



TOWN COUNCIL MEETING
October 19, 2006

A quorum being duly present, Town Council President, Gary Brown, called the meeting of the Barnstable Town Council to order at 7:00 pm, on October 19, 2006 at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Gary Brown, Ann Canady, James Crocker, Jr., Leah Curtis, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafò, Jr., Royden Richardson, Tom Rugo and Harold Tobey. **ABSENT:** Janice Barton

President Farnham led the Council in the Pledge of Allegiance and a moment of silence. He then introduced the Conservation Committee for a presentation.

Chairman Abodeely introduced members: Lawrence Morin, Peter Sampou, Dennis Houle, John Parker, Tom Lee, (Scott Blazis-not in attendance) and Con Com agent Rob Gatewood. Mr Abodeely talked about their charge and acknowledged the education and occupation of all individuals on the commission.

The authority for the commission comes from three major laws in the Commonwealth, one of them being the town's home rule. Their responsibility is as a quasi judicial committee. They make decisions on land that falls within their jurisdiction. They have regulatory and land management controls.

They are looking for additional funds to help them protect, and open for public use, the lands in conservation. He thanked many departments including but not limited to the legal department and Natural Resources.

Abodeely acknowledged the following: 1) There is evidence that septic systems contribute 90% of the nitrogen loading to our bays. We are killing them. The issue has to be handled by the town council. 2) With fewer lots and conversion of summer homes to year round residences, you need to address the septic issues now. 3) He pointed out that we need to create uniformity among and between town regulatory agencies – one has a 30 ft buffer and one a 50 ft buffer. Abodeely suggested that Growth Management work on this to create uniformity. The Conservation Commission needs additional resources to help open and maintain the conservation lands. Sandy Neck should have a long term sustainable plan for Sandy Neck. 4) Abodeely stated that he has chaired the commission for 4 years, and is amazed at the dedication of the commissioners.

Councilor Barry asked what should we be doing as far as the bays. Sampou said the best way to help the bays is to get a sewer system that will either treat for nitrogen removal or move it elsewhere off shore. Lee agreed and said they have to work with Health and DPW to make it work.

Councilor Barry asked if the SPA or anyone might help with the cost of sewerage. Lee said the county has opportunities for funding and that might be a good place to start looking.

Councilor Canady is appreciative of the list of needs. She addressed the DCPC in Barnstable and invited them to one of the steering committee meetings to discuss strategies. They were looking at increasing setbacks and urging people to move the septic systems at least 300 feet from wetlands. They would also like information on docks and help on them. Abodeely said

because of the ACEC area, which is most of the north side, docks are not allowed. Canedy would be willing to help on creating and working on uniformity of regulations.

Councilor Milne said he would help on that as well. He thanked the commission for their hard work. He has no qualms with the betterment that he pays for his sewer bill. Why can't we write legislation that states that 5 or more lots should have a nitrogen removal system? Abodeely said some IA systems may be no better than Title 5 systems. IA systems are bad in a seasonal home. You can have leeching into estuaries from many miles away. Where there is a high velocity zone that is where something has to be done. Sampou said he hopes that in Growth Management it might be watershed specific. If you are far enough away from the water I would not recommend the need – but if you are going for high development with input near water then you should mandate the user should pay (polluter should pay). It is our resource.

President Farnham asked about tree removal near the water and how does the commission monitor cuttings. Gatewood said we have staff in the field and the commissioners in the field. The kind of scrutiny the villages come under is amazing. One way or the other ill deeds come out of the woodwork. Abodeely said some trees were taken down at one location, and through civil and criminal enforcement we got the homeowners to replant all trees. That was an effective enforcement. Penalties can go as high as \$175,000.

Councilor Brown recalled that in his youth there was eel grass and other shellfish in the Hyannis harbor area. He asked them if they are working with Yarmouth to protect the area. Gatewood said that neighboring towns work independently of one another. It is like we are on our own for our own. Brown said that since Yarmouth gets some of our head tax from the Steamship Authority, maybe we could work together with those monies to improve the harbor.

Councilor Crocker thanked the commissioners as well. We need to think about things as they occur – there is no more expensive litigation than conservation. Vote the way you feel. He asked for them to look at opening all the ways to the water, many are overgrown. If you pay taxes in Barnstable you should be able to find your way to the water. Crocker also noted that he watched a Con Com meeting where a constituent was treated rudely by the commission and he did not like that.

Abodeely said the ways to water issue falls under the DPW. He agrees. The right would come from conservation and the work from DPW. Abodeely said he and the other commissioners treat the public with respect and we work exceedingly hard. I hope it did not happen and it will not happen.

