



Town Council Meeting
September 15, 2016



A quorum being duly present, Council President Jessica Rapp Grassetti called the September 15, 2016, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Rapp Grassetti regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: Frederick Chirigotis, James Crocker, Jr., William Crocker, Jr., Jennifer Cullum, Sara Cushing, Debra Dagwan, John Flores, Jessica Rapp Grassetti, Paul Hebert, John Norman (7:40 p.m.), Eric Steinhilber, James Tinsley, Jr., Philip Wallace.

The Pledge of Allegiance was led by President Jessica Rapp Grassetti, followed by a moment of silence.

PUBLIC COMMENT:

John Julius discussed changing the tax collector position from an elected position to an appointed position. He was against this change and felt an elected tax collector was responsible to the residents.

Jane Walsh, Owner of Red Fish Blue Fish, mentioned Barnstable's own Open Street Festival on September 25, 2016. She encourage all residents to come out to the events which is being held noon to 5 p.m., and will include children's activities, yoga classes, exercise stations, dancing, entertainment, a "fun run" road race and more. She disclosed she was one of the organizers of this event.

Hilary Sandler suggested the shooting range be moved to another location. She hoped the Town would do its due diligence and formulate other options.

Peter Cross requested the Town waive the \$136,000 in fees for the building of the new Hyannis fires station. He mentioned the Hyannis fire station was the third busiest fire station in the state after Boston and Worcester.

Close Public Comment

COUNCIL RESPONSE TO PUBLIC COMMENT:

Councilor Hebert was in favor of looking for other options to relocate the shooting range. He added he was in favor of waiving most fees for the Hyannis fire station except the inspection fees. He noted the Town has a Charter Committee which follows procedure in making recommendations. He asserted any Council recommendation regarding an appointed tax collector would go to a town-wide ballot question.

Councilor Dagwan was supportive of the Open Street event and relieving some of the fees for the fire station.

Councilor Chirigotis clarified the tax collector does not set the tax rate or give abatements.

Councilor Cullum, Chair of the Charter Committee said all meetings were open to the public and posted on the Town's website. She said the committee was very sensitive to making own its rules out of respect for all voters. She mentioned the other members of the committee were Councilor Frederick Chirigotis, Councilor Will Crocker Jr., Councilor Paul Hebert; Donald Lynde and Peter Hanson.

TOWN MANAGER COMMUNICATIONS:

Mark Ells, Town Manager gave a summary of the items in his memo (Exhibit A)

Budget action calendar for Fiscal Year 2018

Mary Dunn and Maher well fields

Sandy Neck

Pomponesset/Shoestring Bay watershed

Three Bays Preservation

Request for Proposal for the armory

Growth Incentive Zone

Draft Request for Proposal for the use of the Marstons Mills

Public Hearing September 7, 2016 for proposed changes to the Mooring Regulations

Discussions with County about issues related to contamination of the Mary Dunn wells.

Councilor Comments and Questions:

Do the filters remove all contaminants? (No detection of contaminants from Mary Dunn well)

ACT ON MINUTES: Upon a motion duly made and seconded it was voted to approve the minutes of the July 21, 2016 meeting.

VOTE: PASSES UNANIMOUS

ACT ON EXECUTIVE SESSION MINUTES: Upon a motion duly made and seconded it was voted to approve and release the minutes of the June 2, 2016, June 16, 2016 Mark Ells Contract Negotiation Strategy.

The following Executive Sessions minutes were reviewed and held: the June 16, 2016 County Fire Training Academy meetings minutes, the April Hempel Open Meeting Law Complaint meeting minutes, the December 17, 2015 AIDS Support Group of Cape Cod v. Town of Barnstable meeting minutes.

The following previously approved Executive Minutes were again reviewed and continued non-disclosure is warranted for: September 12, 2013, September 19, 2013 and October 17, 2013. Executive Session minutes involving the case of Marty v. Town of Barnstable and September 12, 2013, March 20, 2014, May 22, 2014 Executive Session minutes involving the Cape Wind litigation.

VOTE: PASSES UNANIMOUS

COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements:

Councilor Hebert discussed Ever Source spraying the powerlines area and suggested joining in with other municipalities who are against this spraying.

