

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
August 21, 2008**

A quorum being duly present, Council President Janet Joakim called the meeting of the Barnstable Town Council to order at 6:05 pm, on Thursday, August 21, 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, James Crocker, Jr., Henry Farnham, Janet Joakim, Leah C. Curtis, J. Gregory Milne, James Munafo, Jr., James M. Tinsley, Jr. and Harold Tobey. **ABSENT:** Thomas Rugo

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

Recognition of John Reed

President Janet Joakim read and presented a proclamation to Mr. Reed for his community service (see Exhibit A). He received a standing ovation from the board and audience.

Mr. Reed thanked the council and public schools for the opportunity to be part of the community and vowed to continue to serve for the public good. He thanked the young people from Barnstable who he has mentored and helped raise.

President Joakim said there will be a motion to Postpone 2008-131 and reminded the audience that public comments relating to items with scheduled public hearings should wait until the hearing.

PUBLIC COMMENT

Mary Clements, "from the hamlet of Hyannis," said she was not certain of her sentiments on the recall at this point. Is it "much to do about nothing or the taming of the shrew?" She gave examples of using the pen rather than the sword.

Dorothy Hughes, representing bridge players from the senior center, spoke about the cold temperature in the facility. They have complained about the cold for four years. A letter was sent to the town manager about both the lack of heat as well as the mold. Ms Hughes wants to know who is responsible and who should receive such information since the Senior Center director accused residents of going to the town manager behind her back.

John Julius read sales information on three homes as examples of the over assessment of homes in town. They have sold for much less than the assessments. He feels nobody is doing anything about it and in this recession, the Council is more concerned about buying parcels of land. The council and town manager are living above their means.

Al Baker made some announcements of upcoming Marstons Mills' events and how to get tickets for some of them.

John Alden, a member of the Charter Commission., said the Commission is a mechanism for making changes. He welcomes all suggestions; there is room for improvement.

Robert Tucker said the council "has a heart." He explained that a councilor took care of a very ill person who lives in his house. He also spoke about the need for people to have a driver's license to drive and the illegal housing that is still occurring.

Dorothy Ryan also spoke about the Senior Center temperature issue. She has had no problems.

Peggy Dandridge said the Senior Center is well run by an excellent director. She feels the temperature is ok and the mold issue has been addressed.

Frank Paparo said the council should worry about crime instead of box stores; the town needs more police not walking trails; the recall petition is about the council president cutting out the second public comment period and her policy of not allowing the public to criticize a councilor by name. In addition, the town has lost its chance to be the film capital of the state.

Albert Boland complimented the Senior Center director for her caring and efficiency. She is bending over backwards to help people – the thermostat is a contactor’s issue.

Margaret Kane said she would like to be comfortable and have the concerns at the Senior Center addressed.

Ruth McGraw reiterated that Madeline Taylor is a wonderful director.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Crocker explained that the assessments are never accurate to the current year. They are figured on the previous year’s value. This revaluation used to be done every three years until the Council asked the assessor to update assessments on a yearly basis, which is permissible by law. This is a benefit to the taxpayers and makes the assessments more comparable to market value.

Town Manager John Klimm said the issue of residents’ comfort is important. The letter he received was a request to refer the information to the appropriate parties, not for a direct response from him.

Madeline Taylor, Senior Center Director explained that for wellness and physical activities, rooms should be cooler; however, those playing bridge prefer it to be warmer. The digital thermostats can be programmed for two settings – daytime and nighttime. She offered the bridge players other rooms that might be warmer, but the suggestion was rejected because the rooms are smaller and the players want to be together. The mold issue was brought to DPW. A sight inspection showed it was from condensation; dehumidifiers were installed.

Mark Ells, DPW Director, said his department looked at the systems and had the County come in to evaluate the mold. The systems are efficient under their parameters. He will try to find one or two temperatures that are agreeable and program them in order to satisfy as many as possible.

Manager Klimm said the DPW will be playing a much more active role. He has received both cold and warm complaints.

Councilor Canedy stressed that the mold was cleaned, the dehumidifiers added, and the county called in immediately. She suggested the director put a log at the front desk that will go directly to her so she will be assured of seeing all communication.

Councilor Munafo, who has worked in the fields of air-conditioning and heating as well as elder care, said it is heartbreaking that the issue has lasted for five years. Whatever is needed will be put into place to see that it does not happen again.

Councilor Tobey said that with progress comes difficulty. He recalled the tiny white building with little space that used to be the senior center. This is a palace in comparison.

President Joakim said the agenda changed prior to her coming on as president of the council. We are following the council rules and the laws of Massachusetts.

