



TOWN COUNCIL MEETING
May 19, 2011

A quorum being duly present, Council President Frederick Chirigotis called the May 19, 2011, Town Council meeting to order at 7:00 p.m. in the 2nd Floor Hearing Room of Barnstable Town Hall, 367 Main Street, Hyannis, MA.

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

Absent: James Tinsley

President Chirigotis led the hall in the Pledge of Allegiance, followed by a Moment of Silence.

President Chirigotis recognized Assistant Town Clerk Lucia Fulco with a plaque that thanked her for her patience and perseverance and gratitude on her retirement. Lucia read a letter to the Councilors.

PUBLIC COMMENT

John Julius addressed the alleged water pollution situation with Hyannis Water. He asked for a formal document as to the reason the wells were shut down under the Freedom of Information Act. There is poison in the water supply, he declared. We have the right to know.

Robert Tucker said that someone got killed near Stevens Street and Main Street and you need to go after the person. He stated that DPW is doing a beautiful job with the Centerville Recreation building.

John Alden said the Charter passed by 1 vote and then it lost by 10 votes. There needs to be revisions – keep your eyes open.

Allison Alessy, and one other member of the Barnstable Renewable Energy Commission is in favor of the bottle bill expansion.

Richard Elrick said expansion of the bottle bill will add a deposit to other bottles. More money can be saved by expansion of this bill.

Skip Simpson said the Hyannis Fire District is doing a good job. He has issue with the form of taxation. Hyannis is no longer rural. He read from MGL and described Hyannis as a large area with far more than 2,000 people in it, which defined the type of district in the law. Only 64 voters attended the annual meeting. Hyannis Fire District no longer fits the description under MGL. (See his full statement attached as Exhibit "A"). Commercial owners pay district taxes but can't vote if they don't live there.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Milne feels we need to be responsive to constituents on requests for documents. He was taken by the numbers in Mr. Simpson's presentation. He also noted fire districts are exempt from Prop 2 ½. He also feels that libraries are another issue. He hopes we can look at this.

Councilor Dagwan received several calls on the fire district. A lot of the commercial businesses pay a large amount of the money but have no vote.

Councilor Norman asked if DPW and Hyannis Water representatives could possibly explain the issue about the wells. Mark Ells, DPW Director, said the well that is down was put down to do upgrades – so that was not a water quality issue. We found the air stripper needed repair and was set for 2013 but is going to be done soon. It is not a water quality issue.

Councilor Farnham said we received a memo from a constituent, Mimi McConnell on possible changes to the charter. Farnham asked if we can look at it at the next meeting.

Councilor Canedy said the Rules Committee was to look at charter changes and maybe they can look at it.

Upon motion duly made and seconded it was voted to send the letter to the Rules Committee for review.

VOTE: Unanimous

ACT ON MINUTES

Upon motion duly made and seconded it was voted to approve the minutes of May 5, 2011 with the following correction: On the first page 2 paragraphs up from the bottom, add the word "wastewater" in front of financing.

VOTE: 11 Yes – 1 Abstain – Canedy – as amended

Upon motion duly made and seconded it was voted to approve the minutes of March 17, 2011.

VOTE: 11 – 1 Abstain Barry

Councilor Barton read statements about our retiring Superintendent, Patricia Grenier and our incoming Superintendent Mary Czajkowski. Both of them were acknowledged as having received the M.A.S.S. 2011 President's Award. (See both statements attached as Exhibits B and C).

Town Council Executive Session Review Committee Report

Chairman Munafo said there are 26 meeting minutes that the committee has ready to release. Due to the nature of the dates (they were more current than the prior minutes), councilors may wish to review them. Munafo asked to delay the action of approval until the next meeting to allow for councilor review. Councilor Milne said the committee did a significant review on the redactions. There was a lot of thought and advice.

