

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
June 19, 2008**

A quorum being duly present, Council President Janet Joakim called the meeting of the Barnstable Town Council to order at 7:05 pm, on Thursday, June 19, 2008, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

PRESENT: Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, Henry Farnham, Janet Joakim, Leah C. Curtis, J. Gregory Milne, James Munafo, Jr., Thomas Rugo, James M. Tinsley, Jr. and Harold Tobey. **ABSENT:** James Crocker, Jr. (arrived at 10 PM)

President Joakim led the Council in the Pledge of Allegiance and a moment of silence for Mark Conway, a local pilot who perished in a recent plane crash at the airport.

Roads Committee Workshop

Present: Councilors Leah Curtis, Ann Canedy, Henry Farnham, and DPW Senior Manager/Roads, Roger Parsons. (Councilor Harold Tobey served on the committee but did not participate in the presentation.)

Councilor Curtis thanked Councilor Crocker and all her colleagues who have served on this committee over the years. She thanked the staff and the town manager for providing the staff. Denise Geoffrion, DPW, received special thanks. Curtis stated that "this has been a long, strange trip on a long windy road."

The presenters took turns discussing the work of the committee as outlined in a PowerPoint program (See Exhibit A) It was noteworthy that publicly owned roads have a much higher (higher is better) Pavement Condition Index (PCI) than the privately owned roads. Town roads are well maintained. In attempting to prioritize the 1,788 roads in town, the committee selected three major high volume roads. Mary Dunn Road and Old Strawberry Hill Road were of mixed ownership – part town owned and part privately owned - because the town already was obligated to sections of these roads. The third road, Wakeby Road, was initially believed to be of mixed ownership, but much later in the process the committee discovered it was a private road.

- Councilor Munafo saw the need for the three roads recommended and asked if there had been any input from town residents and/or abutters. He pointed out that the disrepair now controls the speed on Old Strawberry Hill Road. Councilor Canedy explained that only 6% of the cars on Mary Dunn Road, for example, are those of abutters; these roads pick up a lot of extraneous traffic. The construction process would depend on the needs of that sector of road and improvements would be surface improvements not straightening or widening, which would not by itself cause the speed to increase.
- Councilor Rugo felt speed was a concern even in its current condition.
- Councilor Chirigotis asked about the possibility of sidewalks for narrow and winding areas. Councilor Canedy said the road will have to become a town road before these issues, as well as speed bumps, can be addressed.
- Councilor Milne felt Mary Dunn Road is and will be used by businesses, existing or proposed, for Independence Park. Perhaps impact fees for the road improvements should be assessed to new developments at Independence Park. Councilor Farnham said that the proposed Exit 61/2 was to alleviate some of the impact on Mary Dunn Road.
- Councilor Rugo thought sidewalks may be a sensible addition and should be put into the mix. He added that towns cannot impose impact fees.
- Councilor Barry felt the town should take care of the public roads which have been ignored before spending money on private roads. Curtis explained that the \$3.25M already designated for public roads would not be used for these roads. These roads were chosen because they are the most highly traveled of the public-private mixes; they are in 3 different parts of town and serve a majority of the residents for one reason or another. There is a public expectation that these three roads will be available with some modicum of safety.

- Councilor Farnham suggested these roads be added to the CIP funding process so they can be vetted against all of the rest of the CIP requests.
- President Joakim pointed out that there is currently a betterment program, for private roads only called the Temporary Private Road Repair Program. The public can get a packet about it from the DPW.
- Mark Ells, DPW Director, said it would take time to understand minute details of the process. There are funds in the public roads budget to make repairs on the public portions of Mary Dunn and Old Strawberry Hill Roads. Roads deteriorate and once they reach a PCI rating of 60, the road really deteriorates beyond repair such that it cannot be plowed in some conditions. Roger Parsons added that watching a road's PCI is important.

Councilor Curtis concluded by saying the committee will be happy to reconvene in the fall at least once, if council so desires.

PUBLIC COMMENT

Bill Cook and Mark Wilkins, Director of the Cape Cod Maritime Museum, spoke about the Catboat Sarah's South Shore Tour during July and August, as well as the activities at the museum for children and adults. They were thankful for the town's support for this educational effort. (See Exhibit B.)