Councilor Milne felt all people were candid and spoke their minds. People should never fear being up-front. He also said that John Reed was his teacher and a mentor. Many good things that happened in his life might not have happened without Reed’s influence.

WORKSHOP Community Preservation Committee

CPC Members Present: Lindsay Counsell, Laura Shufelt, Susan Rohrbach, Marilyn Fifield, Terry Duenas and F. P. Lee.

Chairman Lindsey Counsell thanked President Joakim for her regular attendance at CPC meetings. He gave the council a list of possible discussion topics (See Exhibit B) to ascertain whether the council would entertain using CPA funds for projects in the outlined categories. For example, would the council fund private owners of historic homes? Some town do this and other don't. There has been an inquiry.

- Councilor Curtis would like the rational from other communities.
- Councilor Milne asked if it could be used as protection against demolition of the home by neglect. It might be in the public interest and prevent the loss of a key historical home. Counsell said that it could happen. There are many homes that could be eligible. There could be a 30 year conservation restriction on a home funded by CPA money.
- Councilor Canedy said that the Town of Arlington does this through a community block grant.
- Councilor Munafo asked if the current inquiry is for a key home. Counsell said it was. A deed restriction is required by the act. The home may not be in an historic district. Munafo felt that if the owners have to maintain the historic nature of the home and the town would put a deed restriction on it, may it should be done. Counsell explained that the Council would approve the loan program and it would be administered by others. Sue Rohrbach felt that it would be beneficial since there are many homes that need lots of work, but there would need to be strict criteria regarding who would get the loans.
- Councilor Crocker will not support any grants. There never will be enough money to help the private sector. He will only support grants for public or quasi public properties. He could support a loan program.
- Councilor Farnham said the funds in the CIP are never enough. Giving priority to town-owned buildings is where it should be. He feels loans would be fine.
- Councilors Barton and Curtis would like to see town owned buildings receive the funding.

Counsell asked the council about supporting loans for affordable housing.

- Councilor Munafo said loans would be acceptable to be used for private purposes as well.
- Councilor Crocker does not support grants but does support loans.
- Councilor Milne would favor loan scenarios. He would not want to lose the properties. He would like to see some other historic group administer it.

Laura Shufelt would be looking to receive proposals, not initiate them. In order to qualify for CPA funds they would deed restrict the house for affordable housing.

President Joakim asked the members to look at the list and send feedback to CPC.

Sue Rohrbach asked for council clarification on #2, Affordable Housing Funding for Private Development (private non-profits or for profit developments). Would the council support a funding package for a private developer?

- Councilor Curtis would need assurances that the project was going forward and that the affordable component is significant.
- Councilor Canedy felt the problem with giving private developers public funds for a small percentage of affordable housing is a subsidy for the market rate houses.
- Councilor Barry felt the threshold must be over 24% affordable. Rohrbach added that there is a clear public benefit for the affordable housing.
- Councilor Canedy suggested that for the use of public money, all units should be affordable – no market rate.
- Councilor Crocker will only support this as a loan program.

Counsell asked if town and school properties should get top priority.

- Councilor Milne would have to give it more thought. He feels the buildings have to be historic, or culturally significant.
- Councilor Canedy would be against including schools if they remain as a school. She would be more inclined if they would be used as affordable housing.
- Councilor Barry said all public schools are owned by the town. He would support anything that would help keep the school buildings healthy.
- Councilor Barton concurs.

EXECUTIVE SESSION convened at approximately 7:30 PM.

Upon motion duly made and seconded it was voted to go in to an Executive Session for the purpose of discussing litigation strategy and the purchase of property and to reconvene at the conclusion of the executive session.

VOTE: Unanimous (Roll Call)

Council reconvened at approximately 8:20 PM.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to approve the minutes of July 17, 2008 with the following correction: the motion on Item 2009-004 was to postpone the first reading of this item to August 21, 2008.

VOTE: Unanimous

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

Councilor Munafo spoke about process, saying he will go to the town manager before going to a department head. The least a councilor should do when a constituent issue arises is to give a courtesy call to the councilor in whose precinct the person resides.

Councilor Barton said Chairman Cahoon of the School Committee asked that she bring up the issue of funding relief for increased cost of fuel – for school and town departments. President Joakim will schedule a joint meeting with the school committee.

Councilor Tobey complimented the police and mall staff for the handling of the recent incidents at the mall.

President Joakim had a meeting with residents of the three roads selected by the roads committee: Lumbert Mill Road, Osterville-West Barnstable Road and South County Road about upgrading. There will be three new traffic-light intersections. It will go out to bid and happen in the near future.

