

**TOWN OF BARNSTABLE  
TOWN COUNCIL MEETING  
March 20, 2008**

A quorum being duly present, Council President Janet Joakim called the meeting of the Barnstable Town Council to order at 7:00 pm, on Thursday, March 20, 2008, at the Barnstable Town Hall, 2<sup>nd</sup> Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

**PRESENT:** Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker, Jr. (8:30), Henry Farnham, Janet Joakim, Leah C. Curtis, J. Gregory Milne, James Munafo, Jr., Thomas Rugo, James M. Tinsley, Jr. and Harold Tobey.

President Joakim led the Council in the Pledge of Allegiance and a moment of silence.

• **Duffy Health Center Presentation**

Claire Goyer, CEO of the Duffy Health Center, explained that they service people who are homeless or at risk of homelessness. They applied for and received federal funding to purchase a 34 foot long mobile health clinic. The vehicle contains a full size exam room, a private space for individual counseling and a space for one-on-one conversations. She gave the route of the health clinic throughout the Cape. The vehicle will be open for tours during the next week at various locations. "We want to get them before they become homeless and try to keep them in their home communities," she stated.

Councilor Curtis asked if families with children were being serviced. There is no pediatric care because Massachusetts has good coverage for kids, which serve kids best. They do see many parents who are marginal and at risk. They work collaboratively with DSS and the probation office.

Councilor Barton thanked all from the Duffy Health Center who have been involved. They have been doing their best to fill a need when they see it.

• **21<sup>st</sup> Century Task Force Presentation by Cape Cod Commission Executive Director, Paul Niedzwiecki**

Roy Richardson, former town councilor and the town's representative to the Cape Cod Commission, made some introductory comments.

Paul Niedzwiecki described some of the challenges of working among fifteen towns. He feels to be successful they need to form relationships with each town.

- The Commission has been working internally to make all the task force recommendations a reality. (See Exhibit A)
- The regional policy plan has been divided into a planning section and a regulatory section. The latter will be a clear and concise description of the Commission's mission.
- They have added a Limited DRI to streamline the application process. The applicant now fills in a questionnaire to focus the review and commission requirements specifically to each applicant and project. This pares down reviews and makes the process more transparent. It has been a move away from "one size fits all."
- The Commission has draft maps from all 15 towns and with identified resource protection areas. Maps show discrete economic centers vs. broad resource areas. This has fostered new conversations and a general new relationship with each town.

With the new approach, applicants will know up-front what the cost of the review will be. The Commission, the town and the applicant become partners at the table. Individual towns and the Commission have had discussions of raising threshold up to 30,000 sq. ft. or 60,000 sq. ft. for multi-use projects. In resource protection areas, the threshold may be lowered. Towns may also lower the threshold for drive-through areas. The mapping process has been a powerful planning tool in fostering discussion between the Commission and the towns.

Councilor Canedy asked about user friendly maps. Niedzwiecki said it is possible to view the entire Cape on one sheet of paper.

Councilor Curtis asked about collaborative meetings. There has been good work in Bourne, Mashpee, and Sandwich. In dealing with large macro issues, towns have been engaged. The new collaborative approach has been well received and successful.

Councilor Milne asked how the Commission will move developments to be more focused on harnessing higher paying jobs for people who live here, resolving the housing issue. Niedzwiecki said that housing is part of economic development. The cost of growing companies or bringing in new ones must be known up-front. Socio-economically diverse housing will be promoted as part of the village concept.

Councilor Canedy asked about floodplain issues. A comprehensive floodplain construction manual for building or rebuilding in a floodplain is available. Bourne and Yarmouth are successfully dealing with this issue. The Commission is having great success with towns, one at a time, especially dealing with tricky issues.

Councilor Chirigotis said the Commission's new vision has improved its perception. Individual towns feel they can work with the Commission. He asked about mitigation money. Niedzwiecki said mitigation fees always go back to the town.

Councilor Farnham asked about the Task Force Minority Report. Mr. Niedzwiecki replied that the task force process will not be ignored and ideas that make sense will not be ignored.

Councilor Munafo has never been a strong proponent of the Commission, but feels the strong thrust regarding planning is good and Paul Niedzwiecki is the right person for the job. He also questioned mitigation money paying for something not related to the area of the project. Niedzwiecki explained that it sometimes happens, but in projects under 30,000 sq. ft. there would be a local mitigation schedule – the town's schedule - and the money will stay where it is established.