Councilor Curtis asked if there is anything more specific regarding the regulations that you are looking for. She concurs that if other departments have different parameters – “I hope these can be worked out and worked on.”

Mr. Lee said, for example, the setback for Title 5 needs to be looked at. He understands that the Board of Health may possibly change it.

Councilor Rugo said it was his understanding that some money from the town golf course is to go to conservation of open space. He also noted that the AHOD would have allowed smaller buildable lots – we would like your opinion on this type of zoning. Coastal embayments – how does Lake Wequaquet fit in on that? Gatewood said that we have no specific position but the

nutrient affecting ponds is different than an embayment. Phosphorus travels about 300 feet. The suggestion for septic for both would be satisfactory.

Councilor Canedy said that as a liaison to the Conservation Commission, if anyone has a problem with the committee, she would help. Councilor Crocker said that he could handle his issue.

Manager Klimm acknowledged that Councilor Rugo is correct in that there will annually be about \$100,000 from the golf course as a resource for operating conservation areas.

President Farnham thanked the commission and recommended that if they have any suggestions in the future to bring them forward.

UPDATE FROM POLICE DEPARTMENT

Barnstable Police Chief John Finnegan asked to update the council on the Fresh Holes Road area of Hyannis. The officers realize that they are to provide protection. He read a report (see attached Exhibit A) that identified the drug problems in that area. Over 253 calls came from there since July. Finnegan addressed what the police are currently doing from increasing police presence to a collaborative program with the court to monitor probationers. The problem is not unique to Barnstable.

President Farnham said the councilors want to talk about crime in the community in a workshop format. Finnegan stated that the police would also like to do a workshop on the accreditation program. Maybe these issues could be combined.

Councilor Tobey finds it inexcusable that anyone has to live in fear whether they rent or own. He said he heard stories, after his walk through Hirammar that would chill you. He visited 3 homes that were shot at (one person owned the home). They called the police and were told that is what they get for buying in that area. Tobey said they shoot out the lights as fast as you put them in. There were numerous police officers that were there the day he and Councilor Brown and others walked through the area. There were 10 or so. He was told was it was smoke and mirrors, as soon as they left the police were gone. Response time is over 20 minutes according to one resident. We can work something out if the police department and the town departments all work together with the community. There has to be an honest effort. I support the department 100%. It starts at the top. We need to do something.

Chief Finnegan said you went down there one day. We are down there every day and every night. Tobey said the statistics don't help the people. Finnegan said we have to abide by the law. We have to play by the rules. We have been working in that area for a long time. Tobey said no resident should be afraid in his home.

Councilor Curtis wants to know how the presence has increased historically - from what to what. Crime is all over the town. There are limited resources.

Finnegan said what we have to do is to get at the root problem. The real problem we have in the neighborhood is drug dealers. We are going after the drug dealers. We have to get at that problem and over the long haul the neighborhood will turn around. We are going for a long term fix.

Councilor Curtis said there has to be a short-term solution too. If we have police presence there on a more consistent basis it may be a negative force to drive them out.

Councilor Chirigotis said this is an area of critical concern. He suggested that we have a police sub station near there. Maybe put a station in the new community center. Maybe the mobile unit could go out there. Finnegan said he will look at it on the overall strategy plan for that neighborhood. He doesn't want to drive the problem somewhere else, he wants to fix it.

Councilor Brown questioned whether the police had a problem with the parking areas which are half private and half public. Chief Finnegan said that we can't break up people who live there who are just out and visiting.

Councilor Canedy asked if closing establishments between 1 and 3 a.m. has had an impact and possibly moved people back to that area. Finnegan said no, and stated again these are drug dealers and drug dealers have guns.

Councilor Milne said that tonight was Councilor Tobey's finest hour. The term Brockton by the Sea was invented by police officers and attitudes from officers and dispatchers are not acceptable (like that is what you get for living in that area).

Chief Finnegan said we will look into that call; all calls are recorded in the station. If that happened, the person will be disciplined. As far as response time, we monitor that as well. These officers do a good job and you have a good police department. The people who live in this area are under a lot of stress. We will be down there to rout out the problem and he looks forward to a workshop where he can go more in depth on this. Tobey said we need to work together as one unit to get it done.

Councilor Barry is a criminal law defense attorney and noted that the police do exceptional police work. He explained the probable cause procedures. If you want to take back the neighborhood you have to step forward and take it back. Community policing people need to come forward. He suggested using the dogs more as well. He also said the residents need to identify themselves to the police when they call.