ORDERS OF THE DAY

OLD BUSINESS

2008-131 COMMUNITY PRESERVATION FUND APPROPRIATION FOR COMMUNITY HOUSING IMPROVEMENTS

Upon motion duly made and seconded it was voted to postpone item 2008-131 to September 4, 2008.

VOTE: 11 Yes, 1 abstention (Crocker)

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

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 2008-160 at 8:27 PM.

VOTE: Unanimous

Lindsay Counsell gave the rationale.

Councilor Munafo asked why this was being done now. Counsell said the committee would like to have their report to the state by the Oct. 25th deadline. Finance Director Mark Milne explained that there was a fund balance left over in Land Bank program for covering debt service. The \$391,000 is from that fund.

Upon motion duly made and seconded it was voted to go out of the public hearing at 8:32 PM.

VOTE: Unanimous

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

Upon motion duly made and seconded it was

ORDERED: That the Town Council hereby appropriate \$2,995,075 for the purpose of paying the FY09 Community Preservation Fund debt service requirements, and to meet such appropriation, that \$2,604,116 be provided from current year revenues of the Community Preservation Fund and that \$390,959 be provided from surplus funds reserved for the open space program within the Community Preservation Fund.

VOTE: 12 Yes (ROLL CALL)

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

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 2008-161 at 8:33 PM.

VOTE: No objection

Lindsay Counsell gave the rationale.

Upon motion duly made and seconded it was voted to go out of the public hearing at 8:34 PM.

VOTE: No objection

- Councilor Curtis asked how soon would there be someone on board to get projects moving. Counsell said it will be very soon.
- Councilor Canedy suggested compiling a list of historic specialists to draw from on a case-to-case basis. Bringing someone on board to advise on the overall project will be faster. Right now it takes too long to reach a decision and this will get the questions answered early so building can go forward or not.
- Councilor Crocker asked if the person will evaluate private property that is historic. The committee will be able to have him/her look at any historic properties. Crocker is comfortable with the \$35,000 but it should not be used for evaluating projects that the council may not support. This is more money than they have ever had to help them be successful; but he does not want it used for private projects. Crocker also wanted to know what authority the council will be giving up. The set-asides have to be transferred to specific projects by a council vote.

As Amended:

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

Upon motion duly made and seconded it was

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2009, the following sums, or sums equaling ten percent (10%) of the annual revenues of the Community Preservation Fund if a different amount, be set aside for further appropriation and expenditure for the following purposes: Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for open space but not including land for recreational use; Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for historic resources; Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for historic resources; Four Hundred Twenty Five Thousand Five Hundred and Fifty One and No/100 (\$425,551.00) Dollars or ten percent (10%) for community housing; and that the sum of One Hundred Eighty-Five Thousand and No/100 (\$185,000.00) Dollars be appropriated from the annual revenues of the Community Preservation Fund to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment,

consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

VOTE: 12 Yes (ROLL CALL)

2009-010 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$419,250 FOR THE BARNSTABLE HARBOR DREDGE PROJECT

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 2009-010 at 9:47 PM.

VOTE: No objections

Councilor Canedy gave the rationale. The town has until December to dredge or wait until next fall.

Rich French, Sandy Neck Board, explained that the board will be the recipients of the dredged materials to use as fill for the Cottage Colony. The remainder will replace washed away dunes at Sandy Neck Beach, then the lighthouse. The dredge is on stand-by.

George Blanchard spoke in favor, explaining that the harbor needed dredging back in 2004. The 2005 dredging was a band-aid; other more recent projects were stopped prematurely. The channel is less than 4 feet at low tide; boats run aground frequently; sand is a few feet higher than the ramp.

Peter Jason spoke in favor. Many people use the area. The area should have a maintenance schedule for dredging. It has become a dangerous place if it not dredged.

Matt Bresette also supports the project.

Upon motion duly made and seconded it was voted to go out of the public hearing at 9 PM.

VOTE: No objections

- Councilor Munafo asked about fiscal impact. Manager Klimm said this would have been before the council as a regular capital project. The amounts for next year will be reduced by this amount.
- Councilor Barry said anything bigger than a 20 ft. boat will get stuck in the mud a low tide. He is strongly in favor.
- Councilor Crocker supports the dredging. Should it be tied to the bulkhead expense, since it has to be done too? Klimm explained that this type of project would be first on the plate of the grants manager. There are more grant opportunities for the bulkhead. Director Ells said as a maintenance dredge it would need to be done on a 4-5 year basis. The bulkhead will be protected after the dredging is done.
- Councilor Farnham said CFAC began to look at the dredging needs and they usually come out of general funds. The town could pass more of it onto the users by increasing fees. He supports the expenditure.