Oliver Cipollini, who lives off of Wakeby Road feels the roads committee has worked in a vacuum without contact with residents on and immediately off Wakeby Rd. This needs to be preplanned with the neighbors in mind. The Public Works committee has not met in over two years. He urges the council not to work in a vacuum.

Mary Clements said the quality of life can only improve with open government. Citizens for Open Government filed with OCPF as a PAC. She appreciates the dissemination of facts and has created a website.

Robert Tucker suggested going after vehicles on the road that are not registered and have outdated stickers to get back excise tax money for roads, etc. This could provide more funds for the health department to send out people to inspect for illegal occupancy in the evenings.

Lou Gonzaga is more concerned about the repair of public roads. It is on the deed of the property owner if the parcel is on a private road. Spring Street now has a speed issue. More police are needed for traffic control and grants could help fund the improvement of roads.

Bud Bergstrom is in opposition to a \$250,000 grant for the Village Green Housing Project. He paraphrased a letter from Richard Largay. (See Exhibit C). The developers are being rewarded even though the current project ignores the desires of the LCP. Local residents did not have any input. He asks that the council reject the grant.

Laura Shufelt, Community Preservation Committee, said the Village Green project was fully vetted for comments from boards and residents. It has received approval from all reviewers. The reduced rents are in perpetuity. The plan clearly favors the town. Opponents of the project would be happier with permanent housing not rentals. She feels this is elitist.

Cynthia Cole supports the project and is happy to see affordable housing in some other village than Hyannis.

Al Baker announced a social event, complemented the Roads Committee for working hard, and wondered what role an associate member has on the ZBA.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Curtis said the Roads Committee report is preliminary and if any proposal moves forward, the public will be involved. Associate members of the ZBA fill-in as voting members if there are absences

at meetings to insure a quorum, allowing action to go forward. That role also serves as a learning experience and assures continuity on the board. Councilor Barry explained, as a former associate, what his role was – sitting and listening.

Councilor Canedy thanked the Cape Cod Maritime Museum for the information on Sarah. On the Village Green project, she said there were public hearings, but when she was first elected, she had a call explaining that project was “a done deal” and, therefore, she should not oppose it. As an example, the fire department’s suggestions were not incorporated into the Village Green plan. In contrast, a proposal for a senior living project in the same location, had to incorporate both fire department and water company requirements prior to finalization of the design. Another example was the change in the number of units based on the need for profits. “Elitism” has trivialized the legitimate concerns of the people of Cummaquid. District taxes were raised due to the impact of this and other projects.

Councilor Rugo finds that ZBA associate members get involved quite a bit.

Councilor Tobey said that nothing on the roads committee was done in a vacuum. He commends the board for bringing a plan to the council. Meetings were posted; the public was allowed to speak. They are still looking for community input.

Councilor Milne asked whether the catboat will have a slip for the summer. Town Manager John Klimm said there is a plan for a berth for the little time the catboat will be in port this summer.

President Joakim said there were quite a few members of the public at meetings of the roads committee. Anyone who would like to give input should contact the council.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to approve the minutes of June 5, 2008 with the following corrections: Change the name recorded as Chris Barber to Chris Farber.

VOTE: 10 Yes (Joakim and Rugo abstained)

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

Councilor Farnham spoke about the Father’s Day car show and announced a cookout at the Burgess House in Marstons Mills.

Councilor Munafò received complaints about the quality of water from the Hyannis Water Co. DPW Director, Mark Ells encourages residents to call the water department or the DPW office with any concern or complaint. There have been only about a dozen complaints since the chlorination began last year. An annual newsletter will address the quality of water. The 100 year old water tower is under repair and may go back on line. Finding a site for the new tower is in process. The tank will be completed a few years after the location is determined.

Manager Klimm invited Hyannis residents and businesses to attend Hyannis Water Board meetings. He publicly thanked Alan Goddard for his service on the board and announced that the new appointee was Tom Holmes.

Councilor Tobey said the unveiling of a statue in front of the Zion Union Heritage Museum will be happening soon.

Councilor Milne talked about visiting the first LEEDs certified building at CCCC. It is a carbon neutral building and a role model for the state.

Councilor Barton announced that the town was again certified as a No Place for Hate Community through the collaborative efforts of the police department, schools, volunteers, etc. Mark Raymond has been selected to attend Boy’s State. She also thanked Chief Paul McDonald for handling the homeless situation and the minority of people that create other issues.

Councilor Curtis announced openings on committees and commissions.