Bill Doherty, County Commissioner, is optimistic that the Commission can show concern and change.

## PUBLIC COMMENT

- Mary Clements spoke about the importance of the first amendment and the limitation on free speech. She is still concerned about the assault on her free speech rights at the last meeting.
- Carol Horgan hopes that the council will be reasonable and careful to not disfranchise people's rights to have piers and docks. She also spoke of her concerns about the national economic situation. The town needs to examine the whole budget and determine what it can do without.
- Frank Paparo had photos of an auto accident where a light is needed and flooding problems at a public street. He commented on the Cape losing the opportunity for a movie studio to Plymouth as well as having the highest electric rates.
- Al Baker (on Item 2008-091) would like the town to stick with the original plan. He made other announcements. He commented on school buses having safety belts as well as creating a committee to look at the traffic lights especially at Route 149.
- John Alden, Charter Commissioner, announced another series of road meetings. On freedom of speech, he feels if they are abused they should be curtailed but in a positive way because public opinion is needed.
- Lou Gonzaga made a recommendation on shellfish conservation stating the need to get the health department involved with runoffs from septic tanks in other ponds. He cautions creating too many regulations that cannot be enforced. Also he sees a need to determine whether a person can or cannot be the ninth member and for a grant coordinator.

## COUNCIL RESPONSE TO PUBLIC COMMENT

- Councilor Joakim said there was a committee to work with the state on the traffic lights and they were successful for getting all three lights, fast-tracked by the state standards. Mark Ells expects hearings will be shortly and is shooting to bid for construction in the fall.
- Councilor Rugo agrees with the issue of the high electric rate problem. Who can we sue?
- Councilor Barry said in other towns each dwelling in the town has to have its septic inspected every three years. That might be a good idea and could be one of the solutions to solving the problem.
- Councilor Barton suggested watching last night's school committee meeting for Finance Director Milne's explanation of the interest rates, etc. and their impact on town finances. Mark Milne explained that Barnstable is getting more Ch 70 funds than last year, but no more than the governor's budget. The new formula for Ch 70 is being phased in over 5 years.
- Councilor Munafo said Plymouth was ideal for the movie studio – it has the best access to Boston and New York. The Cape was not in the running; Barnstable doesn't have 16,000 open acres.
- Councilor Milne asked that public comment just stay at 3 minutes. There have been extremes in the variety of public comment, but it should always be aired. The electric cooperative is moving ahead, but not fast enough. The Charter Commission hopes people will participate and the notion that it would make a no-change recommendation is unreasonable since voters have spoken and would like some change.
- Councilor Canedy said the Charter Commission meeting was well attended in Barnstable & West Barnstable. A pier is not a right. No one person has control or ownership over the water. It is a privilege granted by local boards and commissions.

## **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**

- Councilor Milne said it is the second time he was unaware of the March 27 council meeting. Other meetings are now conflicting.
- Councilor Farnham said the charter states no meeting may conflict with a council meeting.
- Councilor Munafo would like an update on the storm drains. Mark Ells said DPW is looking at, cleaning and evaluating drains. It is not a clogged situation; it is lots of water draining slowly when there is lots of rain.
- Councilor Curtis now has a scheduling conflict between the appointments committee meeting and the joint planning board meeting at seven. President Joakim explained that it was not required to be a joint public meeting. It was posted should there be a quorum of councilors present.
- Councilor Barton gave a Human Services Committee report. They are accepting donations. A School Facility Advisory Committee has been formed.
- Councilor Canedy announced the recreation committee presentation on a "tents only" campground at Hathaway Pond. She spoke about the catastrophic failure of the bulkhead in Barnstable village, thanking the staff and police for their immediate response. The problem of diminished water levels in Barnstable Harbor is becoming dangerous to navigation.

## **ORDERS OF THE DAY**

### **OLD BUSINESS**

#### **2008-091 ZONING ORDINANCE AMENDMENT – RECREATIONAL SHELLFISH AREA & SHELLFISH RELAY OVERLAY DISTRICT**

Upon a motion duly made and seconded it was voted to continue this item to April 3, 2008.