2009-010 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$419,250 FOR THE BARNSTABLE HARBOR DREDGE PROJECT

Upon motion duly made and seconded it was

ORDERED: That the sum of \$419,250 be appropriated all for the purpose of funding the maintenance dredging of Barnstable Harbor, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$419,250, 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: 12 Yes (ROLL CALL)

2009-017 COMMUNITY PRESERVATION FUND APPROPRIATION AND TRANSFER TO ACQUIRE 2.7 ACRES MORE OR LESS FOR OPEN SPACE AND RECREATION, ASSESSORS MAP 226, PARCEL 008, Lot 001

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 2009-017 at 9:09 PM.

VOTE: No objection

Councilor Chirigotis gave the rationale.

Roy Richardson of the Centerville Civic Association said it is a wonderful example of a barrier beach. There is an assault on the area by trying to develop as much of the property as possible. He wants to keep the beach and the area special; he asks the council to support the item.

Jim Lane supports stopping rampant development at Craigville Beach. It is worth doing. He suggests preserving the old hotel building and making it into a science center.

Steve Luciani also spoke in favor. It would be disastrous to develop this area. It is not the area for condominiums and should be kept for the grandchildren.

Upon motion duly made and seconded it was voted to go out of the public hearing at 9:15 PM.

VOTE: No objection

See map

- Councilor Munafo said the Centerville people are asking why the town is buying it. Using CPC money for this is designed to put properties under restriction. Counsell said the CPC felt it was important to preserve and keep this piece from future development. It was a lousy spot for a motel. In addition, nature wants it to revert to a sand dune. It will be the CPC's 12th un-development. This one is on the low end of expense. Munafo said it was environmentally saving money.
- Councilor Milne added that this is segregated money that the community voted to use for such a purpose. Some small scientific coastal center has appeal. It is a fiscally conservative move. If it is developed it will have a negative traffic impact and may cost the town more.
- Councilor Crocker pointed out that a vote tonight does not mean the town has purchased it. It will rely on the decision of a bankruptcy judge. He will not support it

A motion was made and seconded to move the question.

VOTE: Unanimous

2009-017 COMMUNITY PRESERVATION FUND APPROPRIATION AND TRANSFER TO ACQUIRE 2.7 ACRES MORE OR LESS FOR OPEN SPACE AND RECREATION, ASSESSORS MAP 226, PARCEL 008, Lot 001

Upon motion duly made and seconded it was

ORDERED: That the sum not to exceed the amount of Seven Hundred and Fifty Thousand (\$750,000.00) and No/100 Dollars be appropriated and transferred from the amount set aside for open space acquisitions under the Community Preservation Fund in Fiscal Year 2009 for the acquisition and creation of open space and recreation by the Town and interests in land on the property shown on Assessors Map 226, Parcel 008, Lot 001 consisting of 2.7 acres more or less and that the Growth Management Department is authorized to contract for and expend the amount appropriated for the purposes of acquiring and creating such open space.

VOTE: 10 Yes, 2 No (Crocker, Farnham) (ROLL CALL)

2008-163 ADOPTION OF TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2008

President Joakim announced that this was a public hearing. There were no speakers from the public. She informed the board that she was planning a future workshop *in lieu* of the CPC meeting, which will not occur.

Upon a motion duly made and seconded it was voted that the public hearing on this item be continued to September 18, 2008.

VOTE: Unanimous

2009-003 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon motion duly made and seconded, it was

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

LAND ACQUISITION & PRESERVATION COMMITTEE

Kristine P. Clark, 398 Woodside Rd, West Barnstable, to a term expiring 06/30/2011
Shirley A. Fisher, 115 Old Stage Rd, Centerville, to a term expiring 06/30/2011
Thomas Mullen, 38 Coach Lane, Barnstable, to a term expiring 06/30/2011

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Ralph Krau, 312 Compass Circle, West Hyannisport, to a term expiring 06/30/2011
James Sproul, 548 Main St, Centerville, to a term expiring 06/30/2011

VOTE: Unanimous

2009-004 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Councilor Curtis announced that Eric Steinhilber has asked that his nomination to the ZBA be withdrawn. He is not on the amended item.

Councilor Milne said he would vote in favor of all the candidates except the Airport Commission nominee, Mr. Luziatti.

Councilor Curtis split the item by considering the Airport Commission individually, with no objections.

