their effective handling of the fire at Peck's Boatyard. It could have been a very serious, massive marina fire.

Councilor Crocker asked when the appropriate time would be for the discussion of the administrator. When will it be scheduled? President Chirigotis responded that he would like to discuss it with the Legal Department and will schedule it. Crocker stated he would like it in a public session.

Since the Town Attorney was present, President Chirigotis made a motion to entertain the release of the Executive Session minutes. Public disclosure is needed as soon as possible.

Ruth Weil, Town Attorney, invited Atty. John Davis, Open Meeting Law expert, who was successful on behalf of the Town of Sandwich, in the recent school superintendent law suit.

Copies of the Open Meeting Law complaint filed by Councilor Crocker against the town were distributed. (See Exhibit C)

John Davis spoke on the process. He has represented cities and towns most of his career and is here to assist with the complaint filed by Councilor Crocker. He reviewed the various deadlines for responding on the complaint to the complainant and the Attorney General. It is appropriate to request additional time from the AG's office if it is needed to respond to the complaint; the council should ask for more time if the OML complaint has merit.

Davis stated that an investigation can be conducted and if remediation is needed they need to reply to the AG. If no Open Meeting Law violation is found, the council should also respond to AG explaining why that is so. Davis can help doing what is needed for a response to the AG. The AG can also have a process. He also offers advisory opinions. It is a strict timetable; therefore the council should comply with the deadlines to avoid sanctions and fines.

Councilor Joakim reminded all about going into executive session to approve the minutes and release them.

Councilor Rugo asked Attorney Weil for her advice regarding Attorney Davis. Weil said she brought him in so he can assist on when responses should be done. He has been given the complaint and a copy of the executive session minutes.

Councilor Rugo also asked if the administrator was given the written notice of the meeting and if handled incorrectly is the council exposed. Weil said from the substance of the motion to go into executive session, the employee did not need to be present.

Councilor Milne was concerned about the scheduling, in light of the calendar and meeting required timetables. The next scheduled council meeting is beyond the deadline; other meetings will need to be scheduled. President Chirigotis said this could be accomplished tonight.

Councilor Crocker asked if he should recuse himself from the executive session. Attorney Davis said he should. Should the letter that dismissed the administrator allow for discussion outside of an executive session? Davis said that decision should be made in executive session. For the record, Crocker also clarified that he did not file the complaint at the AG's office but filed it with the town clerk as required. He also gave a simple remedy, which he hopes is followed. The AG will only be involved upon Crocker's notification that he was not satisfied.

Councilor Rugo asked if the administrator would have been required to receive written notice of the executive session. Davis agreed that no notice is required if the subject is "strategy to discuss contract negotiation with a non union employee".

Councilor Munafo has been asked to serve on an executive session minutes subcommittee. Is it a requirement? Davis explained that is not a statutory requirement. However, there is a requirement to periodically review executive session minutes and that can be delegated to a subcommittee. The government body then releases them in executive session. Davis added that there is a requirement to review executive session minutes periodically and make a determination if the reason still exists. If not, the body will decide in executive session what to keep closed or release. The next step in this instance is to determine if the executive session minutes are accurate and, if the stated purpose of the executive session has been met, they should be released.

Attorney Davis framed the motion:

EXECUTIVE SESSION MOTION

Upon a motion duly made and seconded it was voted to go into executive session to review the minutes of the executive session held on Feb 17, 2011 for accuracy and to determine if the continued nondisclosure still warrants the protection of those minutes and then reconvene in open session.

Councilor Munafo wanted to know to whom the executive session's minutes belonged – the Council, the Clerk? Davis replied that they belonged to the town council.

President Chirigotis asked the Clerk to explain the process.