Councilor Tobey said he stood at a woman's front door and they were looking at a group of people. She said that they will be over to her house as soon as everyone leaves the area. She said they are druggies, and she would come forward in a heartbeat. These are people who are afraid if they call, they will then have a bigger problem.

PUBLIC COMMENT

Steve Berglund thanked Councilor Canedy for her help. He said the Unitarian Church needs help on repairing the church. We have deterioration and rot on the building. The CPC has recommended help on this project. He asked for support of this item.

Mary Ann Barboza said we are talking about people. We don't like drug dealers. If you can keep teenagers off of Main Street, you can get people out of Hirammar. These are people at risk, this is a priority. You represent people.

Lou Gonzaga noted that the town used to have auxiliary police officers. You need to bring the residents out of that area and have them come before the police.

Kristen Harper, minister of the Unitarian Church, noted that the church was established at the same time that the town was established. She named a number of programs that are held in that structure from AI-A-Non to Tales of Cape Cod. If we had deep pockets we would do it.

Mary Clements thanked Tobey and Brown for touring Hirammar. She asked Councilor Tobey what would it take to coax him out of retirement?

Sam Anderson from the Barnstable Historical Society reminded all of the historical connection of the Unitarian Church. He gave a brief historical background on its founding by John Lothrop. Lothrop, who originally settled in Scituate, later moved to Sandwich. Ultimately Lothrop talked to the natives and moved to Mattacheese (the Barnstable area). Barnstable was divided between the West and East Parish churches.

Alan Burt said 5 councilors responded to him and his thoughts on the AHOD. We have a right to express our views. No one should feel reprimanded. If you don't pass it, then you need another program right away. Homelessness is a big problem.

A John (name illegible) from the Unitarian church noted that the town purchased the Zion Union Church for preservation of the church as a museum. He told about the fact that many churches throughout Massachusetts have supported repairs for churches. History is in our hands. Please approve this application.

David Munsell addressed a couple of issues including AHOD. We need affordable housing. You asked the planning board for this. If you don't like it, give some suggestions and let's pass it. Patrick Page was trying to save a house that was going to be torn down in West Barnstable. It is a nice home and Page wants it moved to his lot. He has expended money, tried to do it himself and has taken a lot of bad advice. President Farnham is looking into this, and Munsell said that he hopes we can save this house.

Peter Doiron talked briefly about the charter change petition and the new committee on charter changes that will be chaired by a councilor. He spoke about the issue that permission has been given for some international flights to come into the Barnstable airport.

John Julius congratulated Councilor Chirigotis for his suggestions. We do have a fabulous police department. There is good police work out there. The AHOD is not a good thing. We always hear about affordable housing. There are 165 homes under \$275,000. There are 452 condos for sale and there are no buyers. We need jobs and people need to live and work – we must link those two things together, live and work. What has been done about contaminated wells?

Patrick Page has lived at 1780 Main Street in West Barnstable since 1989. He has done everything that conservation has wanted him to do to save the house on Buttonwood Lane. He has left 3 written requests to return a call over 6 months ago, with the Town Manager but there has been no response. The state has ruled in his favor. The wetland line does not exist. Take the time, this house was affordable. Conservation called the police on him. This needs to be looked at, 6 officers came in. This house is better than mine, with hardwood floors and everything in good condition. It will be destroyed if not moved soon.

Jane Saunders also from 1780 Main Street explained that the house in question will be burned to the ground. It is perfect in every way, shape and form. It will be destroyed in order to build

a mega building. We want to save the house and move it. We have done everything that conservation has asked us and there is no resolution to this. We feel the pain of this unfinished project. I work and pay for housing. I have a right to develop my property. Please look into this.

Public Comment closed at 9:00 p.m.

COUNCIL AND TOWN MANAGER RESPONSE TO PUBLIC COMMENT

Councilor Brown noted that Councilors Munafo, Crocker and some civic association members also joined him and Tobey on the walk in Hirammar.

Councilor Milne said the police chief does not work for the council. The Manager works for the council. He wants a refresher on 97A. Referring to the charter committee, he supported the committee. He thought President Farnham did a good job by appointing all 11 applicants. However, he heard that a councilor will chair it, when no councilor was to be on it. He hopes that no councilor will sit on that charter committee. He hopes the Manager is responsive to Mr. Page. This is a unit that is affordable. Help save Mr. Page. How we interact with the public is of utmost importance.

