



Town Council Meeting
October 19, 2017



A quorum being duly present, Council President Eric Steinhilber called the October 19, 2017, 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 Steinhilber 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, Debra Dagwan, John Flores, Jessica Rapp Grasseti, Paul Hebert, John Norman, Eric Steinhilber, James Tinsley, Jr., Philip Wallace. Absent: Sara Cushing

The Pledge of Allegiance was led by President Steinhilber, followed by a moment of silence.

PUBLIC COMMENT:

Steven Bartlett spoke to the Council regarding his inability to rent a place to live as he has a dog and no one will rent to him; he is unable to provide a place to live for his family. Bartlett is living in his car with the dog. Public bathrooms are not open at night; the homeless are going to the bathroom outside and can be arrested for doing so. What should I do?

William Hedley Smith still concerned about the homeless people; we need to help the homeless; which means we have to treat people, because many homeless people have untreated mental illness. Our money should be spent on children, betterments, making our tourist industry better.

Close public comment

COUNCIL RESPONSE TO PUBLIC COMMENT:

Contact us and we will give you information regarding housing for you and your family; we will talk together.

TOWN MANAGER COMMUNICATIONS:

Budget Action Calendar

Capital Improvement

Proposed permits and fees

Residential Exemption Application for FY2018

Mass Fish and Wildlife re future water supply wells

Met with Barnstable Housing Authority (BHA); and met with residents of Sea St Extension and Steven St. properties, shared the information with the BHA

Cape Cod Regional Technical High School vote scheduled for October 24th.
Hyannis HYArts Cultural District was renewed
Partnered with the Cape Cod Commission for a (TIGER) grant
Mass Works Infrastructure Program Grant announcement tomorrow

Councilor questions and comments:

Update on the Shooting Range [proceeding with the appropriation order; DPW has done a clean up of a small area; MOU is in place, reaching some of the major milestones] what would be a reasonable time frame for reopening the range [expectation 2019] Have you determined the operating hours and days [operating hours were identified; haven't quantified it yet; much more controlled] tell us about the actual work for Yarmouth Road [two separate grants; to complete Exit 7 to Route 28] Where are we on the sewer connection for Yarmouth Road and Route 28 [planning on the inclusion for both of those designs] [Dan Santos, DPW, Director our intention is to include water and sewer in the project;] How are we funding it [intend to include in the CIP requests]

ACT ON MINUTES: Upon a motion duly made and seconded it was voted to approve the minutes of the October 5, 2017 meeting.

VOTE: PASSES 11 YES, 1 ABSTENTION (RAPP GRASSETTI)

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

Monte Carlo night; informational session Pilgrim Power plant decommissioning
Children's parade at the County Courthouse, and Eagle Scout, Adam Christopher Beal earned over 24 merit badges.

Precinct 12 candidate's night

Unwanted prescription medication drop off at Police Department

House Bill 3953; out of committee, to a third reading; will allow money that we use for maintaining public roads can be used for designing public roads

Concert at the High School-Neil Diamond tribute

Independence House is expanding

Open Streets on Sunday-please come out and enjoy this afternoon

Recreational Shellfish will be opening;

Presentation by the Asset Management Committee; Councilor Phil Wallace, Chair; David Anthony, Director of Property and Risk Management; Andrew Clyburn, Assistant Town Manager (Exhibit A)

Introduced by Councilor Wallace, "This committee is to assist and advise the Town Manager in fulfilling the important duty of the Charter, Chapter 4-3"

David Anthony, Director of Property and Risk Management, gave an overview of the Power Point presentation.

Councilor Comments and Questions:

This was extremely important work, thank you for that; if a constituent is interested in a parcel there a priority list, [there is an opportunity, would start with a letter of interest; run with it for potential action; can take some time] Be as fair and transparent as we could possibly be; who gives the final approval [Town Council would make the final yes or no decision, to get that approval] when these are ready to be advertised can you give us a time line [post all bids on town website; publish ads in Cape Cod Times; public session with Town Council; Enews; hard end date with a bid; assessed value of the property has

to be taken into consideration; keep it fair and open] how are we getting our arms around this [Assistant Town Manager, Andy Clyburn -getting these properties out in about the next 60 days]

Appointments Committee Members, Councilor John Norman, Chair, Town Manager Evaluation Document

Councilor Norman gave a brief overview of the Town Manager's evaluation form; the committee went line by line; to neaten up the evaluation of the Manager. We have presented this to the full Council to get this process moving as quick as possible. We need the evaluation to be conducted before the new members are elected to the Council.