- **Presentation by Jennifer Rand, Vice President Cape & Vineyard Electric Cooperative, Inc.; Liz Argo, Manager and Program Administrator**

Charles McLaughlin, former President of the Cape and Vineyard Electric Cooperative, Inc. (CVEC) gave an overview of the PowerPoint Presentation. (Exhibit B) He mentioned the need for a ½ penny annual revenue increase from the Town to cover the administrative operational adder. Jennifer Rand spoke about the benefits from the CVEC and what will happen should the CVEC not get its funding. It was mentioned without the additional funding the CVEC would only sustain itself up to three years. Leo Cakounes, President of CVEC explained the real need for the funding.

Councilor Comments and Questions:

What is the adder? (Cost of doing business) What is in the CVEC reserve? (\$300,000) It is uncomfortable to ask for funding now. Can there be more units built to offset the cost?

2016-154 AMEND ZONING ORDINANCE, ARTICLE V ACCESSORY USES § 240-43 BY ADDING SECTION 243-43.1 AND AMEND SECTION 240-46 SECTIONB. (12) INTRO: 05/05/16, 07/21/16, 09/15/16

Upon a motion duly made and seconded it was

ORDERED: Section 1 of the Order. That the Zoning Ordinance, Article V Accessory Uses be amended by adding new section 240-43.1 to Section 240-43 as follows:

240-43.1 Commercial Vehicles Accessory to Principal Residential Use

The continued and regular parking of one (1) commercial vehicle owned or operated by a resident of the premises is permitted by right in all zoning districts.

- A. Only one (1) commercial vehicle is allowed per lot.
- B. All such commercial vehicles shall be parked in a driveway or an enclosed structure. In no case shall such vehicles be parked on the street.
- C. For the purposes of this section, permitted Commercial Vehicles shall not include tractor trailers, or construction vehicles including but not limited to backhoes, bulldozers and dump trucks.
- D. Overnight storage of multi-passenger commercial vehicles is prohibited.
- E. Vehicles temporarily on the premises due to permitted building or site work that is continuing in good faith are allowed.
- F. Nothing in this section shall be construed as authorization for the conducting of a business on the premises

Section 2 of the Order. That the Zoning Ordinance, Article V Accessory Uses 240-46, Section B. (12) Home Occupation be amended a follows:

Add new sentence at the end of the section as follows: "In no case shall there be more than one commercial vehicle per lot."

So that the amended Section 240-46, section B. (12) reads:

B.(12) There are no commercial vehicles related to the customary home occupation, other than one van or one truck not to exceed one-ton capacity, and one trailer not to exceed 20 feet in length and not to exceed four tires, parked on the same lot containing the customary home occupation. **In no case, shall there be more than one commercial vehicle per lot.**

VOTE: CONTINUE TO PUBLIC HEARING ON OCTOBER 20Th, 2016 - PASSES UNANIMOUS

2017-008 DESIGNATION OF WATER RESOURCES ADVISORY COMMITTEE (WRAC) MEMBERS AS SPECIAL MUNICIPAL EMPLOYEES INTRO: 08/11/2016, 09/15/16 INTRO: 08/11/2016, 09/15/16

Ruth Weil gave the rationale. She mentioned the special municipal employee status was a non-council and non-paid status.

Upon a motion duly made and seconded it was

ORDERED: That the members of the Water Resources Advisory Committee (WRAC) be designated special municipal employees by inserting the name of that committee in alphabetical order under the designation "(a) multiple member bodies" under Chapter 241 Attachment 1 of the Code of the Town of Barnstable, Designations of Town Officers/Positions As "Special" for Purposes of the Conflict of Interest Law.

VOTE: PASSES UNANIMOUS

2017-009 AUTHORIZING THE TOWN MANAGER TO EXERCUTE REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND

MARK HYANNIS, LLC.

David Roach gave an overview of their PowerPoint Presentation.

Open Public Hearing

Mike Ford, representing the owner of the Audi dealership, said the owner was very excited about the new project and hoped Council would approve it.

David Lauer, Owner of Wendy's, commented with the new Wendy's and Audi sites the area would be enhanced by the new CVS/Bank project.