Lucia Fulco, Assistant Town Clerk, explained that all executive session minutes from all town committees and boards are deposited with the Town Clerk in sealed envelopes labeled with the name of the board, date of the meeting and subject of the executive session. These are clocked-in, entered into a database, and kept in the vault. Occasionally, if a member of the committee, who was in attendance at that meeting, asks to see the minutes, the clerk writes the date and name of the member on the envelope, opens the envelope. The requestor reads the minutes in the presence of the clerk. The envelope is then resealed and filed.

Councilor Farnham asked if there was an opportunity to see the minutes in a timely manner; how could they approve minutes that haven't been opened in years? Should the ability to approve minutes be automatic?

Councilor Rugo said the council now has the opportunity to do it right and expeditiously.

President Chirigotis asked for a roll call vote on the above motion to enter into executive session.

VOTE: 9 Yes, 1 No (Roll Call: Barton, Y; Chirigotis, Y; Crocker; Recuse; Dagwan, Y; Farnham, Y; Joakim, Y; Milne, Y; Munafo, Y; Norman, Y; Rugo, Y; Tinsley, N.)

Executive Session from 9:40 PM – 10:45 PM

Councilor Munafo made a motion which was seconded to extend the meeting beyond 11 PM.

VOTE: 9 Yes, 2 No (Crocker and Tinsley)

Councilor Milne wanted a moment to reread the corrected version prior to voting. (They were being photocopied.)

Councilor Crocker asked for a clarification of how Attorney Davis is here. Attorney Ruth Weil explained that special counsel is often hired by the town when issues require it. She felt due to the issues of this matter necessitated the review of an impartial expert to address anyone's concerns. Crocker stated that he did not have any part in that decision and asked whose budget it was coming from. Weil said it will come out of her budget.

Councilor Crocker also asked how he would handle filing an amendment to the complaint now that the executive session minutes are out. Davis said it would be filed with the Town Clerk. Crocker asked if Davis could help him with an amendment. He could not since he was hired by the Legal Dept.

(Minutes were distributed to the council)

Councilor Milne wanted to correct another scrivener's error, changing assisting staff person to administrative assistant, since there had been other title changes. Davis said it would have to be in executive session. Milne was confused as to why the change could not occur in open session. Councilor Farnham said that the term is sufficient to get the message across. Chirigotis agreed.

Councilor Rugo made the following motion which was seconded to approve the Executive Session minutes of February 17, 2011. The motion was withdrawn by Rugo and the following substituted: to release the Executive Session minutes of February 17, 2011. This was also seconded by Councilor Tinsley.

VOTE: 10 Yes, 1 Recuse (Roll Call: Barton, Y; Chirigotis, Y; Dagwan, Y; Farnham, Y; Joakim, Y; Milne, Y; Munafo, Y; Norman, Y; Rugo, Y; Tinsley, Y; Crocker, Recuse.)

Attorney Davis explained the next possible options regarding the complaint.

1. Request further information from the complainant; he does not feel it is necessary or needed at this time.
2. Request additional time from the AG to address the complaint; no need
3. Send a response to the AG, including a copy of the complaint and whether remedial action should be taken based on the nature of complaint and the minutes that have just been released.

Councilor Joakim does not think any remedial action is needed since she feels there is no validity to the complaint after seeing the minutes.

Councilor Joakim made a motion which was seconded that there was no violation.

Councilor Crocker felt the motion was incomplete and needed to mention his complaint.

Attorney Davis reviewed the scenario. There is a complaint to be sent to the AG; he read the complaint (attachment). Is there merit and is remedial action needed? These are the decisions to be made. He offered to help draft the response. He recommended that they take a training session on OML May 18th in town hall. Remedial steps are not construed against the council and not a bad idea to add to the AG letter, despite the lack of merit in the complaint.

Councilor Norman suggested as a remedy, a protocol of procedure. The person speaking should have the floor. The chair should be more authoritative. Anyone interrupting should be shut down by the chair. Councilors need to not speak unless they were recognized. There were instances of councilors mentioning performance issues, and they were shut down. However, it would not have occurred if the chair had been more formal. The chair should be recognizing one person at a time. When several people are talking it is difficult to understand who may be breaking the OML with inappropriate comments and who is making a valid point. Councilors should also have enough respect to reign in feelings on an issue and wait until called upon to speak. This will avoid entering inappropriate areas.