Councilor Joakim does not want them to be released. Councilor Canedy reviewed the minutes and did note a couple of spelling errors. She also had questions. So the extra set of eyes is good. Canedy also mentioned that she was not at the open meeting law seminar, but it will be on tape and she will review it. She attended the Cummaquid Heights meeting where a lot of compliments were directed to Mark Ells and Michael Perry. A subject of concern is Mary Dunn Road. She wants to know the composition of the Roads Committee, could the current two other members stay on board? There has been a lot of material presented which would have to be re-presented for new members. President Chirigotis said that he would talk to her about that.

Councilor Canedy also noted the passing of Linda Hutton and Judy Barnet and sent her condolences to their families. She acknowledged that both of these ladies were very active and wonderful women, with spirit and courage. They will be greatly missed.

President Chirigotis stated that the Council will be meeting on June 2, 2011 and June 16, 2011, this was made into a motion and seconded. (This was instead of the meetings noted in the January schedule (June 9 and 23rd))

VOTE: Unanimous in favor of these dates.

Councilor Joakim invited all to the Centerville Memorial Day Services and activities from the breakfast through the parade.

Upon motion duly made and seconded it was voted to refer action on the released Executive Session minutes until the next meeting

VOTE: Unanimous

Councilor Milne thanked Lucia Fulco for her service and friendship. The Open Meeting Law Session was excellent. He thanked the other 4 councilors who also attended.

Councilor Milne made a motion to put forward an aspect of our rules, the inquiry section, (Rule 14) to embark on an inquiry into the departure of the assistant Donald Grissom.

He said the motion is in the spirit of transparency.

President Chirigotis said he feels this should be an agenda item, it is a measure and he asked that it be brought before the council in that manner. He also compared it to another similar issue and if it is the same they would have to wait 6 months before hearing it.

Councilor Milne said this is new. President Chirigotis asked for it to come forward as an agenda item.

Councilor Milne challenged the chair.

Attorney Weil concurred that this would have to go on the agenda. It is a measure and Attorney Weil would have to analyze whether the previous motion is the same. This is not an emergency and we have homework before the next event.

Pres. Chirigotis explained that we have to reasonably anticipate things and he does not believe it is an emergency. He suggested to Milne to put it on the agenda. Milne feels there is an issue of urgency.

Councilor Barry asked Councilor Milne if he was looking for an inquiry, who are you looking to do this. Milne read the rule.

Councilor Munafo said it is clear that it can be brought forward at any meeting.

Attorney Weil said this is a measure. Rules have to conform to the charter, this inquiry is a measure.

Vice Pres. Barton suggested moving on.

Councilor Canedy said Mr. Milne is suggesting an inquiry which is distinct from an investigation.

Councilor Milne challenged the chair.

Councilor Farnham felt there was no urgency. He suggested taking a little time to put together an organized process. Let us get on with the agenda and put this off to the next meeting.

Councilor Munafo removed his second on Councilor Milne's motion.

In the spirit of harmony, Councilor Milne removed his motion.

Atty. Weil said that we would be in violation of the open meeting law if we went forward. This action could have been anticipated. She urged strongly not to go forward.

Councilor Crocker asked about the Executive Session minutes for March 17 and whether they were complete with attachments. Councilor Joakim questioned what happens when we violate the open meeting law by releasing executive session information before we have released the documents. She cautioned everyone that draft minutes are confidential.

She asked to bring forward a resolution to have councilors abide by section 23C of Chapter 268 by keeping confidential items in Ex. Session. She read the laws.

Councilor Farnham said this should not be necessary since it is the law.

Councilor Munafo stated that we have been trained in our responsibilities. We know our job – it is not necessary.

Councilor Canedy said that in view of consequences of previous executive sessions, she is not confident that statements would remain in executive session. She said that she wants to work on the budget. She suggested tabling the resolution.

Councilor Crocker said we should not go into Executive Session. There were requests for attachments and they have not been forthcoming.

A motion was made and seconded to adjourn to Executive Session for the following purposes: 1) to review and approve draft minutes of the first executive session held on March 17, 2011, which was entered into for the purpose of conducting contract negotiations

with non-union personnel; 2) to discuss complaints brought against a public officer, employee, staff member or individual; and 3) to the extent relevant to review of the draft minutes and such complaints, to discuss contract negotiations with non-union employee, and the reputation and character of that non-union employee. At the conclusion of Executive Session, the council shall reconvene in Open Session.