Close Public Hearing

Councilor Comments and Questions:

Is the CVS 24/7 open? (Closed 1 a.m. - 3 a.m. to people but drive thru open 24/7)
How many parking spaces available? (82 vehicle space) Will the North Street CVS close due to the new CVS building? (No North Street CVS will stay)

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 (the "Code"), to enter into and execute a Regulatory Agreement between the Town of Barnstable and Mark Hyannis, LLC, for the properties addressed 411 and 417 Barnstable Road and 42 Barse Road, Hyannis, which collectively total 2.38 acres, shown on Town of Barnstable Assessor's Map 311, as Parcels 33, 35.1 and 35.2, title to which is described in the deeds to Mark Hyannis, LLC, recorded with the Barnstable County Registry of Deeds in Book 29205, Page 26 and Book 29357, Page 210, and in Certificate of Title 208367, as filed with the Barnstable County Registry District of the Land Court (collectively, the "Property"); and permitting the redevelopment of the Property and granting the requested zoning relief and approval under Chapter 115 of the Code pursuant to and as described in this Regulatory Agreement.

VOTE: ROLL CALL 13 YES

2017-010 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,113,000 FOR THE CONSTRUCTION OF THREE BUILDINGS FOR THE CARBON TREATMENT UNITS AT THE MARY DUNN WELLFIELD INTRO: 08/11/16, 09/15/16

Dan Santos, Director of Public Works, gave the rationale. He discussed the 10 water wells and the construction of the three buildings for the carbon treatment units.

Open public hearing seeing no one close public hearing.

Councilor Comments and Questions:

How will the buildings be heated? (Propane gas) Is there another heating option as propane gas is very expensive. (Will look at solar) Look at heat pump as another option.

Upon a motion duly made and seconded it was

ORDERED: That the sum of **\$1,113,000** be appropriated for the purpose of constructing three buildings to enclose the three carbon treatment units at the Mary Dunn wellfield, and that to meet this appropriation, the Town Treasurer with the approval of the Town Manager, is authorized to borrow **\$1,113,000**, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: ROLL CALL 13 YES

Reorder the agenda to take agenda item 2017-013 after agenda item 2017-011 with agenda items 2017-011 and 2017-012 following immediately after.

**2017-013 ACCEPTANCE OF A GRANT RENEWAL IN THE AMOUNT OF \$42,615 FROM THE MASSACHUSETTS DEPARTMENT OF MENTAL HEALTH
INTRO: 09/15/16**

Sergeant Jennifer Ellis, Barnstable Police Officer, gave the rationale.

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept a grant renewal in the amount of **\$42,615** from the Massachusetts Department of Mental Health entitled: **Training and Technical Assistance Centers, Community Crisis Intervention Team (CCIT) Programs and Other Innovative Police-Based Behavioral Health Jail Diversion Program Grant.**

VOTE: PASSES UNANIMOUS

**2017-017 RESOLVE CENTERVILLE-OSTERVILLE-MARSTONS MILLS
TEMPORARY SUPPLEMENTAL WATER SUPPLY INTERMUNICIPAL AGREEMENT
TERMS INTRO: 09/15/16**

David Houghton gave the rationale.

Councilor Hebert left the dais at approximately 9:57 p.m. and returned at approximately 9:59 p.m.

Councilor Comments and Questions:

How much does \$90,000 dollars buy in gallons? (72,000 million gallons of water)

A motion was duly made and seconded to

RESOLVED: That the terms of an intermunicipal agreement with the Centerville-Osterville-Marstons Mills Fire District for temporary supplemental water supplied to the Town as authorized by the Town Council under agenda item number **2017-007** passed on August 11, 2016 include a maximum duration of March 31, 2017 and a maximum expenditure of **\$90,000** from the amount appropriated on June 16, 2016 under agenda item number **2016-134** for the Fiscal Year 2017 Department of

Public Works Water Supply Enterprise Fund budget unless further extended or appropriated by vote of the Town Council.

VOTE: PASSES UNANIMOUS

2017-018 RESOLUTION OF COMMUNITY PRESERVATION FUND FOR COMMUNITY HOUSING, PRESERVATION OF AFFORDABLE HOUSING (POAH) FOUNDERS COURT, 979 FALMOUTH ROAD, HYANNIS INTRO: 09/15/16

David Houghton gave the rationale.

Councilor Comments and Questions:

Very upset with Mass Housing Finance suggesting the Town subordinate a requirement in perpetuity to finance by the housing agency. This is an absurd act of selfness. (Spent consider time to trying to not have the requirement included)

Julie Kramer, Vice President of POAH, explained the need for the subordinate clause.