**VOTE: Unanimous**

A motion was duly made and seconded to take Item 2008-120 out of order. No objection

#### **2008-120 EXEMPTION OF INTEREST UNDER CONFLICT OF INTEREST LAW**

Upon a motion duly made and seconded it was

**RESOLVED:** That the interest of Paula Schnepp, as BRANCH Project Manager for the Town of Barnstable, is hereby found to be not likely to interfere with the objective performance of her duties in the best interests of the Town in the position as member of the Community Preservation Committee and is hereby exempted.

Councilor Canedy asked for a description of the position. Curtis explained that this is a contracted position, not affiliated with the Housing Authority.

**VOTE: Unanimous**

**2008—093 APPOINTMENTS**

Upon a motion duly made and seconded it was

**RESOLVED,** that the Town appoint the following individual to a multiple-member board/committee/commission:

**COMMUNITY PRESERVATION COMMITTEE**

Paula K. Schnepp, 956 River Road, Marstons Mills 02648, as the representative of the Barnstable Housing Authority to a term expiring 06/30/09.

**VOTE: Unanimous**

**2008-096 APPOINTMENTS**

Upon a motion duly made and seconded it was

**RESOLVED,** that the Town appoint the following individuals to a multiple-member board/committee/commission:

**BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION**

Eric R. Steinhilber, 399 Bishops Terrace, Hyannis, as a member to a term expiring 06/30/2010

**COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE**

Laura T. Cronin, 402 South St, Hyannis, as member to a term expiring 06/30/2009

**CULTURAL COUNCIL**

Sandra Greene, 35 Walnut St, Hyannis, as a member to a term expiring 06/30/2010

**HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION**

William J. Cronin, 402 South St, Hyannis, as an alternate member to a term expiring 06/30/2010

David S. Dumont, 45 Wheeler Rd, Marstons Mills, as a member to a term expiring 06/30/2008

**LAND ACQUISITION & PRESERVATION COMMITTEE**

Laura T. Cronin, 402 South St, Hyannis, as a member to a term expiring 06/30/2010

Councilor Farnham asked about a person from Marstons Mills having connections to Hyannis. Councilor Milne said that this is fulfilling a composition requirement.

**VOTE: Unanimous**

**CONSENT AGENDA – Capital Improvement Plan Items**

Upon a motion duly made and seconded it was voted to refer Items 2008-097 through 2008-110 to a public hearing on April 3, 2008.

- 2008-097** Appropriation & Transfer Order to fund the capital improvement plan for the replacement storage tanks for the Wastewater Treatment Plant in Hyannis (**Refer to Public Hearing on April 3, 2008**)
- 2008-098** Appropriation & Transfer Order to fund the capital improvement plan for the Wastewater Treatment Plant roofs in Hyannis (**Refer to Public Hearing on April 3, 2008**)
- 2008-099** Appropriation & Transfer Order to fund the capital improvement plan for the Wastewater Treatment Plant chlorine distribution system in Hyannis (**Refer to Public Hearing on April 3, 2008**)
- 2008-100** Appropriation & Transfer Order to fund the capital improvement plan for the engineering for handling increased sludge at the Wastewater Treatment Plant in Hyannis (**Refer to Public Hearing on April 3, 2008**)
- 2008-101** Appropriation & Transfer Order to fund the capital improvement plan for new monitoring wells at the Solid Waste Facility in Marstons Mills (**Refer to Public Hearing on April 3, 2008**)
- 2008-102** Appropriation & Transfer Order to fund the capital improvement plan for replacement of maintenance garage at the Solid Waste Facility in Marstons Mills (**Refer to Public Hearing on April 3, 2008**)
- 2008-103** Appropriation & Transfer Order to fund the capital improvement plan for the repair & upgrade to water supply wells & pump (**Refer to Public Hearing on April 3, 2008**)
- 2008-104** Appropriation & Transfer Order to fund the capital improvement plan to repair public roads & drainage systems (**Refer to Public Hearing on April 3, 2008**)
- 2008-105** Appropriation & Transfer Order to fund the capital improvement plan to demolish the three portable classrooms at the Hyannis East Elementary School (**Refer to Public Hearing on April 3, 2008**)
- 2008-106** Appropriation & Transfer Order to fund the capital improvement plan to repair the Cotuit Town Dock (**Refer to Public Hearing on April 3, 2008**)
- 2008-107** Appropriation & Transfer Order to fund the capital improvement plan funding maintenance dredging of Cotuit Harbor (**Refer to Public Hearing on April 3, 2008**)
- 2008-108** Appropriation & Transfer Order to fund the capital improvement plan funding for improvements to municipal facilities (**Refer to Public Hearing on April 3, 2008**)
- 2008-109** Appropriation & Transfer Order to fund the capital improvement plan for alum treatment in Mystic Lake, Marstons Mills (**Refer to Public Hearing on April 3, 2008**)
- 2008-110** Appropriation & Transfer Order to fund the capital improvement plan for improvements to Barnstable school facilities (**Refer to Public Hearing on April 3, 2008**)