Councilor comments and questions:

Well done, included a comment section; great job [thank you to Councilor Dagwan for her help] in areas where you do not have any insight it is okay to put N/A; this is a good vehicle for feedback; how is the evaluation given to the Town Manager; [will be shared with the manager and shared publically] One question regarding the Town Manager interacting with his Staff not something we could evaluate; Glad performance is happening before the turnover; Has there been any thought to do this electronically [No, we did not consider making this an electronic document; a lot of questions were eliminated; purpose is to show what is going well] this will show if we are moving forward with our strategic plan.

A motion was made and duly seconded to accept the report of the Appointments Committee

VOTE: Passes Unanimous

2018-031 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$30,000 FROM THE GENERAL FUND RESERVES, FOR THE DESIGN AND PERMITTING OF A TOWN PIER IN THE THREE BAY AREA INTRO: 10/05/17, 10/19/17
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Open public hearing

Mark Ells, Town Manager gave the rationale;

David Lawler, the prudential committee was very excited about this proposal

Close public hearing

Councilor Comments and Questions:

Good effort, concerns in Precinct 7 has a municipal pier; Fire Department has been denied use of the pier; no boat can be permanently docked at the pier; need support of Cotuit Dock allowing Cotuit Fire Dept to dock at the pier [absolutely, looking at additional facilities] uncomfortable, Town of Barnstable resources for the fire districts, no free dock space, set up space and pay, no problem; these funds don't mix and match; are we looking at creating something new; is this just to research or is this to expand; is this is just the very first step? [there would be discussion of paying for the use of the dock; evaluation bringing together our staff, utilizing expertise of our many committees; look at town lands; then we will discuss our ideas before the Council so everyone knows the sites we have identified; need it sited properly, with acceptable access, and egress] sounds like a lot of in-house staff can perform the background work; what do you need money for? [end result is to move this into the design/permitting phase which is when the thirty thousand dollars comes in] evaluation process is a two phase effect; Fire Rescue and COMM spend 6

grand a year, for utilizing the pier; they expect to spend money; we may have more users; no one has a promise; this is the first step. We have the Coast Guard and our Harbormaster; we have to ensure our Fire Districts have access; to enhance and encourage use of the water by all our constituents.

Upon a motion duly made and seconded it was:

ORDERED: That the Town Council hereby appropriates and transfers the sum of \$30,000 from the General Fund Reserves, for the purpose of evaluating, designing and permitting a municipal pier located in the Three Bay area; including the payment of costs incidental or related thereto

VOTE: PASSES 11 YES, 1 NO (NORMAN)

2018-032 AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO THE REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ADAM WEINER/GUARANTEED FRESH PRODUCE INTRO: 10/19/17

Elizabeth Jenkins, Director of Planning and Development introduced Attorney Lawler to give the rationale, to expand the business for parking across the street. Site plan Review moved it forward to Conservation, and the Planning Board. All approved.

Open public hearing

Donna Wright we are the little guy Medeiros Way, has an issue with the amount of trucks already parked at Guaranteed Fresh Produce; and had pictures of the private way blocking the access to her business location. The trucks backup and load up at Guaranteed Fresh Produce; due to the size of the trucks they do extend into the street, it does block access to the rest of the road. Concerned there would be no access if there was an emergency. They do not have the space they need to conduct the current business; they are blocking and hindering our business.

Close public hearing

Councilor Comments and Questions:

How many trucks [twenty something trucks; it is a private way, they own to the midway of the street; the intent is to alleviate what is going on; this is an industrial area] what guarantee does Ms. Wright have that this will alleviate her issues; will customers have access to her business? [This particular area needs to remain clear; private way; there are other trucks that also use Medeiros Way.] Do you have the plans that tell us how many trucks, [parking space is for 23 trucks, by having the parking lot across the street, it will allow the trucks to load up and go across the street to get out of the way] landscaping is waived for the parking lot; significantly improve the look for a gateway; looks pretty bad with the trucks stacked up; if it wasn't for the amount of asphalt; perhaps the off loading can be done to a smaller box truck, so you are not encroaching into the private way. What are the waivers, what are the landscape plans [100 % pre-existing non-conforming; landscaping not required; lot is 99 percent paved; to improve it we will remove the asphalt in the wetlands area; cleaning up the two side areas; it is currently in deplorable condition; business is expanding, where does he move to in Barnstable?] What are those trees, what is being proposed [normal street trees] how do the trucks turn around or back in to the spaces, have sympathy with the abutter; time limit to come in and leave [some of the trucks are on the property overnight] how do you maneuver twenty trucks, [Steve Horn the General Manager - all of our trucks are 18 foot; lot is 54 feet wide, need 18 foot plus one

third about 24 feet to do a three point turn on the lot across the street] [Attorney Lawlor all timed some leave at 5 AM some at 6 AM some at 7 AM] Can't imagine how the trucks can turn around with a curb cut; Medeiros Way. is not on the Agenda, this is about the parcel across the street [yes] is there anything that could be done for loading and unloading that would not block the road for Ms. Wright's business [was made known that we would attempt to resolve all her issues; the employees have been told they cannot block her access] Discussing two different things; revitalized pavement, not a problem to turn around, take the pavement out of the water, clean this up, if we say yes they can clean it up and make it better. Regulatory agreement, substantially improve, how does it alleviate the problem. [This will take the trucks off the main lot so there will be less congestion; both are trying to run a business] that doesn't mean you can put someone out of business to run your business; Medeiros Way. cannot be blocked and Ms Wright's business cannot be blocked [recourse to contact the Town Building Department, that is enforceable] how do we assure that is going to happen; as the property sits, is it a non-conforming space; has he been served some sort of notice? [Elizabeth Jenkins, Director of Planning and Development - as a result of the success and growth of this business; parking as a primary use on the lot we are discussing; would not be non-compliant; this was not brought forwarded in any sort of complaint; this land has fairly limited use] You do not control or block a private way; the way the trucks are parked, they are blocking access to Medeiros Way; I do want to see this property cleaned up, parking lot is probably the best use of the property; want to see a timeline and a process so that the access is not blocked for any period of time; I tend to defer to the Councilors in Hyannis; if they support, so will I; Councilor James Crocker recused himself from this discussion and vote; left dais at 9:25 PM. How are we going to do some relief for Ms. Wright? By having the space across the street will you have fewer trucks on the property blocking access [take any measures appropriate to keep area clear]

First Vote: Roll Call 8 Yes, 3 No (Chirigotis, Dagwan, Rapp Grasseti)

A motion was duly made and seconded to reconsider

Vote: Passes 11 YES

Councilor comments and questions:

What will you do to ensure the area in front of the Wright building will not be blocked; [if you would like to have something added to the Regulatory Agreement, that the other business will not be blocked, we would be more than happy to do that and include signage] Is that acceptable with the Legal Department [Ruth Weil, Town Attorney, yes, because this is an amendment of the original agreement it does cover both parties; also we need to add a paragraph that all the other terms of the original agreement are in effect.] all terms and conditions that are not modified shall remain in full force and effect. [Lawler-More than acceptable; including signage]

A motion was made and duly seconded to amend this item as follows: this property will not be blocked; all terms of the original regulatory agreement not modified herein shall remain in full force and effect.

Vote: amendment passes unanimous

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 Rockland Trust Company,

for the property 765 Main Street, Hyannis, 1.25 acres, shown on Town of Barnstable Assessor's Map 290 as Parcel 098, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 26821, Page 142 as filed with the Barnstable County Registry District of the Land Court (hereafter, the "Property"); and permitting the redevelopment of the Property and granting the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

AMENDED REGULATORY AGREEMENT

ADAM WEINER/GUARANTEED FRESH PRODUCE
30 & 35 IYANNOUGH ROAD
HYANNIS, MA 02601

This Amended Regulatory Agreement ("Agreement") is entered into by and between the applicant, Adam Weiner/Guaranteed Fresh Produce (the "Applicant" and/or "Developer"), with a mailing address of 35 Iyannough Road, Hyannis, MA 02601 and the Town of Barnstable (the "Town"), a municipal corporation with a mailing address of 367 Main Street, Hyannis, MA 02601, on this ____ day of _____, 2017, pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapter 168 of the Code of the Town of Barnstable.