Councilor Tobey on the Zion Union Church noted that the town bought a building. It will not be a church it will be a museum. The Town received the deed and a \$250,000 matching grant. The town gets a building for \$250,000.

Councilor Crocker apologized to Mr. Burt but he too was hurt by his comments. Crocker said he puts his money where his mouth is. He got his association to donate to Mr. Burt's group. Crocker said he puts his money where his mouth is. Councilor Milne, you have to recognize when you are grandstanding, he added.

Councilor Chirigotis said it is impossible for us to rule on what other people are doing. The Con Com does a good job – some like it and some don't but to suggest that the council can order commissions to change is out of order. The town is responsive as well as the manager. This is not the forum to overrule a commission.

Councilor Munafo said that when it comes to the item on the church, they present a list of things a church should be doing and then ask for special recognition for it; he noted that the responsibility of maintenance of a church is the church group's. Why has failed maintenance on private property become a town's responsibility?

Councilor Rugo echoed Councilor Chirigotis and feels that judiciary process should settle the issue. Councilor Canedy supports the Sandy Neck lighthouse project – that is privately owned property with no public access. They don't apply for CPC funds. We will have an historic restriction on the Unitarian church if they take that money. This is more of an interest in historic preservation.

Vice President Joakim said we need to look at the process that the CPC follows. They have modified their requests, looked at other towns and seen what they have done. She stated that she had worked at Hyannis East and it is disturbing to look at the homes where some of the children live. It is hard to tell which house had kids and which house had drug dealers. There are a lot of good people there. We do care. There is a limit to what the police can do. There are similar problems all over the country.

President Farnham said he will stand behind his prior comments to Mr. Burt; but they were not meant as rude- (refer to the Oct 5 minutes).

TOWN MANAGER COMMENTS

Manager John Klimm stated that this public discussion on the historic church and possible CPF help was not held prior to the item coming before the council. We own a lot of historic structures. We are looking at the needs of the historic Selectmen's building and the community centers in W. Barnstable and Centerville to name a few. You can go right around the town. I raise this issue so that the council can decide what its priorities are. There are a lot of requests. There are dozens of historic churches in the town. If we accept one, are we then giving that entitlement to other churches? He is concerned that if we open that door, there are dozens of others who might think that they too are qualified for this source of funding.

REPORTS FROM TOWN COUNCIL, BOARDS, AND COMMITTEES

Councilor Milne said that at a recent Airport Commission meeting, taxi licenses came up. They would like clarification relative to the taxicab issue. David Anthony encouraged them to go to \$1M liability insurance but that was too high. The town came down to \$500,000 and that is still too high. Out of nine companies operating, there are only 2 remaining. They want clarity on this issue so they can get a better response to the RFP. He updated all on the terminal project. He said that Finance Dir. Mark Milne noted that the business plan does not take the lawsuit into consideration. So there are questions out there about viability.

Councilor Munafo is liaison to the CFAC and stated that the CFAC welcomes councilors to join them at any meeting.

Councilor Curtis is going to head the Council's Strategic Plan update. Curtis will coordinate having the update done by early December.

Councilor Joakim stated that as far as the Senior Center, they were going to acknowledge the Adult Social Day Care Center. She explained briefly about it and its location at the Centerville Community building, where they are holding an open house.

President Farnham addressed the council review committee. The item said that no less than 9 members would be on it, so he appointed all 11 who applied. He gave the full list of members.

Councilor Barry asked that we stop personal attacks and get on with the meeting.

ACT ON MINUTES

President Farnham thanked Cheryl Phillips for filling in on the minutes of October 5, 2006. Councilor Milne had some corrections on wording and it was voted to postpone action on the minutes until the next meeting; at which time Councilor Milne and any other councilors with corrections will present them in writing.

VOTE: 12 yes to postpone

OLD BUSINESS

2007-031 - COMMUNITY PRESERVATION FUND APPROPRIATION FOR HISTORIC RECORDS PRESERVATION	INTRO.: 10/05/06; 10/19/06
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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 the above-named item 2007-031.

VOTE: 12 yes

Lindsay Counsell came forward from the CPC to give a brief overview. Town Manager Klimm explained that on May 16th, when the CPC voted to support this. He thanked the Town Clerk and staff, and noted that this was one of the first applications. Town Clerk Linda Hutchenrider explained briefly about the program and displayed a book in need of restoration and a fully restored book

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

VOTE: 12 Yes

Councilor Munafo and Councilor Crocker asked about the phasing of the project. The Clerk explained that the whole project will cost between \$75,000 and \$100,000. Her desire is to spread it out over a number of years, and she will reapply in the spring.