President Chirigotis said Councilor Barton was making the same comments tonight. It would be polite and respectful if people will allow the speaker to speak. He agreed that it is his purview and he will try to do better.

Councilor Norman agreed the training would be helpful to both long-time and new members. He would like the genesis, discussions & final situation be put into an investigative mode, discussed thoroughly and then decided.

Councilor Norman moved that the Council President appoint an investigative committee to look into how the administrative assistant, Donald Grissom's position was brought forth for discussion 2 years after he did not sign the contract. The motion was seconded.

Councilor Milne feels that there are many issues on the back of the complaint. The complaint should indicate the need for an investigation and for council doing what is in the best interest, and adopted using the investigative powers of the charter. Atty. Davis explained that he limited the issue to whether there was an OML violation. He appreciates that more than OML issues are alleged in the complaint. Norman's motion goes toward a committee to look into other allegations on page 2 of the complaint.

Councilor Crocker stressed that the complaint form, by asking the action desired by the complainant, is designed to encourage the town to resolve the issue without going to the AG's office. Crocker said the form provides for what is good for the body and that is what he wants!

Councilor Farnham raised the issue of what the investigation might suggest regarding any claim by the subject (Rule 14). Attorney. Davis explained that information from an investigation could be used by anyone even the person investigated to pursue a claim. Davis advises to do what is right and deal with the consequences on what is discovered. Do not be guided by the fear that the information may be used against the town.

Councilor Joakim said her motion that there was no violation or merit to the complaint needed to be acted on. Norman's motion goes toward a committee to look at other allegations is a separate issue.

Councilor Tinsley, speaking on Joakim's motion, said that the violation of the OML in the complaint is unfounded now that the executive session minutes have been released. Those minutes say comments of a personal nature were reigned in. Putting the complaint and the minutes side-by-side says there was no violation.

Councilor Munafo said the council can deal with this internally or externally. The council should look at it internally first, and vote on it, before an external force tells us what to do.

Councilor Norman wanted to offer up a remedy and hoped to meld in his motion as a remedy.

Councilor Joakim made a motion that was seconded that the complaint has no merit and there will be no remedial action.

Councilor Crocker felt Attorney Davis suggested the motion be written to include a remedy such as attending the OML class or how to solve a similar problem in the future. Pres. Chirigotis feels the second part is the remedial action, which is where Norman's motion comes in. Atty. Davis recommends that the training be in the response to the AG and would like it in the motion. The AG will not be concerned with an investigation; that does not involve the OML.

Councilor Crocker pointed out that if he is satisfied and he is happy with the remedies, it goes no further and the problem is solved.

Chirigotis asked that someone amend the motion to reflect attendance at the OML training as a remedy.

Councilor Barton said councilors have indicated they will pursue OML study, etc. Why make it a motion? The AG can be informed of everyone's intention to be trained on the OML but it is not needed in the motion.

Councilor Tinsley asked if the council needed to vote on the training issue in order to put it in the letter as a response. Davis needs guidance. He needs to know if the training is going to be in the letter or not, regardless of whether it is added to the motion.

Councilor Munafo had a point of information. To add the training as a remediation will show the AG what? Will it have any backlash on the 'no merit' finding? Davis explained that it would not. It would avoid future complaints. The AG will not care if an investigation is done

Councilor Norman said if the complainant is satisfied with the remedy and does not choose to request the AG to investigate further, the AG will not even look at it. We should get some input from the complainant as to what it would take to satisfy him. Attorney Davis would like to be able to add that input to the AG response letter.

Councilor Crocker said his interest is also to avoid a misstep in the future. If councilors are able to attend the OML class, it shows that there is an attempt to solve a problem. It shows remedy. President Chirigotis agrees and would vote it in a motion.