2009-004 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded it was **RESOLVED** that the Town Council appoint the following individual to a multiple-member board/committee/commission:

AIRPORT COMMISSION

Timothy R. Luziatti, 119 Pond View Dr, Centerville, to a term expiring 06/30/2011

VOTE: 11 Yes, 1 No (Milne)

Amended Item

2009-004 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon motion duly made and seconded it was **RESOLVED**, that the Town Council appoint the following individuals to a multiple-member board/committee/commission:

COUNCIL ON AGING

Sarah P. Schlegel, 21 Trotters Lane, Marstons Mills, (associate) to a term expiring 06/30/2010

HYANNIS MAIN ST. WATERFRONT HISTORIC DISTRICT COMMISSION

Joseph A. Cotellessa, 65 Sylvan Drive, Hyannis, to a term expiring 06/30/2011

HUMAN SERVICES COMMITTEE

Merrill Blum, Veterans' Transition, 94 Water View Circle, Centerville, to a term expiring 06/30/2011
Bill Doherty, Barnstable County Commissioners, Rte 6A, Barnstable, to a term expiring 06/30/2011
Kim Kalweit, VINFEN Corp, 310 Barnstable Road, Hyannis, to a term expiring 06/30/2011
Mary Pat Messmer, Cape Cod Child Development, 83 Pearl St, Hyannis, to a term expiring 06/30/2011

SANDY NECK BOARD

Lynn Heslinga, 1649 Hyannis Road, Barnstable, to a term expiring 06/30/2010

VOTE: 12 Yes

2009-005 ORDER AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND ALAN GRANBY AND JANICE HYLAND

Upon motion duly made and seconded it was

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Alan Granby and Janice Hyland, for the property shown on Barnstable Assessor’s Map 327 Parcel 145,146 and 257, and located within the MS zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: Density: Relief is granted from Section 240-24.1.4.B, to allow 16 residential units on 40,721 s.f. of land; Front Setback is granted from Section 240.24.1.4.C from 20 ft to 16.8 ft.; Side Setback is granted from Section 240.24.1.4.C from 10 ft. to 6.3 ft; Rear Setback is granted from Section 240.24.1.4.C from 10 ft. to 9.2 ft; Driveway width/impervious surface limits from Section 170.9 from not more than 25% of the front yard as parking and no more than 20 feet of frontage as a parking area to 17.5% of the front yard as parking and 24 feet of frontage as a parking area; Dumpster setback, Relief is granted from 10 ft. to 7 ft.

The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.

Attorney John Kenny reviewed the amended language of the regulatory agreement (see draft 8/21/08). Changes are underlined. A problem with Items 14 & 15 was noted. The \$15,000 should be in Item 14 for landscaping. The amount in Item 15 needs to be determined.

The meeting was recessed for about five minutes to address the above at 9:40 PM.

The following amendments were submitted to replace items 14 and 15 in the regulatory agreement text:

AMENDMENTS

~~14~~.14. Landscape Bond: Prior to the issuance of any foundation building permit, Developer will provide a performance bond of \$15,000 said bond to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said performance bond may be released by the Planning Board to Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of Developer;

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~~14~~.15. Performance Bond: To ensure completion of development, prior to the issuance of any foundation building permit, Developer will provide a performance bond in an amount to be approved by the Planning Board or its designee. Any unexpended portion of said performance bond may be released by the Planning Board to Developer or its successor(s) after the completion of development, such date to be determined by the Building Commissioner, upon the request of Developer;

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Councilor Farnham asked the two members of the Planning Board if they were comfortable with the amendments. One was, one was not.

A motion was made and seconded to amend Item 2009-005 with the above text.

VOTE: 11 Yes, (Barry out of room)

Councilor Curtis confirmed that the existing buildings would be the workforce units and they would go forward first. Kenny said as soon as a building permit is pulled for one of the new units, the deeds of the affordable units will be deed restricted. The existing units are currently occupied and will be renovated as tenants move out. Curtis asked if one parking space per unit was realistic given the increased density on a small lot. Kenny explained that there will actually be 2 spots per new unit. Twenty-four spaces are required and they will have twenty-nine.