Councilor Barry stated that we have a room full of people who do not want to be here. We are wasting people's time. Don't inconvenience them. You folks sound ridiculous.

Councilor Rugo said we are attempting to go into Ex. Session, and we have the expert who is present to work with us.

Councilor Farnham will vote no on this motion. He wants to deal with what we need to do. He suggested tabling this until all documents are available.

Attorney John Davis said that there are two open meeting law complaints that need to be addressed. We had an extension and the complaints were not addressed. We have a second extension until May 27th. You need to address the complaints with an explanation and what the remediation is going to be.

Councilor Crocker stated that he had asked that the council have as much time as possible. Councilor Crocker suggested asking for another extension.

Councilor Canedy is not going to vote to go into Ex. Session unless relevant documents are included.

President Chirigotis withdrew his motion to go into Executive Session.

Upon motion duly made and seconded it was voted to extend the time for consideration to July 30th.

VOTE: Unanimous in favor.

ORDERS OF THE DAY

A. OLD BUSINESS

President Chirigotis read each of the following items and a motion was duly made and seconded to open the public hearings on all of the following items at 8:34 p.m.: **2011-104, 2011-105, 2011-106, 2011-107, 2011-108, 2011-109, 2011-110, 2011-111, 2011-112, 2011-113, 2011-114, 2011-115, 2011-116, 2011-117, 2011-118-2011-119, 2011-120, 2011-121, 2011-122, 2011-123, 2011-124, 2011-125, 2011-126, 2011-127.**

VOTE: Unanimous

Councilor Canedy suggested making a motion at 10:45 p.m. to refer the new business and items un-voted to another meeting. President Chirigotis said that would be done and after the overview of the budget **2011-123** will be taken out of order.

Manager Klimm gave a history of the budget process. He stated that we try to live within our means and plan for our future. These are difficult times for all of us and we have to keep everyone in mind when we do our budgets. We have innovations and efficiencies. We are proposing measures to help us plan for the future. The more money we can set aside the

longer we can carry forward a responsible capital budget. We believe that fiscal 2013 will present other challenges. We are proposing a transfer of funds to cushion the impact.

Manager Klimm turned it over to Mark Milne, Financial Director, who gave a power point presentation (see budget presentation attached as Exhibit D).

We have a structurally balanced budget; they have built budget capacity; no layoffs, there is a net of 3 positions unfunded in the early retirement program; there are utility reductions of \$189,000; there are fuel cost increases of \$94,000. Those are the highlights of 2012.

As well as funding for reverse 911, additional funding for BPD and land maintenance, plus an additional \$2Million transfer to Capital Trust Fund; there is \$1.8M of new taxes for sewer construction, and the town is establishing an OPEB Trust Fund. This will help us keep our AAA bond rating.

Councilor Canedy asked about early retirement. She was told 6 took early retirement and 3 positions are being refilled. She also asked why mooring fees are included in the general fund and not marine enterprise. Milne says under state law it must be credited to a particular fund, waterways improvement fund. It goes to the General Fund. She asked about the personnel equivalents in the town council budget because there was funding provided for two full time employees and currently there was one full time, one part time.

Councilor Munafo asked about the collections and Milne said we are at 96.8%.

Councilor Crocker asked about new growth dollars. Director Milne said a lot depends on new growth. We don't see new construction.

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| 2011-123 APPROPRIATION ORDER - \$1,489,184 FY12 LIBRARY GRANT – INTRO: 5/5/11, 5/19/11 |
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Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing this item.

VOTE: Unanimous consent

Town Manager John Klimm said this is the annual request to fund the seven libraries in the Town of Barnstable. There is a 1% increase for all libraries. They did not want a cut in the budget. We worked to put a budget together. There is a bifurcation in a vote of Hyannis and the other libraries. We asked to look for ways to have cost savings. His recommendation was for a formula change that would not penalize any of the existing libraries. There should be revisions to the formula. He explained the problems with the formula and its impact on the Hyannis Library. He hired an expert to advise him on this. It was stated that the Hyannis Library would be impacted by \$150,000 less. When fully phased in the library will lose 32% of its funding.

