



## TOWN COUNCIL MEETING April 17, 2008



**A** quorum being duly present, Council President Janet Joakim called the regular meeting of the Barnstable Town Council to order at 7:00 pm, on April 17, 2008, at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

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

The Pledge of Allegiance was led by President Joakim, followed by a Moment of Silence, asked for prayers for Harold and Donna Tobey on the loss of their daughter.

### **PROCLAMATION: Women's Equal Pay Day**

Councilor Barton read a women's equal pay day proclamation that highlighted that women still make less than men. Tuesday April 22, 2008 was declared as equal pay day.

### **PUBLIC COMMENT**

- Mary Clement noted that the charter commission is thinking about a mayoral form of government and she feels that we need to believe in our government and look for possible change.
- John Alden reminded folks of upcoming charter meetings.
- Al Baker noted the need for people to count herring; and announced that River Day will be at Burgess Park.

### **ACT ON MINUTES**

Upon motion duly made and seconded it was voted to approve the minutes of the March 27, 2008 Special Town Council meeting.

**VOTE: Unanimous in favor**

Upon motion duly made and seconded it was voted to approve the minutes of April 3, 2008.

**VOTE: Unanimous in favor**

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

- Councilor Canedy announced Earth Day celebrations on April 21; and nominations for the Mercy Otis Warren award.

- Mark Ells, Dir. Of Public Works gave an update on the Barnstable Harbor bulkhead collapse. It will be temporarily reinforced and they are working on a more permanent fix.
- Councilor Barry noted a meeting on the fixing of School Street in Cotuit.
- President Joakim announced that there will be a volunteer tea April 24 at 1:30 for the Senior Volunteers.
- Patty Daley said that Barnstable is one of the top 50 finalists for the Innovations in American Government award.
- Councilor Milne thanked the manager for directing the fixing of the pavement on Ocean Street.
- Councilor Farnham asked for more information on the award – Daley said that Barnstable’s presentation was on restructuring government to meet the needs in the community.

**ORDERS OF THE DAY**

**A. OLD BUSINESS**

**2008-122 was taken out of order by mutual consent.**

**2008-122 APPROPRIATION & TRANSFER ORDER FOR THE FY08 VETERANS’ BENEFITS BUDGET INTRO: 04/03/08; 04/17/08**

Sidney L. Chase, Director of Veterans Services explained the need for the money. He said with the cost of living and expenses increasing and the dissolving of many part time jobs; it has left his budget with various shortfalls.

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

Upon motion duly made and seconded it was voted to go out of the public hearing at: 7:30 p.m.

**VOTE: No objection**

- Mark Milne, Director of Finance, explained the reimbursement process and the fact that we will get it back.
- Councilor Milne applauded Mr. Chase for his work. Mr. Chase thanked his contemporaries who work for the town.
- Councilor Crocker noted that this money is for the veterans in our town

Upon motion duly made and seconded it was:

**ORDERED:** That the sum of \$70,000 be appropriated from available funds for the purpose of funding the Town's FY 2008 Veterans' benefits budget.

**VOTE: ROLL CALL 10 yes**

Bill Brower from CFAC gave an overview of the process of evaluating CIP projects. CFAC reviewed 71 in all. He explained the scoring process, interviews on the projects, and the ranking. There was \$22M in requests with only \$6M to fund them. CFAC supports the Capital Improvement Budget as presented by the Town Manager.

Town Manager John Klimm thanked the CFAC for their hard work. He noted that we needed to meet at a workshop on future capital needs and the lack of funds to support them.

Councilor Farnham asked Mr. Brower about the process and any possible changes. He stated that it needs to be fine-tuned. Farnham agreed that we have to look at options to help fund capital needs.

<p><b>2008-103    APPROPRIATION &amp; TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN TO REPAIR &amp; UPGRADE WATER SUPPLY WELLS &amp; PUMP STATIONS INTRO: 03/20/08, 04/17/08</b></p>
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Mark Ells and Hans Keiser gave a brief overview on this appropriation.

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

Upon motion duly made and seconded it was voted to go out of the public hearing at 7:47 p.m..

**VOTE: No objection**

- Councilor Munafo wanted it noted that this is for the Hyannis wells and asked what was needed. Keiser said the emergency generator is needed at Straightway.
- Councilor Crocker asked about the size of the well and its importance. Keiser said it is about 1,000 gpm. Ells said the Hyannis Water Board supported this appropriation.
- Vice Pres. Chirigotis asked about chlorination and how long it will continue. Ells said it will continue until we can get it all tested and complete.
- Councilor Milne asked if the work was to be done in house. Ells said we will purchase an emergency generator and contract for it. Milne asked if we could take

over the operations of the water company ourselves; Ells said that we are going to look into it. The Town Manager said we will look at all options.

