

TOWN COUNCIL MEETING



November 6, 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 November 6, 2008, at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

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

The Pledge of Allegiance was led by President Joakim, followed by a Moment of Silence.

Update on school facilities – School Committeemen: Ralph Cahoon, Thomas McDonald and School Attorney William Butler

Committee Chairman Cahoon stated that the Council has to approve the revised statement of interest to the School Building Authority. The School Committee chairman explained that a new school would be built at one of the school sites in Osterville, Marstons Mills or Cotuit.

Committeeman McDonald said we were talking about the budget deficit and now we speak to a new school. The operating budget is one thing but a new school would bring savings by fitting 3 schools into one school. It would have efficiencies. All things being equal – we would have one site that would allow for reductions in staff and other areas. The numbers are just ball park figures. If it cost \$20 M, and if it goes through the state, we would get 50% from them. We have \$3M from the sale of the Grade 5 school; and a possibility of more monies from the sale of the Osterville property. On top of that, the bond for the Middle School will be coming off the rolls soon and we will basically not have to spend a lot of money for this building. We have to submit this statement by the 15th to the State. If we are eligible then we will come back and see if we want to go forward.

Cahoon added that if we know that in 4 years we will build a new facility in the west, it will help us with the capital expenses in the near future as well and improve the other existing buildings.

School Attorney Butler addressed the authorization and the motion.

A motion was made and seconded that the Town Council votes to authorize the Superintendent to submit to the Massachusetts School Building Authority amended Statements of Interest, or a new Statement or Statements of Interest, as the Authority may require, for the Marstons Mills Elementary School, Cotuit Elementary School, and Osterville Elementary School for the purpose of advancing to the feasibility stage in the process the building of a 500 pupil elementary school, allowing the School Committee, in the future, to close obsolete buildings, and that the Council further specifically acknowledges that submission of such amended Statements of Interest, or

new Statement or Statements of Interest, in no way guarantees acceptance or approval of an application or the awarding of a grant or any other funding commitment from the Authority or commits the Town to filing an application for funding with the Authority.

- Councilor Canedy asked if the language is contradictory because it names the three schools. Butler said it has not been decided as to which school would close – the Authority does anticipate the way the motion is stated. Butler said there will be a feasibility study, in cooperation with the School Building Authority. After the study is complete, the town must submit a specific proposal. Canedy asked if the Town Council would be involved. Butler said yes it would.
- Councilor Curtis said the building authority would fund part of the feasibility study and she asked for specifics. Butler was not sure of the amount. Cahoon said the \$3M we have set aside will be tapped for the study.
- Cahoon said we will make sure that everyone is kept informed. Curtis said a positive vote will put us in the line for funding and they will say yes or no. McDonald said this puts us up in the line for potential approval.
- Councilor Munafo – asked what a 30 classroom school would cost. Cahoon said we have no cost estimates because we don't know which site we may use; because of lot configurations the costs and design would be different.
- Munafo feels we should stay with the neighborhood schools and fund them ourselves.
- Councilor Milne asked if village character issues and such can be taken into account. Cahoon said if you are willing to pay for things – you need to follow the guidelines of the school building committee. We need to respect them and their program. If the town wants to maintain village schools then the town will have to come up with a lot more money initially and going forward.
- McDonald said we have to do business differently – he does not want to see village schools go away – but we have to think outside the box.
- Cahoon said he feels it is more prudent and cheaper to operate if we consolidate. Redistricting is going to happen soon to save money.
- McDonald said we are working to be energy efficient. No study has been done so we don't know what it will cost.....the money will have to come from a bond. He feels we will save money on transportation.
- Canedy asked about the original statement of interest which was signed in April 2007.
- Mark Milne said the tax levy is about \$2.5 M for all debt exclusions – it goes down a little each year.

- Councilor Barry said people are happy with the neighborhood schools. Seventy five to eighty percent of the school budget is for the teachers. Barry feels a better thing would be to spend the money in Hyannis at Hyannis East and build a large school there. Do we want to do what the SBA wants us to do or what the people want. From a political perspective we like what we have and want to keep it.
- Barton said this motion gets us in the door on a feasibility study and gets our place in line.
- Munafo said as far as Hyannis Schools, they want to keep Hyannis schools as well.
- Curtis said this is difficult because it deals with your kids. Cahoon said it will be the citizens and council that will decide if the community wishes to raise money to support village schools. If the community cannot or is not willing to do that then they need to support another plan. You pay more to bandaid what you have.
- Cahoon said we set up an advisory committee and this was their recommendation. The School Committee saw the logic and brought it forward. Something is closing no matter what you do. It is not cost effective to run the schools like we did in the 1950's and 1960's. We don't have the money to fund all the schools.
- President Joakim said she had a daughter who was in 8 different schools because of various issues and she still got a good education. We are allowing us to get in line for funding.

Councilor Barry moved and it was seconded, that the motion be amended by adding in Hyannis East Elementary School after Osterville Elementary School.

Cahoon noted that this amendment is in conflict with the vote of the School Committee; and if it passes, it would kill this for this year.

Milne asked why the School Committee couldn't meet again before the deadline to take care of this amendment. McDonald said we considered Hyannis East during the discussions. We have to close schools, and were trying to be cognizant of the impact on this community. He asked the council to vote it up or down.

Canedy asked about the 3 schools. Cahoon felt it was silly to amend at this point, when people have spent months studying this. To rehash this will just kill the proposal this year.