**VOTE: Unanimous**

**CONSENT AGENDA – Community Preservation Fund Items**

Upon a motion duly made and seconded it was voted to refer Items 2008-111 through 2008-117 to a public hearing on March 27, 2008.

- 2008-111** Community Preservation Fund Appropriation & Transfer Order to fund water quality protection, open space & recreation uses (**Refer to Public Hearing on March 27, 2008**)
- 2008-112** Community Preservation Fund Appropriation & Transfer Order to fund acquisition of a conservation restriction on 9.8 acres on Map332, Parcel 010-002 (**Refer to Public Hearing on March 27, 2008**)
- 2008-113** Community Preservation Fund Appropriation & Transfer Order to fund for historic restoration & rehabilitation of the Cammett House (**Refer to Public Hearing on March 27, 2008**)
- 2008-114** Community Preservation Fund Appropriation & Transfer Order to fund the development of a master facilities plan (**Refer to Public Hearing on March 27, 2008**)

- 2008-115** Community Preservation Fund Appropriation & Transfer Order to fund historic preservation of the museum on 513 Main St., Centerville (**Refer to Public Hearing on March 27, 2008**)
- 2008-116** Community Preservation Fund Appropriation & Transfer Order to fund community housing improvements (**Refer to Public Hearing on March 27, 2008**)
- 2008-117** Community Preservation Fund Appropriation & Transfer Order to fund acquisition of conservation restrictions on a 5-acre parcel on Map 038, Parcel 002 (**Refer to Public Hearing on March 27, 2008**)

**VOTE:** Unanimous

## NEW BUSINESS

### **2008-118 LAYOUT & NAME CHANGE OF MARY DUNN WAY – AKA MARY DUNN ROAD AND OLD MARY DUNN ROAD TO AVIATION WAY**

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on April 3, 2008.

**VOTE:** Unanimous

### **2008-119 SUPPLEMENTAL APPROPRIATION & TRANSFER ORDER BARNSTABLE MUNICIPAL AIRPORT**

Upon a motion duly made and seconded it was voted to refer this item as written in the substitute text, shown below, to a public hearing on April 3, 2008.

#### **SUBSTITUTE TEXT:**

**ORDERED**, that the Town Council does hereby appropriate the sum of \$470,000 for the specific purpose of funding aviation jet fuel purchases (\$450,000) at the Barnstable Municipal Airport, in order to apply for a congressional authorized Small Community Air Service Development Grant. To meet this appropriation, that \$470,000 be transferred from the Airport's surplus funds for the remainder of fiscal year 2008. Jet fuel consumption has not increased for the airport. This appropriation and loan order has been prompted by the significant increase of the price of aviation jet fuel compared to FY 07, given changes in economic activity around the world.

**VOTE:** Unanimous

### **2008-121 RESOLVE APPROVING 99-YEAR LEASE FOR AFFORDABLE HOUSING IN WEST BARNSTABLE**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Barnstable Town Council hereby reauthorizes the Town Manager to enter into a ninety-nine year lease for the construction of not more than 28 units of qualified affordable housing on land located at 2239 Route 132 (Assessors Map 215, Parcel 28), comprised of 4 acres, and on an adjoining parcel of land identified as Parcel A as shown on an Approval Not Required Plan dated February 15, 2005 and entitled "Plan of Land in Barnstable (Barnstable District) MA as made by D.P.W. Engineering Division Survey Section" comprised of 3 acres ± for a total acreage of the combined parcels of 7 acres±.

Councilor Farnham gave the rationale. This item is asking for an adjustment in the rent amount that was originally issued in 2006. However, at this point, a \$42,000 annual rent payment is a threat to the project's viability. HAC will make a substantial up-front payment with no further payments until 2026. Notably, one hundred percent of the units are affordable, not merely 51%. The focus should be in creating the affordable units not the rental payments.