Subsequently, the library committee did not come forward with any suggestions or recommendations. Therefore Klimm increased the library budget for all 7 libraries by 1%. He asked for bifurcation. They need to work together.

Stan Goldstein agrees with Manager Klimm. He has no issue. But, he thinks that bifurcating makes a division in the libraries. This should not be a precedent.

Chuck Sabatt from the Hyannis Library said we have worked long and hard. We have a unique library and unique challenges. We are considered to be an urban library and our needs are different. This is not an effort to deny other library funding. This will aid Hyannis with respect to the formula. Please act favorably on this.

Joan Kenney from the Hyannis trustees, said that she has attended all town library committee meetings. The financing has made this committee's task most difficult. The group feels that it would make sense to separate out Hyannis Library.

Upon motion duly made and seconded it was voted to go out of the public hearing at 8:58 p.m.

VOTE: Unanimous consent

Councilor Canedy does not want to see Hyannis separately funded. This is a slippery slope. She read the percentages of money each library receives. She suggested that this be sent back to the committee and give them more time resolve this situation.

Councilor Crocker said this issue is under fire and the money has not changed and they get the same amount can we just have it go back to the 2010 level have Hyannis get the same amount.

Manager Klimm wants to give every library a 1% increase. The formula would take another \$50,000 from Hyannis. He wants to make sure that the amounts are frozen.

Councilor Norman supports the library funding but now it takes a portion of the pie off the table and makes more fighting. Since we have a committee that is not getting a formula together, take what each library was paid in 2011 and add 1% to each. Then have them come back in one year with a plan.

Manager Klimm said we are on the same page. For one year we would split each library out and tell them what they are getting and charge them to come up with a better formula.

Councilor Canedy said Hyannis does get a big hit and some libraries lose, others gain. There has to be a way of equitably funding this but she was opposed to separating out one library for special consideration.

Councilor Dagwan said Hyannis is losing out and it is an urban library. She is in favor of the bifurcation. She feels that this is a good solution.

Councilor Farnham suggested they look on page 339 of the budget. The West Barnstable Library board is good and they are trying to expand their fund raising efforts. The people need to come together and work hard to raise money for their libraries. He feels more comfortable and is happy with what Councilor Norman suggests.

Vice President Barton thanked Councilor Norman for the suggestion. She is concerned about the Marstons Mills Library. She is concerned that the library committee had a year but

they did not do it. Maybe we need some individuals to work with the committee. Marstons Mills is looking into asking the Fire District for some help.

Councilor Norman took 2011 figures on 339 and added 1% and made an appropriation for each library for this one fiscal year.

Manager Klimm said this benefits all. The library committee is hardworking but they each are trying to get more of the pie for their own libraries.

Upon motion duly made and seconded it was voted to amend the order to read that the sum of **\$1,488,238** be raised and appropriated for the purpose of funding the Town's FY 2012 **Library Grant**, and that the amount be allocated as follows: Hyannis Library - \$415,716; Cotuit Library - \$140,695; Osterville Library - \$213,847; West Barnstable - \$89,613; Sturgis Library - \$202,248; Marstons Mills Library - \$160,396; Centerville Library - \$265,723.

This gave each library a 1% increase.

VOTE: on amendment - unanimous

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$1,488,238** be raised and appropriated for the purpose of funding the Town's FY 2012 **Library Grant**, and that the amount be allocated as follows: Hyannis Library - \$415,716; Cotuit Library - \$140,695; Osterville Library - \$213,847; West Barnstable - \$89,613; Sturgis Library - \$202,248; Marstons Mills Library - \$160,396; Centerville Library - \$265,723 as presented to the Town Council by the Town Manager.

VOTE: 11 Yes 1 No (Dagwan)

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| 2011-104 APPROPRIATION ORDER - \$11,758,549 FY12 POLICE DEPARTMENT BUDGET – INTRO: 5/5/11, 5/19/11 |
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Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing this item.