WITNESS:

WHEREAS, this Agreement shall establish the following: permitted uses, parking, and setbacks within the proposed Redevelopment (as defined herein), the duration of this Agreement, and any other terms and conditions mutually agreed upon between the Applicant and the Town;

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

WHEREAS, the Applicant owns the property known as and numbered 35 Iyannough Road, Hyannis, MA 02601, which is shown on Barnstable Assessor's Map 343, as Parcel 003, and which is more particularly described in the Certificate of Title No. 186706 recorded with the Barnstable County Land Registration Office (hereafter, the "Property"). The Applicant has a Purchase and Sale Agreement for the purchase of the property at 30 Iyannough Road, Hyannis, MA currently owned by Dmitry Zinov, Trustee, which is shown on Barnstable Assessor's Map 343, as Parcel 015, and which is more particularly described in Certificate of Title No. 184659 recorded with the Barnstable County Land Registration Office.

WHEREAS, the 35 Iyannough Road, Hyannis, parcel is developed with commercial structures, and is the subject of a preexisting Regulatory Agreement between the Town and Guaranteed Fresh Produce, Inc. dated July 23, 2008 and recorded at the Barnstable County Land Registration Office as Document 1096691. The 30 Iyannough Road, Hyannis parcel was a previously developed lot covered almost entirely with asphalt.

WHEREAS, the Applicant purposes to utilize 30 Iyannough Road for truck parking accessory to the produce business located at 35 Iyannough Road as shown on the plans submitted and attached hereto as **Exhibit A** and incorporated by reference: Guaranteed Fresh Produce Site Redevelopment Plans, dated October 9, 2017, eight sheets, (hereafter, the "Redevelopment Plans," and such proposed site work and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment");

WHEREAS, the Redevelopment received unanimous approval from The Barnstable Conservation Commission, on September 19, 2017.

WHEREAS, the Redevelopment is consistent with the Town of Barnstable's Design and Infrastructure Plan;

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

WHEREAS, the Applicant is willing to commit 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;

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of this 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 Redevelopment 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 extended by vote of the Cape Cod Commission on December 3, 2015, and 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 Redevelopment 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 Redevelopment may proceed and the Applicant has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, the Redevelopment has undergone formal site plan review and the Town of Barnstable Site Plan Review Committee determined the Redevelopment Plans approvable by decision dated September 7, 2017;

WHEREAS, the Redevelopment proposal has undergone two hearings on the Regulatory Agreement application and received an affirmative majority vote from the Planning Board on September 25, 2017;

WHEREAS, the Redevelopment proposal has undergone a public meeting on the Agreement before the Barnstable Town Council and has received a two-thirds vote approving the Agreement on October 19, 2017;

WHEREAS, this Agreement authorizes only the use, any other parking lot dimensional requirements are preexisting nonconforming with the proposed construction making said lot more conforming than as presently exists. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Chapter 168-10 of the Code;

WHEREAS, the 2008 Regulatory Agreement remains in full force and effect except as modified herein;

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

1. The Developer agrees to construct the Redevelopment on the Property in accordance with the Redevelopment Plans which are attached as **Exhibit A** to this Agreement and which are entitled "Guaranteed Fresh Produce Site Re-Development Plans" dated October 10, 2017, drawn and stamped by Baxter Nye Engineering and Surveying, Inc.
 - C0.0 Cover Sheet
 - C1.0 Legend and General Notes
 - C2.0 Existing Conditions Plan
 - C3.0 Layout Plan
 - C4.0 Grading and Drainage Plan
 - C4.1 SWM Details and Notes
 - C5.0 Utility Plan
 - C6.0 Landscape Plan