Councilor Munafo asked how the administration would offset future costs. Manager Klimm said he is very supportive of this effort. This is not anyone's fault. The paperwork was done early on, but not at a point of having people in the units. The finances have been reviewed by a committee and they agree

that the request is reasonable and will move the project forward. This is a lump-sum payment, not a purchase.

Councilor Crocker asked about the change from duplex to quadplex and storage area changes. Peter Freeman, representing HAC explained that the redesign saves on construction costs. The recession and credit crunch has affected the tax credits for the project. They are now getting less funds. Gisele Gauthier, HAC Director said they were now getting 7 or 8 cents less on the dollar. Changing to quadplexes allows the installation of sprinkler systems (required by fire chief), the cost of which would have been prohibitive with duplexes. There are also cost saving changes in the way roofs are built, materials used, etc.

Councilor Crocker also asked about adjustments on fees by HAC. Gauthier explained that fees are loaned back and if there are any profits, they may go back to HAC. Crocker asked if the town could also recapture money later for walking away from 12 years of income. Councilor Farnham said the value to the town is the 100% affordable units rather than 51% affordable. Crocker felt the town was the only one taking a hit. Freeman pointed out that the upfront to the town relieves the town of cash flow worry. The rationale was based on the public good of creating affordable housing, not the best cash flow. If there is money available, there will be cash flow to the town. They can stipulate a different scenario for rent payments to the town.

Councilor Crocker made a motion which was seconded to defer the vote on this item to April 3<sup>rd</sup>.

Freeman pointed out that HAC has a closing on April 8<sup>th</sup> so he hoped the council would not defer the vote to April 3<sup>rd</sup>.

President Joakim called a recess of the discussion of this item to allow the parties to resolve the issue from 9:25 pm – 9:35 pm.

Other agenda items continued.

## **TOWN MANAGER COMMUNICATIONS**

Lynne Poyant, Director of Community Services, announced that the town received the 2008 E-Government award from Common Cause. The town's website meets a list of standards that make town information available to the public. Barnstable is one of two super-star communities. Common Cause will use some of our web innovations as standards for awarding the designation.

Manager Klimm thanked the staff of Rep. Demetrius Atasalis who received the award.

Klimm announced that the annual resident survey has been completed. He will forward the survey results and put them on the website. The people who conduct the survey will be available to interpret the results and compare them to other communities. This session of the Citizen's Leadership Academy is coming to an end. There have been over 300 residents who have completed it and there is still a waiting list. Over 500 residents have completed the Citizens' Police Academy. He also spoke about the Senior Center and the volunteerism involved with providing meals on wheels. Dozens of volunteers are making a difference in the community by giving friendship as well.

Manager Klimm then announced the appointment of Madeline Taylor to serve as the permanent Director of the Senior Services.

## **LATE FILE**

### **2008-123 CONFIRMING THE APPOINTMENT OF THE DIRECTOR OF SENIOR SERVICES**

**ORDERED** that the Town Council confirms the appointment by Town Manager John Klimm, of Madeline Taylor as the Director of Senior Services.

**VOTE: Unanimous (Farnham absent)**

Director Taylor thanked everyone for their faith and trust in her ability to get the job done.

Lynne Poyant discussed the July 5<sup>th</sup> fireworks event which, for the first time, includes the Cape Symphony Orchestra with guest conductor John Klimm. She added that on behalf of Community Services, the Asst. Town Manager Tom Lynch has been just tremendous. His presence at numerous events is truly appreciated.

The council recessed to review the addendum to Item 2008-121 between 9:57 pm – 10:04 pm.

Councilor Farnham made the following motion, which was seconded, amending item 2008-121 as follows:

“Commencing in 2026, Tenant shall pay to the Town an annual base rent (“**Base Rent**”) in the amount of Sixty Thousand (\$60,000) Dollars per year, which amount shall be paid on January 1, 2026 and on the first day of January in each calendar year thereafter during the Term /OR/ in equal monthly installments of \$5,000 per month, partial months to be prorated. Base Rent shall be adjusted annually throughout the Term, as of the anniversary of the first day of the first full calendar month following the Commencement Date, to the extent of any percentage change which occurred in the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics for all Urban Consumers, Boston, Subgroup “all items” (1982-84=100) (“**CPI-U**”) during the preceding twelve (12) months. The Town shall promptly notify Tenant of each Base Rent adjustment.