VOTE: Unanimous

See Exhibit E – the presentation that Chief McDonald gave to the councilors. The Police Department is committed to strive to work for the citizens and currently has 115 sworn police officers. They have 15.26 civilian personnel. They utilize volunteers (over 42) in the Hyannis Station and headquarters. There were over 41,303 calls for service. Hyannis has 63% of the calls – this is the largest village and this percentage has remained constant over the years. We were 18th in Massachusetts for Part 1 crimes. There has been a significant increase in trafficking and use of narcotics.

Chief McDonald also read his achievements including a Prescription Drug drop off program. They still have a kid's day and police academy among many other positive community involvement projects. He identified the new station on Main Street in Hyannis and the new street crime unit within the Police Department.

“The whole hearted cooperation of the citizens of the Town of Barnstable with the Police Department will, in a large way, assist in keeping crime at a minimum in our Community”.

This was a statement that appeared in the 1939 Town Report by Chief of Police William B. Fleming, and holds true today according to Chief McDonald.

Upon motion duly made and seconded it was voted to go out of the public hearing at 10:08 p.m.

VOTE: Unanimous consent

Councilor Canedy asked about contractors who gave their time to ready the Main Street Station. The Chief named all of the contractors involved in redoing the Station.

Councilor Norman asked about a report on details and if that showed up somewhere. The Chief said we had about \$1M of outside details and the town gets 10%. It shows up in the charges for services.

Councilor Barry commended the department on the work in the eastern part of town. There were talks about 3 gangs in Mashpee – is there collaboration with Mashpee? Chief McDonald said the Street Crime unit is now working out of our facility. We are just starting this off – we do hope to get Mashpee and Sandwich involved.

Councilor Dagwan asked about the Street Crime goals. Councilor Crocker asked about the grant police – do we keep them after the grant runs out. At some point, as we hire more we need to retire more. Hiring is expensive.

Councilor Farnham asked about seizure of assets. How much money is involved in vehicles and cash that you obtain. Is it significant? Chief McDonald said we have seized a lot and got about \$165,000 in one seizure. We got a new cruiser for a Mercedes Benz.

Councilor Milne asked about hybrid vehicles and fuel costs – how can we get more hybrids. McDonald said we do use about \$734,000 in fuel. We are using 6 cylinders. You have to have a car rated for emergency driving.

A motion was made and seconded to move the question.

VOTE: Unanimous consent

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$11,758,549** be appropriated for the purpose of funding the Town's FY 2012 **Police Department** budget; and to meet such appropriation that **\$11,708,549** be raised from current year revenues and that **\$50,000** be transferred from the Embarkation Fee Special Revenue Fund, as presented to the Town Council by the Town Manager.

VOTE: 12 yes Roll Call

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| 2011-106 APPROPRIATION ORDER - \$58,746,878 FY12 LOCAL SCHOOL SYSTEM BUDGET – INTRO: 5/5/11, 5/19/11 |
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Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing this item.

VOTE: Unanimous

The Barnstable School Committee members were present. Patricia Grenier, Superintendent gave the budget presentation.

She said we have a focus on our wonderful schools. She presented a You Tube event called Barnstable Lip Dub Magic – Over 1,000 kids participated in it and it showed all the clubs in BHS. She thanked the kids and the teachers. It is the magic of Barnstable Public Schools.

She identified the core values including all children have the right to every opportunity to achieve their highest potential; each person deserves to be treated with dignity and respect; and integrity and personal responsibility; all hallmarks of our daily interaction.

She is asking for a budget that conforms to the revenues available to the schools in the Town of Barnstable. She identified the achievements. Academics are increasing at a rapid rate. We also have excellence in art, music and theater. Enrollment continues to decline. They have closed 5 schools and moved other schools and created an intermediate school.

Supt. Grenier said we had fewer retirements than expected. Eight teachers are retiring. They have decreases in out of district tuitions and utilities. There may be issues in the future for additional medical assistance with new children coming the school system.