On Item 2009-005

VOTE: 12 Yes. (Roll call)

2009-007 AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDED AND RESTATED RESTRICTION - BEALE WAY/HINCKLEY RESTRICTION

Upon motion duly made and seconded it was

ORDERED: That the Town Council vote to amend a certain “Grant of Restriction” granted to the Town by Heather Hinckley by instrument dated January 21, 2005 and recorded in the Barnstable Registry of Deeds in Book 19807 Page 263 concerning property on Beale Way, Barnstable, MA; and that the Town Manager is hereby authorized to execute an Amended and Restated Restriction, in the form attached hereto, and that upon the execution and recording of the Amended and Restated Restriction, the original restriction shall have no further force and effect and the rights of the parties shall be subject to and governed solely by the terms of the Amended and Restated Restriction

Attorney Michael Ford gave the rationale. This is an amendment to the original restriction. If it is approved, a lot from the Hinckley parcel on Beale Way will become an access to the Kaess property in the rear. The net effect is a total of six lots will become four lots, one of which will be merged with a lot of the Hinckley parcel.

- Councilor Barry asked where the access to the subdivision would occur if it is not approved.
- Councilor Canedy said it would take pressure off of Beale Way. The Yacht Club is in favor, the neighbors present are in favor and the building is now on the main street.
- Councilor Crocker asked about the pavement of Beale Way. It is required to improve Beale Way. Will there be one large lot? The restriction will still be in place on the current land but the modification will allow the driveway without building a house. If they merge the lots there will be a restriction.

VOTE: 11 Yes, 1 No (Curtis) (ROLL CALL)

2009-021 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND RUTH M. RUSHER TRUST

Upon motion duly made and seconded it was

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Ruth M. Rusher Trust, for the property shown on Barnstable Assessor’s Map 326 Parcel 045, and located within the HD zoning district and the Downtown Hyannis Growth Incentive Zone, including zoning relief as follows:

<u>HD zoning district permitted or conditional use</u>	Section 240-24.1.7
<u>Reduction in onsite parking requirements</u>	Section 240-24.1.10 (4) (b)

The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.

Attorney Michael Ford gave the rationale. One of the directives in Rusher’s trust was that the property would be a hostel. Trustee Sandra Tubman has moved to create the hostel. Plans have been drawn up. The property is in the Harbor District and a hostel is not authorized in that district, hence a regulatory agreement. The proposal is to renovate the 4 historic buildings already on site and put a small addition to the main building. The hostel will comprise 13 rooms and a total of 47 beds. One person can only spend 14 nights per year. It will be a seasonal operation from April to November, open 7 days per week. Use of tobacco or alcohol will be prohibited. The storm water system will be upgraded. The operator will need an annual license from the town manager’s office to provide the opportunity to make sure all requirements of the Regulatory agreement are met. The operator will be Hostelling International.

Councilor Canedy made a motion which was seconded to move this item to a second reading on September 4, 2008.

VOTE: Majority opposed.

Councilor Canedy feels she will have to abstain because she needs more time, hence her motion for the second reading.

Attorney Ford said he would have no problem with the postponement since the item requires a super-majority for passage and at least that number of councilors wanted more time.

President Joakim explained that although a regulatory agreement does not require a second reading, she would allow it. She restated Councilor Canedy's motion for a second reading on September 4th. The motion was seconded.

VOTE: Unanimous

Counselor Munafo asked why Councilor Milne was not sponsoring this item. Milne said he was comfortable being added to the item as a sponsor.

2009-008 AMEND ZONING ORDINANCE, ARTICLE III. DISTRICT REGULATIONS, §240-39. SHOPPING CENTER REDEVELOPMENT OVERLAY

Upon motion duly made and seconded it was voted to postpone this item to a joint public hearing with the Planning Board on September 18, 2008.

VOTE: Unanimous

2009-021 Reconsideration of vote

Councilor Toby asked that the postponement date just voted for 2009-021 be reconsidered to September 18, 2008.

President Joakim made a motion which was seconded to move this item to a second reading on September 18, 2008.

VOTE: Unanimous

2009-015 APPROPRIATION AND TRANSFER ORDER TO FUND A SPECIAL PROJECTS COORDINATOR TO SUPPORT THE BARNSTABLE COASTAL RESOURCES MANAGEMENT COMMITTEE

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 2009-015 at 10:22 PM.

VOTE: No objection

Manager Klimm gave the rationale

Upon motion duly made and seconded it was voted to go out of the public hearing at 10:25 PM.

VOTE: Unanimous

- Councilor Farnham pointed out that this position will begin in August for a little more than one year.
- Councilor Munafo asked about the fee for a half-time person. Daley explained that the salary is \$37,000 and \$3,000 is for printing costs for the committee's work. It is 19 hours per week, no benefits. The money runs from August through next November. The funds are coming from the available funds of the Capital Trust Fund which is not required to be spent within a fiscal year.
- Councilor Curtis emphasized that the person and the committee must understand that the consultant's work must be done by November. Klimm added that if the committee needed more, they will have to ask again. The committee's intention was to be frugal. Dennis Houle, Chairman of the Conservation Commission, said there is detail in the Camp Dresser Report that is beyond the committee's expertise and they need the help. They are committed to meeting the timeline. The person will be gathering data beyond the reach of the committee, wastewater/storm water ramifications, revising maps of affected embayments, etc.