Councilor Barry wondered why there was no village vision plans affixed to the revised LCP that is on the agenda for a public hearing at the next meeting. Patty Daley, Director of Growth Management said the village plans will be part of it. They are a separate section and have been reformatted. The council will be voting on the whole package. Manager Klimm added that the town council decides what is in the plan and when it is voted.

Councilor Canedy announced several upcoming activities in Barnstable Village. Upon her request, Mark Ells gave an update on the "Canedy" bulkhead. The emergency repair is complete and he is still consulting on the alternatives and their costs in order to make a recommendation which makes the most sense.

President Joakim encouraged people to visit the Senior Center and encourages seniors to take advantage of the new activities now available.

Lynne Poyant reviewed the town-wide July 4th activities. She announced that the Town Manager will be a guest conductor at the Cape Cod Symphony Orchestra's 4th of July concert.

Councilor Farnham asked about the dredging of Barnstable Harbor. There is a short window in which to do it. Klimm said the project was not fully permitted yet. The funding is \$425,000 and he will have a request for funding for the council.

ORDERS OF THE DAY

OLD BUSINESS

2008-131 APPROPRIATION & TRANSFER ORDER OF COMMUNITY PRESERVATION FUNDS FOR COMMUNITY HOUSING IMPROVEMENTS AT 770 INDEPENDENCE DRIVE, HYANNIS

Upon a motion duly made and seconded it was

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum of Two Hundred Fifty Thousand and No/100 (\$250,000) Dollars be appropriated and transferred from Community Preservation Housing funds in the Community Preservation Fund on June 21, 2007 under item 2007-162; and that the Town of Barnstable, Growth Management Department is authorized to contract for and expend the amount of \$250,000 with the prior approval of the Town Manager; for the development of 148 apartments, of which 40 units will be affordable rentals and the remaining 108 will be market rate in five (5) buildings located at 770 Independence Drive, Hyannis, MA, Map 332, Parcel 010-001

- Councilor Milne does not like the idea of giving a developer \$250,000 to subsidize his project. It does not follow how the CPA money should be used and he was elected to do what is in the best interest of all residents of Barnstable – not one precinct. Milne has not seen more than one or two residents in favor. He cannot support it.
- Councilor Farnham asked who owned the land. The Cobb Trust gave it to the town and the town put it in a charitable trust like the Lombard Trust. A deed restriction is necessary to change from 80% to 70% affordable. Since this will be a new cash flow for the Cobb Trust, Farnham suggested the Cobb Trust be a partner and forgo the three years of ground rent. Since the Cobb Trust money is to benefit schools, and this is taxpayer money, it is an additional tax for the schools.
- Councilor Munafa asked if the \$1M state grant is tied to this appropriation. Peter Freeman, attorney for the developer, said the \$250,000 will help leverage the funds from the state. This is an additional million to the \$3M. Munafa feels he is being asked to approve an appropriation that has already been approved by the CPA.
- Councilor Tobey received unfavorable community feed back. He also has a problem using CPA money for private development. Laura Shufelt, Vice Chairman of the CPC said that

CPA funds across the state have been used for private developers; the nearest example is in Dennis. The state requires local participation if the state gets involved through funding.