2. The Town hereby grants the following waivers from the Town of Barnstable Zoning Ordinance for the Redevelopment, as requested by the Developer:
 - a. Section 240-1.9.1 Gateway Medical (GM) Zoning District: Use for accessory parking for 30 Iyannough Road, Hyannis, MA 02601
 - b. Sections 240-53(C) and 240-24.1.11A(4) Landscaping requirements for parking lots. (*Preexisting nonconforming*)
3. The parking lot permitted herein shall be accessory to the use of 35 Iyannough Road as permitted by the Regulatory Agreement between the Town and Guaranteed Fresh Produce, Inc. dated July 23, 2008 and recorded at the Barnstable County Land Court Registry as Document 1096691. This shall serve as an amendment to that Agreement. The two properties, 30 and 35 Iyannough Road, Hyannis, shall be retained in identical ownership with respect to both fee and nonfee interests.
4. The Applicant shall be prohibited from blocking access to the property located at 21 Medeiros Way, Hyannis, MA and shall be further prohibited from parking commercial vehicles directly in front of or beside the structure located at 21 Medeiros Way, Hyannis, MA. The Applicant shall install, at Applicant's sole expense, signage along the property line at 21 Medeiros Way, Hyannis, MA, which signage shall prohibit the parking of commercial vehicles. Said signs shall be approved by both the owner of 21 Medeiros Way, Hyannis, MA and the Barnstable Planning and Development Department.
5. The Redevelopment provides, without limitation, the following site design, traffic safety, and community benefits:
 - a. Revitalization of long standing vacant property; revitalization is anticipated to eliminate or substantially reduce issues associated with blighted property including but not limited to homeless occupation and illicit activity.
 - b. Redevelopments will significantly improved aesthetics at a gateway property into the Gateway Medical Zoning District.
 - c. Substantially improved traffic flow pattern allowing smoother ingress and egress on the property.
 - d. Improved storm-water drainage management on-site with low impact design measures.
 - e. Removal of asphalt within the wetland buffer with re-vegetation of the wetland buffer.

6. This Agreement shall run with the land, and all of the terms, conditions, and obligations contained in this Agreement shall be binding on any successor or assignor of the Applicant.

7. The term of this Agreement shall be ten (10) years from the effective date of the Agreement (hereafter, the "Term"), and the development rights authorized herein must be exercised prior to expiration of the Term or this Agreement shall be null and void. Once the development rights authorized herein have been timely exercised, all terms and conditions of this Agreement shall remain in effect until the Property is no longer used in accordance with the Redevelopment Plans in a manner that requires additional zoning relief. Further, in the event that the Developer, or its successors and/or assigns, proposes to modify the Redevelopment or the Redevelopment Plans in a manner which requires additional zoning relief, an amendment pursuant to Section 168-10 of the Code shall be required.

8. The 2008 Regulatory Agreement remains in full force and effect except as modified herein.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the day and year first above written.

Dated this ____ day of _____, 2017.

ADAM WEINER/GUARANTEED FRESH PRODUCE, INC.

By: _____

Name: Adam Weiner

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2017, before me, the undersigned notary public, personally appeared Mark Ells, Town Manager of the Town of Barnstable, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

 Notary Public
 My Commission expires: _____

TOWN OF BARNSTABLE

By: _____

Name: Mark S. Ells Town Manager

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2017, before me, the undersigned notary public, personally appeared Adam Weiner, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public

My Commission expires: _____

EXHIBIT A: REDEVELOPMENT PLANS

VOTE: AS Amended Passes 11 YES (J Crocker, recused)

2018-033 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$30,000 FROM THE GENERAL FUND RESERVES FOR THE EVALUATION, DESIGN AND PERMITTING OF A TOWN PIER IN THE BARNSTABLE HARBOR AREA INTRO: 10/19/17

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby appropriates and transfers the sum of **\$30,000** from the General Fund Reserves, for the purpose of evaluating, designing and permitting a municipal pier located in the Barnstable Harbor area; including the payment of costs incidental or related thereto.

VOTE: to a Public Hearing on 11-2-2017 unanimous

2018-034 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 10/19/17

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission;** Joseph Berlandi, Cummaquid, as a regular member to a term expiring 06/30/2018; **Disability Commission;** Sarah Nickerson, Hyannis, as a regular member to a term expiring 06/30/2018.

VOTE: to a 2nd reading on 11-2-2017 unanimous

2018-034	REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO:
10/19/17	

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Zoning Board of Appeals:** Alex Rodolakis, as a regular member to a term expiring 06/30/20

VOTE: to a 2nd reading on 11-2-2017 unanimous

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED to adjourn:

Adjourned at 9:35 PM

Respectfully submitted,

Ann M Quirk, CMC/CMMC
Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: November 2, 2017

EXHIBITS:

A. Asset Management Advisory Committee