However, in the event that in any given year, the Tenant notifies the Landlord that the full annual rent cannot be paid, the annual rent payments shall be paid only to the extent of the net cash available to Tenant after payment of operating expenses and principal and interest payments, and the amount of net cash available shall be determined based on the audited financial statements by an auditor paid for by the Tenant and chosen by the Landlord. In any year that such notice is given, and then in no event shall Housing Assistance Corporation receive its deferred developer’s fee until the Town has been paid the full amount of the rent owed. To the extent that any rent otherwise due, but for the unavailability of net cash as so determined, is not paid in any year, such unpaid amount shall accrue and be due and paid in future years.”

Councilor Crocker stated that the third loss is the loss of income loss 2026. Freemen suggested that if the town wanted HAC to defer their fee right up to 2026 that could be added. Crocker persisted that the town was the only entity still hanging out.

The year 2026 is the end of the tax credit period driven by the lenders and investors. Finance Director Milne said the town would lose about half a million of present value under this structure. If HAC is deferring their fee they are losing similarly to the town.

Councilor Munafo asked if the town could be put in the same position as HAC. The addendum convolutes it. He would like the town to have the same protection as the HAC.

A motion was made and seconded to move the question.  
It was withdrawn by the maker.

Councilor Farnham made a motion, which was seconded, to amend the addendum by inserting at the start of the second paragraph the following:

“The deferred developer’s fee to HAC shall not be paid prior to commencement of the annual rent in year 2026 and shall be subject to the following.”

**VOTE: Unanimous**

On the addendum as amended:

**VOTE: 11 Yes, 2 No (Munafo, Crocker)**

On Item 2008-121 as amended below:

**2008-121 RESOLVE APPROVING 99-YEAR LEASE FOR AFFORDABLE HOUSING IN  
WEST BARNSTABLE**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Barnstable Town Council hereby reauthorizes the Town Manager to enter into a ninety-nine year lease for the construction of not more than 28 units of qualified affordable housing on land located at 2239 Route 132 (Assessors Map 215, Parcel 28), comprised of 4 acres, and on an adjoining parcel of land identified as Parcel A as shown on an Approval Not Required Plan dated February 15, 2005 and entitled "Plan of Land in Barnstable (Barnstable District) MA as made by D.P.W. Engineering Division Survey Section" comprised of 3 acres ± for a total acreage of the combined parcels of 7 acres±.

Commencing in 2026, Tenant shall pay to the Town an annual base rent ("Base Rent") in the amount of Sixty Thousand (\$60,000) Dollars per year, which amount shall be paid on January 1, 2026 and on the first day of January in each calendar year thereafter during the Term /OR/ in equal monthly installments of \$5,000 per month, partial months to be prorated. Base Rent shall be adjusted annually throughout the Term, as of the anniversary of the first day of the first full calendar month following the Commencement Date, to the extent of any percentage change which occurred in the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics for all Urban Consumers, Boston, Subgroup "all items" (1982-84=100) ("CPI-U") during the preceding twelve (12) months. The Town shall promptly notify Tenant of each Base Rent adjustment.

The deferred developer's fee to HAC shall not be paid prior to commencement of the annual rent in year 2026 and shall be subject to the following.

However, in the event that in any given year, the Tenant notifies the Landlord that the full annual rent cannot be paid, the annual rent payments shall be paid only to the extent of the net cash available to Tenant after payment of operating expenses and principal and interest payments, and the amount of net cash available shall be determined based on the audited financial statements by an auditor paid for by the Tenant and chosen by the Landlord. In any year that such notice is given, and then in no event shall Housing Assistance Corporation receive its deferred developer's fee until the Town has been paid the full amount of the rent owed. To the extent that any rent otherwise due, but for the unavailability of net cash as so determined, is not paid in any year, such unpaid amount shall accrue and be due and paid in future years.

**VOTE: 12 Yes, 1 No (Crocker)**

Upon a motion duly made and seconded it was voted to adjourn the meeting at 10:26 PM.

**VOTE: Unanimous**

Respectfully submitted,

Lucia Fulco,  
Assistant Town Clerk