A motion was duly made and seconded to

RESOLVED, that the Town Manager is authorized to accept a Housing Restriction that preserves all 32 of the units as affordable in perpetuity when expending the amount of Five Hundred Thousand and NO/100 (**\$500,000.00**) appropriated under order number **2016-016**, passed on September 3, 2016, for preserving affordable housing on the property located at 979 Falmouth Road, Hyannis shown on Assessor's Map 250 as Parcel 001, commonly known as Founders Court, provided that such restriction shall be subordinated to a mortgage to Massachusetts Housing Finance Agency and that such Restriction may not survive a foreclosure of such mortgage.

VOTE: ROLL CALL 12 YES 1 ABSTAIN (CROCKER J)

Returned to Agenda Item 2017-011

**2017-011 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION
INTRO: 09/15/16**

A motion was duly made and seconded to

RESOLVED: That the Town Council appoint the following individuals to a multiple-member board/committee/commission: **ELDERLY & DISABLED TAXATION AID COMMITTEE:** Tracey Todd, 77 Highland Avenue, Cotuit, as a regular member to a term expiring 06/30/19; **HUMAN SERVICES COMMITTEE:** Meaghan Mort, 23 Hamblin's Hayway, Marstons Mills, as a regular member to a term expiring 06/30/19; **SANDY NECK BOARD:** Wendy Paquette, 81 Maple Street, Hyannis as a regular member to a term expiring 06/30/18; William Monroe, 1379 Bumps River Road, Centerville, as a regular member to a term expiring 06/30/19; **YOUTH COMMISSION:** Michael Booth, c/o Hyannis Youth Community Center, 141 Bassett Ln, Hyannis, as a regular member to a term expiring 06/30/17.

VOTE: REFER TO SECOND READING ON SEPTEMBER 29, 2016 – PASSES UNANIMOUS

**2017-012 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION
INTRO: 09/15/16**

A motion was duly made and seconded to

BOARD OF ASSESSORS: Andrew Machado as a regular member to a term expiring 6/30/19; **COMMUNITY PRESERVATION COMMITTEE:** Richard Sawyer as the Recreation Commission representative member to a term expiring 6/30/19; Laura Shufelt as a regular member to a term expiring 6/30/19; Marilyn Fifield as a regular member to a term expiring 6/30/19; **COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE:** Cynthia Crossman as a regular member to a term expiring 6/30/19; **DISABILITY COMMISSION:** Paula Breagy as a regular member to a term expiring 6/30/19; **ECONOMIC DEVELOPMENT COMMISSION:** Thomas Geiler as a regular member to a term expiring 6/30/19; Alan Eric Feltham as a regular member to a term expiring 6/30/19; Henry Farnham as a regular member to a term expiring 6/30/19; **ELDERLY & DISABLED TAXATION COMMITTEE:** William Murdoch as a regular member to a term expiring 6/30/19; **HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMITTEE:** Marina Atsalis as a regular member to a term expiring 6/30/19; **JOHN FITZGERALD KENNEDY MEMORIAL TRUST FUND COMMITTEE:** Hugh Findlay as a regular member to a term expiring 6/30/19; **RENEWABLE ENERGY COMMISSION:** Alison Alessi as a regular member to a term expiring 6/30/19; Stephen Thomas as a regular member to a term expiring 6/30/19; **TRUST FUND ADVISORY COMMITTEE:** Jonathan Gilmore as a regular member to a term expiring 6/30/19; Christopher Ward as a regular member to a term expiring 6/30/19; Gregory Plunkett as a regular member to a term expiring 6/30/19; William Murdoch as a regular member to a term expiring 6/30/19.

VOTE: CONTINUE TO SEPTEMBER 29, 2016 MEETING – PASSES UNANIMOUS

2017-014 ORDINANCE FOR WAIVER OF FEES FOR CONSTRUCTION WORK ON THE NEW HYANNIS FIRE DISTRICT FIRE STATION, 95 HIGH SCHOOL ROAD, HYANNIS, MA INTRO: 09/15/16

A motion was duly made and seconded to

ORDERED: Notwithstanding the provisions of any other ordinance of the Town regarding schedules of Fees, the construction project for the construction of a new fire station by the Hyannis Fire District shall hereby be exempt from payment of such fees.

VOTE: REFER TO PUBLIC HEARING ON OCTOBER 6, 2016 – PASSES UNANIMOUS

**2017-015 AMENDING GENERAL ORDINANCE CH. 220, TOWN COUNCIL,
ARTICLE I, MEETINGS INTRO: 09/15/16**

A motion was duly made and seconded to **ORDERED**, that the General Ordinance, Chapter 220, Town Council, Article I, Meetings, is hereby amended by striking out the existing §§220-1 through 220-3 and substituting in their place the following:

§220-1. Regular meetings.