- Councilor Curtis pointed out that 100% of the units will be counted as affordable. The project is located in Barnstable Village on the Hyannis line – not in Cummaquid. It will have an impact on schools, fire and water services. She asked what public comment has been given at CPC meetings and what happens if the additional \$1M from the state does not come in. Lindsay Counsell, CPC, said people raised concerns that were not in the purview of the committee. The act does enable housing. There will be about \$77,000 in rental savings per year for those who rent the 40 units.
- Joseph Keller, the developer, said the funds from Mass. Housing are competitive. The town needs both affordable and market rate housing. Rental people want to live near transportation, services, etc. He cannot do the project if he does not secure the \$1M. He explained that he had to hire another architect to make many changes; it is a much higher quality project and more rentable.
- Councilor Barton looked for more information on the project itself, such as schemes for plantings and lighting, which has not arrived. Freeman said all the details are in plans, etc. Barton said she would support this because the money goes to the Cobb Fund for the schools. Cobb Funds have allowed enrichments, computers, etc. that would not have been available. Affordable housing subsidized with taxpayer money is going to the school system to heal and educate future taxpayers.
- Councilor Barry asked if the 148 units have counted toward the housing stock. Shufelt answered that the units have counted and will go back in the count once a building permit is issued. Barry pointed out that no developers want to build rental housing; they want to build, sell and go. This is in an industrial park and he will support the affordable rental housing.
- Councilor Canedy explained that the housing is being built under power lines and near an airport. It is actually 6/10 of a mile outside of Cummaquid. The members of a 400-strong association are opposed. The cost to the town, schools and the district is not offset by the money that goes to schools. Is it an appropriate use of CPA money? She feels it is opening a Pandora's Box. How can future requests by developers be denied? If the project needs money before a shovel hits the ground, what happens if the project cannot be completed?
- Councilor Tinsley's concerns were infrastructure and what it means to the town down the road. Votes from other boards were not unanimous. He read relevant portions of the LPC stating the rate of development should not out run the ability to provide infrastructure. He envisions kids playing in an industrial park. What about open space and areas for children?
- Councilor Rugo said it was easier to get this through by siting it in an industrial park. It is an opportunity for young families who would not otherwise be able to live on the Cape. Areas like Fall River and New Bedford have better rents, etc. The affordable housing would continue even if the project went into foreclosure. Each project must be evaluated on its merits.
- Councilor Chirigotis pointed out that it is next to a church, a private school and in the Senior Continuing Care District that are also in the industrial park and changing the use. There is open space around the project. With the need for rental housing it is a good idea and the right thing to do.
- President Joakim confirmed that all 148 units will count towards the affordable housing total. Shufelt added that the town was currently at 6.3% of the needed 10%, and this would bring it up to about 7%. Because these are rental units, if 25% are affordable, all the units will count. In home ownership, only the affordable units are counted.

A motion was duly made and seconded to postpone this item to the meeting of July 17, 2008.

VOTE: Yes 10, 2 No

(Note: Councilor Crocker arrived at this time)

2008-157 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:

DISABILITY COMMISSION

Coreen S. Brinckerhoff, 82 Castlewood Circle, Hyannis, as a member to a term expiring 06/30/2011

ZONING BOARD OF APPEALS

Laura F. Shufelt, 1696 Osterville-West Barnstable Rd, W. Barnstable, as a member to a term expiring 06/30/2010
Nikolas J. Atsalis, 290 Elliot Road, Centerville, as an associate member to a term expiring 06/30/2009
John T. Norman, 1625 Old Post Road, Marstons Mills, as a member to a term expiring 06/30/2010

Councilor Munafo raised a point of order regarding changing item numbers. (Action on the appointment of Nicholas Atsalis, which was Item 2009-151 on the May 15th agenda, was postponed.) Councilor Curtis explained that this was the one remaining item under Number 151 and for expediency it was added to the current item number. Councilor Milne suggested that the document had conflicts.

President Joakim recessed the meeting at 10:05 PM

Meeting reconvened at 10:27 PM.

Vice President Chirigotis moved to suspend the rules and vote for Mr. Atsalis, and Ms. Brinckerhoff separately. The motion was seconded.

VOTE: Unanimous

2008-157 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:

ZONING BOARD OF APPEALS

Nikolas J. Atsalis, 290 Elliot Road, Centerville, as an associate member to a term expiring 06/30/2009

VOTE: 12 Y, 1 No

2008-157 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:

DISABILITY COMMISSION

Coreen S. Brinckerhoff, 82 Castlewood Circle, Hyannis, as a member to a term expiring 06/30/2011

VOTE: Unanimous

Regarding the next vote for a regular member of the ZBA, Councilor Milne wanted to confirm that this individual will take the seat vacated by Randy Childs. Councilor Curtis explained that there are two vacancies for regular members at this time. However, since only one opening was noticed in the item, only one seat would be filled this evening and nominations for any remaining openings, both regular and associate, would be made this evening.

2008-157 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:

ZONING BOARD OF APPEALS

Laura F. Shufelt, 1696 Osterville-West Barnstable Rd, W. Barnstable, as a member to a term expiring 06/30/2010

John T. Norman, 1625 Old Post Road, Marstons Mills, as a member to a term expiring 06/30/2010

**VOTE: Shufelt, 7 (Barry, Barton, Chirigotis, Curtis, Joakim, Rugo, Tinsley)
Norman, 6 (Canedy, Crocker, Farnham, Milne, Munafu)**

NEW BUSINESS

2008-159 GRANT ACCEPTANCE OF \$75,000 FROM CAPE COD ECONOMIC DEVELOPMENT COUNCIL'S REGIONAL ECONOMIC DEVELOPMENT PILOT PROGRAM

Upon a motion duly made and seconded this item was postponed to July 17, 2008.