Councilor Joakim made a motion that was seconded that the complaint has no merit and there will be no remedial action but the Council President shall attend and has requested that the council body attend the OML training.

Councilor Norman is uncomfortable with the words "no remedial action" and offers a friendly amendment "no violation of the OML. However, to avoid any future perception of conflict, we are recommending that members of the council and especially the President attend the OML training." President Chirigotis has no problem. Councilors Munafo and Joakim have issues with this.

Attorney Davis was not anticipating deleting "no remedial action" from the motion. While he would expound on the OML training in his crafting of the response to the AG, it does not need to be in the motion.

After additional discussion on the role of "remedial action" in the language of the motion, President Chirigotis restated the motion. He suggested: "that there is no violation and the action will be that the Council President shall attend, and has requested that the council body attend, the OML training" adding "on May 18, 2011". Crocker is comfortable with this. He never desired remediation, did not ask it, and will never seek it.

Councilor Barton thought the complaint said "remedial action" so the motion would need to reflect it. She would have hoped that the councilor who made the complaint would have brought his issue before the council. She would hope the offer of taking the training could be addressed in the AG's letter and not the voted item. Councilor Crocker reviewed his complaint stating the "remedial" does not appear anywhere.

Councilor Milne asked for a repeat of the motion, followed by a roll call.

Councilor Joakim restated the motion: "motion that the complaint has no merit and there will be no remedial action."

Chirigotis made an amendment adding: "however the Council President and as many councilors as possible that can, shall attend the AG's training in the town hall on May 18, 2011."

Councilor Milne would like President Chirigotis's amendment voted as a separate amendment.

Upon a motion duly made and seconded the following amendment to the main motion was voted: “however the Council President and as many councilors as possible shall attend the AG’s training in Barnstable on May 18, 2011”

VOTE: 9 Yes, 1 Recusal (Roll Call: Barton, Y; Chirigotis, Y; Dagwan, Y; Farnham, Y; Joakim, Y; Milne Y; Munaf, N; Norman, Y; Rugo, Y; Tinsley, Y; Crocker, Recuse)

Upon a motion duly made and seconded the following main motion, as amended, was voted: That the complaint has no merit and there will be no remedial action, however the Council President and as many councilors as possible, shall attend the AG’s training in the Barnstable Town Hall on May 18, 2011

VOTE: 8 Yes, 1 No, 1 Abstention, 1 Recuse (Roll Call: Barton, Y; Chirigotis, Y; Dagwan, Y; Joakim, Y; Milne N; Munaf, N; Norman, Y; Rugo, Y; Tinsley, Y; Crocker. Recuse; Farnham, Abstain)

Councilor Milne suggested that Councilor Norman’s earlier motion, which was seconded, be voted with the following addition: “The committee shall use the process outlined in the Charter Section 2-10 and the Council Rules 14. This process is already part of the town rules.

Councilor Crocker said Attorney Davis told him he would be allowed to vote on this item. Councilor Canedy, who left the hall earlier, returned to town hall before the vote was completed.

Upon a motion duly made and seconded it was voted that the Council President appoint an investigative committee to look into how the administrative assistant, Donald Grissom’s position was brought forth 2 years after he did not sign the contract. The committee shall use the process outlined in the Charter Section 2-10 and the Council Rules 14.

VOTE: 6 Yes, 6 No DEFEATED (Barton, No; Canedy, Yes; Chirigotis, N; Crocker, Y; Dagwan, N; Farnham, Y; Joakim, N; Milne, Y; Munaf, Y; Norman, Y; Rugo, N; Tinsley, N)

NOTE: Councilor Canedy returned to the open session while the above vote was in progress.

Upon a motion duly made and seconded the meeting was adjourned at 11:48 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk

EXHIBITS:

A: Annual State Award to Hyannis Youth & Community Center

B: Map Pertaining to 2011-086 Regulatory Agreement

C: Open Meeting Law Complaint Crocker vs. Town of Barnstable Town Council