Regular meetings of the Barnstable Town Council shall be held on two Thursdays per month, except during July and August, when regular meetings shall be held on one Thursday per month. The dates of regular meetings shall be approved by a majority vote of the Town Council in December of each year for the following calendar year. No regular meeting shall be scheduled on a solemn or legal holiday.

§220-2. Special meetings.

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice shall include agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each councilor at least forty-eight hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.

§220-3. Cancellation and rescheduling of meetings.

(a) If the President of the Council determines that an exigent circumstance exists which makes it either infeasible or impracticable to hold a scheduled meeting, the President may cancel said meeting. Notice of the cancelled meeting shall be posted at the Town Hall meeting room and on the Town's website unless the exigent circumstances prevent such posting.

(b) If for any reason, a meeting is canceled, the President may reschedule a special meeting to replace the canceled meeting. If the canceled meeting was the only regular meeting scheduled for that month, then the rescheduled meeting shall be a regular meeting.

VOTE: REFER TO PUBLIC HEARING ON SEPTEMBER 29, 2016 – PASSES UNANIMOUS

**2017-016 AMENDMENT TO THE ADMINISTRATIVE CODE BY THE
ADDITION OF SECTION 241-45.4 BICYCLE AND PEDESTRIAN ADVISORY**

COMMITTEE INTRO: 09/15/16

A motion was duly made and seconded to

ORDERED:

Section 1:

That Chapter 241 of the Town's Administrative Code of the Town of Barnstable be amended by adding the following new section creating a Bicycle and Pedestrian Advisory Committee

“§241-45.4.

A. Composition and Term of Office: There shall be a Bicycle and Pedestrian Advisory Committee consisting of five members, who shall be appointed by the Town Council. Members shall serve for terms of three years, so arranged that an equal number shall expire each year.

B. Authorities and Responsibilities: Assist and advise the Town and specifically the Director of the Department of Public Works and the Town Engineer to develop and recommend fiscally responsible policies that take into account and support non-motorized transportation in the Town of Barnstable; advise the respective public works and engineering departments and the Barnstable Police Safety Unit on how non-motorized users can be accommodated in street, highway, and open space projects while taking into account the impact of such recommendations on project affordability; promote bicycle pedestrian safety and education; promote bicycling and walking as a means of transportation, recreation, and fitness.

C. Interrelationships:

1. The Town Council: Bicycle and Pedestrian Advisory Committee interacts with the Town Council in matters of policy and implementation of its functions and recommendations under the provision of this section.
2. The Town Manager: Bicycle and Pedestrian Advisory Committee interacts with the Town Manager in matters relating to staff support and recommendations, funding and implementation of its functions under the provision of this section,
3. Other Boards: Bicycle and Pedestrian Advisory Committee meets, as necessary, with any multiple member board to effectuate its purpose.”

Section 2.

That Chapter 241 of the Town's Administrative Code of the Town of Barnstable Attachment 1 of the Code of the Town of Barnstable, Designations of Town Officers/Positions As “Special” for Purposes of the Conflict of Interest Law be amended by adding that the members of the Bicycle and Pedestrian Advisory

Committee be designated special municipal employees by inserting the name of that committee in alphabetical order under the designation (a) multiple member bodies.

VOTE: REFER TO SECOND READING – PASSES UNANIMOUS

Upon a motion duly made and seconded it was VOTED to go into Executive Session under Executive Session under Massachusetts General Law. c. 30A §21(a) (1) to review the Open Meeting Law Complaint filed by Ron Beaty on August 11, 2016.

The Town Council may vote to go into Executive Session under G.L. c. 30A §21(a)(3), to discuss litigation strategy with respect to the case of the Town of Barnstable v. Barnstable County, pending in Barnstable Superior Court, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

VOTE: ROLL CALL - PASSES 12 YES (10:07 P.M.)

ADJOURNMENT:

Upon a motion duly made and seconded it was
VOTED to adjourn: PASSES UNANIMOUS

Adjourned at 10:10 PM

Respectfully submitted,

Janet E, Murphy
Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: September 29, 2016

EXHIBITS:

- A Town Manager update dated September 15, 2016
- B. Cape and Vineyard Electric Cooperative, Inc. PowerPoint Presentation