- Manager Klimm thanked the water board for their work; and thanked the business community for their support.

Upon motion duly made and seconded it was:

**ORDERED**, that the sum of **\$200,000** be appropriated for the purpose of funding a continuing program of repairing and upgrading water supply wells and pump stations owned by the Town as outlined in the FY 2009 - FY 2013 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$200,000** be transferred from available funds within the Water Supply Reserve Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

**VOTE: ROLL CALL 10 YES**

<p><b>2008-104    APPROPRIATION &amp; TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN TO REPAIR PUBLIC ROADS AND DRAINAGE SYSTEMS    INTRO: 03/20/08, 04/17/08</b></p>
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- DPW Dir. Ells addressed this item and some of its inclusions
- Councilor Crocker asked for more detail. Ells said we have the 4<sup>th</sup> largest road system in the state; he explained some of the various areas where road improvements are being identified. This is a critical portion of the budget that deals with Federal and State funds as well.
- Crocker asked Mark Milne about the new growth fund.. Milne said we had had good years of new growth which we captured and put into the capital program.
- Councilor Barton asked about extending the sidewalk on Osterville-West Barnstable Rd. near the school. She was told that sidewalks are looked at as part of projects and on their own.
- The Town Manager asked for information about the pavement roads project. Ells said it is a formula of needs, use, age, condition and deterioration. They are trying to catch roads before they deteriorate.

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

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

**VOTE: No objection**

Upon motion duly made and seconded it was:

**ORDERED**, that the sum of **\$3,250,000** be appropriated for the purpose of funding the repair of the Town's public roads and drainage systems as outlined in the FY 2009 - FY 2013 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$3,250,000** be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes, and be authorized to accept any grants or gifts in relation thereto.

**VOTE: ROLL CALL 10 yes**

<p><b>2008-106 APPROPRIATION &amp; TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN TO REPAIR THE COTUIT TOWN DOCK INTRO: 03/20/08; 04/17/08</b></p>
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Mark Ells explained that there is a need at the dock and it needs a permanent fix -

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

Upon motion duly made and seconded it was voted to go out of the public hearing at 8:13 p.m.

**VOTE: No objection**

- Councilor Munafo asked about the life of the pilings. Ells said they should last decades as long as they are not damaged or installed improperly. Councilor Barry thanked DPW for the repair last year.
- Councilor Crocker has dock envy; and asked when it will be completed. Ells said this fall.

Upon motion duly made and seconded it was:

**ORDERED**, that the sum of **\$80,000** be appropriated for the purpose of funding the repair of the Cotuit Town Dock as outlined in the FY 2009 - FY 2013 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$80,000** be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes, and be authorized to accept any grants or gifts in relation thereto.

**VOTE: ROLL CALL 10 Yes**

<p><b>2008-107 APPROPRIATION &amp; TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN FOR THE MAINTENANCE DREDGING OF COTUIT HARBOR INTRO: 03/20/08; 04/17/08</b></p>
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Dan Horn, Harbormaster explained the issues with drainage and shoaling and what needs to be done.

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

Upon motion duly made and seconded it was voted to go out of the public hearing at: 8:15 p.m.

**VOTE: No objection**

- Councilor Canedy has dredge envy.
- Councilor Crocker asked about when it was to be dredged; and Ells explained that it will happen after the permitting process is complete.

Upon motion duly made and seconded it was:

**ORDERED**, that the sum of **\$90,000** be appropriated for the purpose of funding maintenance dredging of Cotuit Harbor as outlined in the FY 2009 - FY 2013 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$90,000** be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes, and be authorized to accept any grants or gifts in relation thereto.

**VOTE: ROLL CALL 10 YES**

**2008-105 APPROPRIATION & TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN TO DEMOLISH PORTABLE CLASSROOMS INTRO: 03/20/08, 04/17/08**

Upon motion duly made and seconded it was voted that this item will come back for a first reading on May 1<sup>st</sup> and will be scheduled for a public hearing and vote on May 15, 2008.

**VOTE: 10 Yes**

**2008-108 APPROPRIATION & TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN FOR FACILITIES IMPROVEMENTS INTRO: 03/20/08; 04/17/08**

Upon motion duly made and seconded it was voted that this item will come back for a first reading on May 1<sup>st</sup> and will be scheduled for a public hearing and vote on May 15, 2008.