Upon motion duly made and seconded it was:

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of Five thousand and No/100 (\$5,000.00) Dollars be appropriated and transferred from the amount set aside in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144 for historic resources; and that the Town Clerk is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager in order to deacidify and bind in order to preserve ancient Town records.

VOTE: 12 yes

<p>2007-033 - TOWN OF BARNSTABLE GENERAL ORDINANCES TO CORRECT MINOR ERROR RE: COMPREHENSIVE OCCUPANCY AND RENTAL REGISTRATION ORDINANCE INTRO.: 10/05/06; 10/19/06</p>

Councilors Milne and Councilor Chirigotis recused themselves prior to any action on this item.

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing the above-named item 2007-033.

VOTE:

Manager Klimm explained about the minor changes, basically housekeeping.

There was no public comment.

Upon motion duly made and seconded it was voted to go out of the public hearing at: 9:55 p.m.

VOTE: 10 Yes

Councilor Rugo heard there was not a need for this position. Is there a forecast as to how this will come out? Thomas Geiler of Regulatory Services said that we are starting with education and sending notices to known owners of rental properties. It will take a little time. Rugo asked if the law works and there is no need for the compliance officials, can we lower the fees? Geiler said if the problem goes away the program should go away.

Upon motion duly made and seconded it was voted to move the question.

VOTE: 10 yes

Upon motion duly made and seconded it was:

ORDERED: that

SECTION 1. The definition of bedroom contained in Section 59-2 of the General Ordinances is hereby amended by changing the designation of clause (d) to clause (c) and the designation of clause (e) to clause (d).

SECTION 2. The general ordinances are hereby amended to by deleting from Chapter 76-4 the fee for Chapter 170, Section 8, Rental Registration and inserting the fee in Chapter 76-6.

VOTE: 10 yes Roll Call

NEW BUSINESS

2007-034 - GRANT ACCEPTANCE AND TRANSFER ORDER FOR HANDICAP ACCESSIBLE LOOP TRAIL AT SANTUIT RIVER CONSERVATION AREA LOCATED IN COTUIT INTRO: 10/19/06
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Upon motion duly made and seconded it was:

RESOLVED AND ORDERED: that the Town Council hereby accepts a Barnstable County Land Management Grant in the amount of \$6,162 for the construction of a 500' handicap accessible loop trail at Santuit River Conservation Area located in Cotuit.

VOTE: 12 yes

2007-035 - AMENDMENT TO THE GENERAL ORDINANCES -- BASIC AWARENESS ORDINANCE INTRO.: 10/19/06
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Upon motion duly made and seconded it was voted to refer this item 2007-035 to a public hearing on November 2, 2006.

VOTE: 12 yes to move

2007-036 - COMMUNITY PRESERVATION FUND APPROPRIATION FOR UNITARIAN CHURCH PRESERVATION INTRO.: 10/19/06

Upon motion duly made and seconded it was voted to refer this item 2007-036 to a public hearing on November 2, 2006.

VOTE: 12 to move

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE AND ANNOUNCEMENTS

Councilor Milne would like to have the Manager outline clause 97A relative to Town Manager/Police Chief.

PRESIDENT/VICE PRESIDENT COMMUNICATIONS

President Farnham updated the town council committee membership report. Councilor Curtis noted that the Roads Committee is not on it; Councilor Joakim noted that the Education sub committee was not listed, as well as the Steamship Authority sub committee. Farnham also noted that he is working on agendas for meetings for the rest of the year.

PUBLIC COMMENT

Mary Anne Barboza apologized for stepping up two times. She does not lump everyone together and shouldn't. It depends upon who you are as to whether you get police protection. This is what the area needs. Times have changed, and we have to step up. Please think about homeless people. Everyone is who is homeless is not a bum.

Patrick Page said that everyone is a paycheck away from being homeless. I am sorry to call Mr Abodeely a liar when they say they treat everyone fairly.

Manager Klimm brought up the fact that he has nothing to do with the appointment of the conservation commission. Mr. Page should be talking to his attorney and our attorney. Klimm said that he cannot interfere.

Lou Gonzaga felt that we got a lot accomplished tonight. Some people get into trouble because they have mouths to feed. Be active in the community. Give your time. You can change the community.

ADJOURNMENT.

Upon motion duly made and seconded it was voted to adjourn.

VOTE: 12 Yes

ADJOURNED at: 10:40 p.m.

Respectfully submitted,

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