VOTE: No Objections

2008-160 APPROPRIATION ORDER FOR COMMUNITY PRESERVATION FUND FY09 DEBT SERVICE

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 17, 2008.

VOTE: Unanimous

2008-161 COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES & APPROPRIATION FOR COMMUNITY PRESERVATION COMMITTEE ADMINISTRATIVE EXPENSES

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 17, 2008.

VOTE: Unanimous

2008-162 APPOINTMENTS

Upon a motion duly made and seconded it voted to refer this item to a second reading on July 17, 2008.

VOTE: Unanimous

2008-163 ADOPTION OF TOWN OF BARNSTABLE COMPREHENSIVE PLAN FOR 2008

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on July 17, 2008.

VOTE: 12 Yes, 1 No (Crocker)

2008-164 REAPPOINTMENTS

Upon a motion duly made and seconded it voted to refer this item to a second reading on July 17, 2008 with the following corrections and additional nominations:

Councilor Curtis noted that John Abodeely's term to the Conservation Commission should read "to expire June 30, 2011" and the Sandy Neck Board is not an advisory board.

Councilor Milne nominated John Norman to the Zoning Board of Appeals as a regular member for a term to expire 2010.

Councilor Rugo nominated Ron Janssen to the Zoning Board of Appeals as a regular member for a term to expire 2010;

Rugo also nominated Leonard Gobeil to the Zoning Board of Appeals for the expiring position held by Daniel Creedon and Edward X Lynch to the Zoning Board of Appeals for the expiring position held by James Hatfield, both regular members for a term to expire 6/30/2011.

VOTE: Unanimous

Councilor Tobey moved to extend the meeting past 11 PM until business is concluded. The motion was seconded.

VOTE: 10 Yes, 3 No

LATE FILE

2008-166 AUTHORIZING COUNCIL PRESIDENT TO SIGN GRANT ASSURANCES FOR THE BARNSTABLE MUNICIPAL AIRPORT

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council authorize the Town Council President to sign the Grant Assurances for a grant dated December 19, 2007 to the Barnstable Municipal Airport for the design of a new airport terminal.

Manager Klimm gave the rationale. He thanked Rep. Robert O’Leary and Sen. Therese Murray as well as the staff for their assistance.

The issue was to resolve the language in the grant assurances so as not to “sell out” the town by signing the document.

Town Attorney Ruth Weil explained the evolution of the addendum that identifies the Town’s sovereignty.

Councilor Rugo asked about the status of the Kmart Plaza. Although the town owns the plaza, the Kmart Plaza is part of the airport’s plan as filed with the Massachusetts Aeronautics Commission (MAC). MAC could keep it as part of the airport. Weil added that in the past the town has signed other assurances that don’t put us in any worse position with regard to the plaza.

Councilor Milne was skeptical of the statement (pg 4, #1) that the town cannot reorganize the Airport Commission, despite the addendum. He was reassured that the addendum takes care of it. Milne said he did not trust this or the fact that the Town Manager is not in control of the airport manager.

VOTE: 12 Yes, 1 No (Milne)

Upon a motion duly made and seconded it was voted to enter into executive session at 11:12 PM for the purpose of discussing litigation and contract negotiations and reconvene in open session at the conclusion of the executive session.

VOTE: Unanimous (Roll Call)

Upon a motion duly made and seconded it was voted to close the executive session and reconvene in open session at 11:54: PM

VOTE: Unanimous (Roll Call)

LATE FILE

2008-165 TRANSFER ORDER FOR FY 2008 TOWN COUNCIL PERSONNEL BUDGET

Upon a motion duly made and seconded it was

ORDERED, that the sum of \$5,000 be transferred from the FY 2008 Administrative Services Department Personnel Budget to the FY 2008 Town Council Personnel Budget.

VOTE: 12 Yes, 1 No (Milne) (Roll Call)

Upon a motion duly made and seconded it was voted to adjourn the meeting at 12 AM.

Respectfully submitted,

Lucia Fulco
Assistant Town Clerk