**VOTE: 10 Yes**

**2008-109 APPROPRIATION & TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN FOR ALUM TREATMENT IN MYSTIC LAKE, MARSTONS MILLS INTRO: 03/20/08; 04/17/08**

Upon motion duly made and seconded it was voted that this item will come back for a first reading on May 1<sup>st</sup> and will be scheduled for a public hearing and vote on May 15, 2008.

**VOTE: 10 Yes**

**2008-110 APPROPRIATION & TRANSFER ORDER TO FUND THE CAPITAL IMPROVEMENT PLAN FOR BARNSTABLE SCHOOLS FACILITIES IMPROVEMENTS  
INTRO: 03/20/08; 04/17/08**

Upon motion duly made and seconded it was voted that this item will come back for a first reading on May 1<sup>st</sup> and will be scheduled for a public hearing and vote on May 15, 2008.

**VOTE: 10 Yes**

**President Joakim invited the public to speak to any of the above items that were postponed; and explained that there will be a public hearing on each of these in May. No one from the public spoke.**

**2008-118 CHANGE IN THE LAYOUT & NAME OF MARY DUNN WAY, AKA MARY DUNN ROAD, & OLD MARY DUNN ROAD & TO AVIATION WAY INTRO: 03/20/08;  
04/03/08;04/17/08**

President Joakim announced and it was agreed that this item has been postponed indefinitely.

**2008-124 APPROPRIATE & TRANSFER FROM THE EMBARKATION FEE SPECIAL REVENUE FUND FOR LIGHTING THE HYANNIS WALKWAY TO THE SEA INTRO:  
04/03/08; 04/17/08**

Councilor Munafo gave the rationale on this item.

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

Upon motion duly made and seconded it was voted to go out of the public hearing at: 8:24 p.m.

**VOTE: No objection**

- Councilor Canedy asked about the project. Munafo said this is the next step in a number of steps to get the program in place. Canedy asked if the initial study did not include this. Munafo said we looked at levels of lights needed and fixtures, but we need this next step to be complete.
- Town Manager Klimm said that Councilor Munafo has spent a lot of time on this project and Hyannis residents owe him a debt of gratitude.
- Councilor Farnham is curious about the extra monies for another study. Munafo said the study showed the Hyannis Downtown area – we had mapped out a plan

that had a complete list of fixtures which we adopted in June. Farnham questioned the \$20,000.

*Councilor Farnham moved and it was seconded to amend this item by changing the amount from \$150,000 to \$130,000.*

- Munafo said we have a plan, and we won't have to dip into town resources to get this done, in fact he noted that there are substantial Federal monies that could be acquired..
- Mark Ells said there was an earlier phase but we need the study to help with the implementation. We need this conclusion to the planning study. Manager Klimm concurred with Munafo that there is a large Federal program that will assist municipalities in transforming municipal buildings into green technology – and municipal lighting. If we do not have the specific information in the form of a study we cannot apply.
- Councilor Milne said as far as embarkation money goes, we are to use the money around the harbor. This area needs a focus on lighting and we would be using it specifically for the use it was intended. Milne would be against the amendment.
- Crocker said the people who do these studies are very qualified and do that work specifically.

***VOTE: Unanimous opposition to the amendment.***

Upon motion duly made and seconded it was:

**ORDERED:** That the Barnstable Town Council hereby appropriates \$150,000 for the lighting of the Hyannis Walkway to the Sea and to meet the appropriation that the Town transfers \$150,000 from the embarkation fee special revenue fund

**VOTE: ROLL CALL – 10 yes**

<b>2008-125 EXEMPTION OF AN INTEREST UNDER THE CONFLICT OF INTEREST LAW INTRO: 04/03/08; 04/17/08</b>
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Manager Klimm explained the item. Councilor Canedy asked for more information. Town Attorney Ruth Weil stated that MGL C.44, s55C establishes a trust fund which is independent by statute. It can hold property, accept money – it is a trust fund board that has powers to borrow money.

Upon motion duly made and seconded it was:

**RESOLVED:** That the interest of Thomas K. Lynch as assistant town manager and Mark Milne, as director of finance, are hereby found to be not likely to interfere with the objective performance of their duties in the best interests of the Town in the positions as Trustees of the Affordable Housing/Growth and Development Trust Fund Board and are hereby exempted.