She identified the revenue sources, as well as chapter 70 Aid, ARRA positions and health insurance expense.

They are providing almost the same level of service and are within the revenue allocation and they can provide the services that produce the scholars.

School Committeeman Patrick Murphy thanked Patty Grenier on her leaving the Town of Barnstable. He also thanked Gareth Markwell from Finance who, Murphy stated is proof that the process is improving.

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

VOTE: 10:45 p.m.

Upon motion duly made and seconded it was voted to continue the public hearings on the following items until May 26, 2011: **2011-105, 2011-107, 2011-108, 2011-109, 2011-110, 2011-111, 2011-112, 2011-113, 2011-114, 2011-115, 2011-116, 2011-117, 2011-118, 2011-119, 2011-120, 2011-121, 2011-122, 2011-124, 2011-125, and 2011-126.**

VOTE: Unanimous consent.

Upon motion duly made and seconded it was voted to continue the public hearing on item **2011-127** until June 2, 2011.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to continue items: **2011-128, 2011-129, 2011-130, 2011-131, 2011-132 to May 26, 2011.**

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to extend the meeting beyond the hour of 11:00 p.m. in order to complete **2011-106** on the School Department budget.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to refer items **2011-134, and 2011-137** to June 2, 2011.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to refer item **2011-138** to the Planning Board.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to refer item 2011-139 to May 26, 2011.

VOTE: Unanimous consent

Councilor Norman declared that one of his children had his IEP out of compliance and has considered taking action. He stated that he was told to make anyone aware of this and will recuse himself from the vote if necessary. Councilor Canedy suggested he could sit through the discussion but not vote.

Councilor Milne asked why would it create a conflict.

Councilor Munafo doesn't feel Councilor Norman needs to be kept out of voting. Councilor Crocker said he is honorable and he should choose. Norman stayed.

Councilor Rugo asked about health insurance payments and how much it would cost to lower the cost, and what impact this would have on hiring. Are there any hard numbers on how many teachers don't come or leave because of the 50% health premium the town pays? If we gain money from the state there might be money for teachers.

Supt. Grenier said people don't always say why they leave. We try to keep salaries competitive. I do know that one teacher is going to a town that pays 75% of health care. Any changes in health care are negotiated.

Councilor Joakim asked about tech school enrollment and was told that fewer kids are going.

Councilor Munafo asked about average salaries of teachers and Grenier did not have them but said she could get the average for Barnstable.

Councilor Canedy explained why she did not support the school budget last year. She said it was because ARRA program was relied on to balance the budget and created positions and programs which are now unfundable. Grenier said none of those positions will be filled. The only position in jeopardy is the Special Ed Team Facilitator. We might have one employee bumped. Canedy is concerned about the new superintendent at the highest pay range offered in view of cutbacks in other positions.

Supt. Grenier said she went to the State association meeting and noted that there are about 30 superintendents retiring this year. It is hard to get the caliber, and a talented individual. Her replacement has had 9 years of experience. You can't start your career here and you need someone with experience.

Councilor Canedy noted that the Police Chief and Town Manager, for example, make considerably less money than the superintendent.

Councilor Crocker recognized the family of former Tax Collector Pat Packer who passed away this last week.

A motion was made and seconded to move the question.

VOTE: Unanimous consent

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$58,746,878** be raised and appropriated for the purpose of funding the Town's FY 2012 **Local School System** budget as presented to the Town Council by the Town Manager.

VOTE: 10 Yes, 1 No (Munafo) and 1 Abstain (Norman)

ADJOURNMENT

Upon motion duly made and seconded it was

VOTE: To adjourn.

ADJOURNED: at 11:15 p.m.

Respectfully submitted,

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

Exhibits:

- A – Statement by Skip Simpson
- B – President's Award statement on Patricia Grenier
- C – President's Award statement on Mary Czajkowski
- D – Power point Presentation by Manager Klimm and Finance Director Milne on FY 2012 Proposed Operating Budget
- E – Barnstable Police Department budget Presentation

NEXT MEETING: May 26, 2011