2009-015 APPROPRIATION AND TRANSFER ORDER TO FUND A SPECIAL PROJECTS COORDINATOR TO SUPPORT THE BARNSTABLE COASTAL RESOURCES MANAGEMENT COMMITTEE

Upon motion duly made and seconded it was

ORDERED, that the Town Council hereby appropriate the sum of \$40,620 to fund a one-year, half time, Special Projects Coordinator staff position to support the Barnstable Coastal Resources

Management Committee, and to fund that appropriation, that \$40,620 be transferred from available funds.

VOTE: 10 Yes, 2 No (Canedy, Munafo) (ROLL CALL)

2009-013 TO SEE IF THE TOWN COUNCIL WILL ACCEPT G.L. C.39, §23D AND AMEND THE GENERAL ORDINANCE TO ADOPT PROCEDURES FOR ABSENTEE MEMBERS OF BOARDS AT ADJUDICATORY HEARINGS

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 2009-013 at 10:39 PM.

VOTE: No objection

Manager Klimm gave the rationale. Joanne Buntich polled other municipalities and many have adopted similar legislation. Planning Board Member Ray Lang said he watched a board meeting on the TV while he was in the hospital and was told he could not vote on the case because he had missed a hearing, even though he had been to many other meetings on the case. This would speed it up. Planning Board Member David Munsell said those boards who want to do it can and others that do not are not required. Various boards have already indicated they would opt to allow it, if approved.

Upon motion duly made and seconded it was voted to go out of the public hearing at 10:43 PM.

VOTE: Unanimous in favor

- Councilor Canedy reiterated that each board would opt whether or not to accept individually, once the council adopted the item. Town Attorney Ruth Weil said it does not compel any board member to take advantage. An absent board member does not have to watch the video, etc. If a board member swears under pain of perjury, but has not reviewed the materials, the town could go after them.
- Councilor Munafo asked if this could it be postponed to September.
- Councilor Crocker feels when you miss the meeting you don't interact or make a contribution. What does it do to the role of the alternates?

President Joakim called for a vote. Councilor Munafo raised a Charter Objection. Item 2009-013 will be taken up again on September 4, 2008.

2009-014 COMMUNITY PRESERVATION FUND APPROPRIATION & TRANSFER IN THE AMOUNT OF \$108,000 FOR COMMUNITY HOUSING

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 2009-014 at 10:50 PM.

VOTE: No objection

Laura Shufelt gave the rationale. The units were in a legal battle which is now cleared up; however, the timeline was not met, therefore the request is back.

Debra Converse, Chairman of the Housing Authority, is in favor.

Upon motion duly made and seconded it was voted to go out of the public hearing at 10:54 PM.

VOTE: Unanimous

- Councilor Milne asked how much was the rent. It is 65 % of median income, equating to about \$950 to \$1,000 for a two bedroom unit. Off-site units did not work out because a condominium unit did not want the affordable units there. The units will be owned by Housing Authority.
- Councilor Farnham asked what the gross purchase price will be. It is \$94,250 and \$79,000 before the \$50,000 reduction for each unit. They are trying to keep the rentals on the low side.
- Councilor Crocker asked about the number of one bedroom units. There are five one bedroom units. This is defined by the regulatory agreement. Shufelt added that one bedroom units are the most desired.

A motion was made and seconded to postpone this item to September 4, 2008.

VOTE: Unanimous

A motion was made and seconded to suspend the rules to continue the meeting after 11 PM.

VOTE: 9 Yes, 3 No

2009-016 AN ORDER AMENDING THE ADMINISTRATIVE CODE TO PROVIDE FOR INTERIM APPOINTMENTS ON REGULATORY BOARDS/COMMITTEES/COMMISSIONS

Upon a motion duly made and seconded it was

ORDERED, that Section 241-8(C) of the Town of Barnstable Administrative Code be hereby amended as follows:

Section 1

Under Section 241-8(C) Term of Offices, at the end of the second sentence, the following shall be added, "...except when vacancies occur involving a majority of the members of a multiple member board which conducts adjudicatory hearings. The Town Council may make interim appointments for a period not to exceed six months while permanent members are sought to fill the remainder of the term." so that Section 241-8(C), now reads:

C. Term of office. The terms of office of multiple-member boards are arranged so that 1/3 of the terms, as nearly as is possible, shall expire each year. A vacancy shall be filled by the Town Council for the remainder of the term, except when vacancies occur involving a majority of the members of a multiple member board which conducts adjudicatory hearings, the Town Council may make interim appointments for a period not to exceed six months while permanent members are sought to fill the remainder of the term. Length of office is three years, except as noted. Appointments are effective the first of July, and expire the 30th of June. Numbers of members for boards will vary. The Town Council shall annually evaluate all members subject to reappointment. Members may be removed for cause, subject to an investigation and hearing by the Town Council, pursuant to the Charter, Section 2-10

Councilor Chirigotis corrected a minor scrivener's error, included in the above text.

Upon motion duly made and seconded it was voted to postpone action on item 2009-016 to September 4, 2008.

VOTE: 7 Yes, 5 No

2009-018 REAPPOINTMENTS

Upon motion duly made and seconded it was voted to refer this item to a second reading on Sept 4, 2008

VOTE: Unanimous

2009-019 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Councilor Curtis made a motion which was seconded to suspend the rules and vote on Item 2009-019 this evening.

Curtis explained that the ZBA has pending issues and the next council meeting this vote could be made is in September. The staff has planned meetings to get new members up to speed. She thanked all who served on both the appointments committee and the *ad hoc* committee for their efforts. (See statement read. Exhibit C)

Councilor Farnham asked about expiration dates and an additional associate member. Curtis said this was not overlooked but felt the appointments committee needed to be consulted.

VOTE: 11 Yes, 1 No (Canedy)

- Councilor Milne felt Mr. McGillen should serve as an associate since he goes away in January. He should be replaced by Rodolakis as the regular member. He so moved.
- Councilor Chirigotis said those concerns were considered. McGillen may be a significant force even though he will be gone for part of the year. In January they will move up an associate member. He is not in favor of changing it at this time.
- Councilor Curtis added that the mentorship that Mr. McGillen would bring to the board would be significant. There was no second to Milne's motion.

- Councilor Canedy is supporting the slate with reservation and disappointment. She hopes lessons have been learned. This is perceived as intimidation Council stationary should not be used for individual matters. That should be done on personal stationary. She is also concerned about the process. The appointment of an *ad hoc* committee to do the job of the regular appointments committee was not proper.
- Councilor Milne will amend the town's administrative code regarding alternates of this board and other boards.

2009-019 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

ZONING BOARD OF APPEALS

For regular membership:

Michael P. Hersey, 62 Homeport Drive, Hyannis, to a term expiring 06/30/2011
 Craig G. Larson, 142 Bog Road, Marstons Mills, to a term expiring 06/30/2011
 James F. McGillen, 297 Tanglewood Drive, Osterville, to a term expiring 06/30/2009
 William H. Newton, 101 Curlew Way, Cotuit, to a term expiring 06/30/2010

For associate membership:

Brian Florence, 126 Laurie's Lane, Marstons Mills, to a term expiring 06/30/2011
 Alex M. Rodolakis, 83 Blantyre Avenue, Centerville, to a term expiring 06/30/2010

VOTE: Unanimous

2009-020 RESOLVE ACCEPTING AN ITEM PRICING/PRICE VERIFICATION GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF CONSUMER AFFAIRS, DIVISION OF STANDARDS

Upon motion duly made and seconded, it was

RESOLVED, that the Town Council hereby accepts an Item Pricing/Price Verification Grant in the amount of \$65,000 from the Massachusetts Office of Consumer Affairs, Division of Standards, to be used by the Regulatory Services Department, Consumer Affairs Division, to conduct Item Pricing/Price Verification Inspections throughout Barnstable County utilizing Division of Standards certified staff of the town.

Manager Klimm gave the rationale.

VOTE: Unanimous

2009-022 TRANSFER AND APPROPRIATE \$220,000 OF UNEXPENDED BOND PROCEEDS FOR THE RE-CONSTRUCTION OF THE WEST BAY BULKHEAD

Upon motion duly made and seconded, it was voted to refer this item to a public hearing to be held on Sept. 4, 2008.

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS

- Manager Klimm reminded the council of the financial situation the town is facing as we move into the next fiscal year. He will discuss it at the next meeting.
- The Recreation Committee is looking to ban smoking at beaches. Public hearings will be held on this matter.
- Interviews are in progress for the grant writing position as well as the permanent director of Growth Management.

ADJOURNMENT

Upon motion duly made and seconded it was voted to adjourn the meeting at 11:32 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco
 Assistant Town Clerk