**VOTE: Unanimous in favor**

**2008-126 SUB. TEXT - CONFIRMING THE APPOINTMENT OF THE AFFORDABLE HOUSING/GROWTH & DEVELOPMENT TRUST FUND BOARD AND STATUTORY DESIGNATION AS SPECIAL MUNICIPAL EMPLOYEES INTRO: 04/03/08; 04/17/08**

Upon motion duly made and seconded it was:

**ORDERED:**

Section 1: That the Town Manager, pursuant to the provisions of M.G.L. c. 44 §55C and Section 241-47.1(u) of the Code of the Town of Barnstable is authorized, subject to confirmation of the Town Council, to appoint the Trustees of the Affordable Housing/Growth and Development Trust Fund Board, and the Town Manager, in addition to the designation of the Town Manager, as a Trustee, as required by M.G.L. c. 44 §55C (b), hereby appoints the following individuals to serve as Trustees:

Thomas Lynch, 95 Phinney's Lane, Centerville, MA 02632 to a term expiring 06/30/2009

Mark Milne, 606 River Road, Marstons Mills, MA 02648 to a term expiring 06/30/2009

Laura Shufelt, 1696 Osterville-West Barnstable Road, W. Barnstable, MA 02668.to a term expiring 06/30/2010

Wendy Northcross, 1684 Main Street, West Barnstable, MA 02668 to a term expiring 06/30/2010

Section 2: That pursuant to M.G.L. c. 44, §53C (f), the Trustees are deemed special municipal employees and that Section 241, Attachment 1 of the Code is hereby amended by adding the Affordable Housing/Growth and Development Trust Fund Board to the list of multiple member bodies so designated.

**VOTE: ROLL CALL 10 Yes**

**2008-127 APPROPRIATION AND TRANSFER ORDER FOR EMERGENCY RESPONSE TO BARNSTABLE INNER HARBOR BULKHEAD FAILURE AND EMERGENCY STABILIZATION PLAN INTRO: 03/27/08; 04/17/08**

Upon motion duly made and seconded, it was voted to go into a public hearing for the purpose of discussing this item.

**VOTE: No objection**

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

**VOTE: No objection**

Upon motion duly made and seconded it was:

**ORDERED:** That the Town Council hereby appropriates \$196,000 for emergency response to Barnstable Harbor Inner Harbor bulkhead failure and Emergency Stabilization Plan and to meet the appropriation that \$77,840 be transferred from the balance in appropriation

2002-040 for the Prince Cove Marina acquisition; that \$63,969 be transferred from the balance in appropriation 1999-014 for the Bismore and Aselton Park bulkhead improvements and that \$54,191 be transferred from the Marina Enterprise Fund surplus; and to accept any gifts or grants in relation thereto.

**VOTE: ROLL CALL 10 Yes**

**2008-128 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO:  
04/17/08**

Upon motion duly made and seconded it was voted to refer this item to a second reading on: May 1, 2008

**VOTE: Unanimous in favor**

**2008-130 EXEMPTION OF AN INTEREST UNDER THE CONFLICT-OF-INTEREST LAW  
INTRO: 04/17/08**

Upon motion duly made and seconded, it was voted to refer this item to a second reading on May 1, 2008

**VOTE: Unanimous in favor**

**2008-129 ACCEPTANCE OF JUVENILE OYSTERS AS A GIFT TO THE TOWN OF  
BARNSTABLE FROM THE CAPE COD OYSTER COMPANY TO ENHANCE THE PUBLIC  
FISHERIES OF THE TOWN OF BARNSTABLE. INTRO: 04/17/08**

- Doug Kalweit, Dir. Of Natural Resources. asked for support of this gift
- Councilor Milne thanked Cape Cod Oyster for this.
- Councilor Tinsley said he went out with Mr. Ryan from Cape Cod Oyster and he explained that the oyster is effective in removing nitrogen. He is donating large oyster seed that can be planted on the bottom and will be ready for harvest in the fall.
- Councilor Crocker thanked Al Supernaut as well.
- Councilor Barry said that Mashpee Natural Resources Department is propagating oysters and there is a bountiful amount. Barry asked where these will be placed – Kalweit said they will be placed in a variety of areas.

Upon motion duly made and seconded it was:

**RESOLVED:** That the Town Council hereby accept a gift of approximately 20,000 oyster seed from the Cape Cod Oyster Company. The Cape Cod Oyster Company wishes to contribute approx. 20,000 of their oyster seed, currently being cultured in North Bay, for

public oyster enhancement / propagation projects in the Three Bays as administered by the Natural Resources Program.

**VOTE: 10 yes**

**Upon motion duly made and seconded it was voted to go in to an Executive Session for the purpose of discussing possible litigation; and NOT to return to open session at its conclusion.**

**VOTE: Roll Call – 10 yes – Unanimous in favor at 8:50 p.m.**

Respectfully submitted:

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