VOTE ON AMENDMENT TO ADD HYANNIS EAST: 3 Yes 9 No

VOTE ON MAIN MOTION: 9 Yes 3 No (Barry, Milne, Munafo) – It Passes.

PUBLIC COMMENT

- ✓ Mary Ann Barboza would like the homeless issue put on the agenda. Who does Cynthia Cole think she is. Many of the homeless were born and raised here. They are human beings. They are there because they lost their jobs and can't pay rent.

- ✓ Kathleen Eason thanked the town for the web reply. She presented documentation to the Town Manager.
- ✓ Sidney Chase, Veterans Agent, said that West Main St. has a Vet Center that is only for combat veterans for counseling. The VA Medical Center has moved from Falmouth Rd. to the Financial Place on Stevens Street and North St. On Tuesday, November 11, we will celebrate Veterans Day. He noted that we had a Presidential Election this week and the Veterans have kept you free to allow you to be able to vote. He invited all Veterans to come and march with us.
- ✓ Al Baker noted that on 2009-014 things have changed as far as our economy. We are spending a lot of money but we are heading for rough times and possibly you need to keep spending under control. You would not pass some of these if you were doing them in your own home. Baker also feels some airport money should come back to the town.

COUNCIL RESPONSE TO PUBLIC COMMENT

- Councilor Munafo said as far as fiscal responsibility – we are talking about a separate tax that people wanted to pay and use for these specific purposes. I can't hold it back when it is used for these purposes. It is not irresponsibility on the part of the council.
- He also noted that most of the people receiving help are from other locations, and that is documented. There are some other issues that are real. Homelessness is an issue that we need to address – we have to be compassionate on both sides.
- Councilor Barton said that we have worked hard to make positive change with public and private donations. Join and help raise awareness of this issue. She gave the councilors a report, and also noted that one out of every 4 homeless person is a veteran.
- Councilor Milne asked the Manager to speak on the issue of the homeless. He said it was a productive meeting and was heated (the meeting on the Main Street homeless held at the Federated church). It was good. We have become more or less a center for this need. The county discussed decentralizing this yesterday. We have a problem. All sides need to come to the table. A lot of folks have come here from far away because we provide services.
- President Joakim feels we need to discuss this another time and the Manager will address it at a later date.
- Councilor Canedy said Hyannis is the hub of the Cape and has had a lot of revitalization and attention. With that comes a not so sweet side and the homeless are part of that. Maybe we need to seek a regionalization solution.

ACT ON MINUTES

Upon motion duly made and seconded, it was voted to approve the minutes of October 2, 2008.

VOTE: Unanimous in favor

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

- President Joakim said the Veterans Day parade will form on the Town Green at 9:30 a.m.
- Councilor Milne asked about the School Committee appointment. He would like us to look to the past and another process.
- Vice President Chirigotis noted that the charter in section 3-7, states that the President of the Council shall call a joint meeting of the school committee and council; and they shall choose. We are looking to schedule a date that is agreeable for all of us.
- Councilor Curtis noted that we have a tentative date of Nov. 19 Ruth Weil suggested tentatively announcing the meeting. President Joakim said that it was tentatively set for Nov. 19, 2008 and once they get agreement with the School Committee, everyone will be informed.
- Councilor Barton said please inform the candidates.
- Councilor Canedy asked about the interview process.
- Councilor Milne asked for a packet on each candidate prior to the meeting.
- President Joakim thanked everyone for their help and support on her recent election.

ORDERS OF THE DAY

A. OLD BUSINESS

2009-014 COMMUNITY PRESERVATION FUND APPROPRIATION & TRANSFER IN THE AMOUNT OF \$108,000 FOR COMMUNITY HOUSING INTRO: 07/17/08, 08/21/08, 09/04/08, 10/02/08, 11/06/08

Laura Shufelt from the CPC said that the condo fees have been lowered.

Councilor Farnham asked what the net costs were. Shufelt said the 1 bedroom is \$109,200; the 2 bedroom is \$121,600; then you would deduct \$50,000 off of that.

Councilor Munafo asked about the Growth Management Dept. and how are they involved. Shufelt said the BHA will be renting the facility. The Growth Management will be managing the affordability, and administering the monies.

Upon motion duly made and seconded it was:

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of One Hundred Eight Thousand and No/100 (\$108,000.00) Dollars be appropriated and transferred from the proposed amount set aside for Community Housing in the Community Preservation Fund described in agenda Item 2008-161 for the purpose of creating and supporting the purchase of affordable rental units, by the Barnstable Housing Authority, through the Town of Barnstable's Inclusionary Housing Ordinance by allocating \$50,000.00 per unit to buy down

the cost of two (2) units and \$4,000.00 per unit for closing costs and legal fees of the two (2) units to be administered by the Town of Barnstable, Growth Management Department and authorize the Town Manager to acquire affordable housing restrictions, easements and other security on behalf of the Town.

VOTE: 12 yes Roll Call

2009-033 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$2,704,862.00 FOR THE PURPOSE OF ACQUIRING REAL PROPERTY CONSISTING OF 65,608 SQUARE FEET OF LAND, MORE OR LESS, IN BARNSTABLE SHOWN ON ASSESSORS MAP 312 AS PARCEL 011 TO BE ASSOCIATED WITH THE CONSTRUCTION OF A NEW ACCESS ROAD INTO THE AIRPORT INTRO: 10/16/2008, 11/06/2008

Bruce Gilmore, attorney for the Airport announced that he was able to enter into negotiations and came to an agreement. The parcel owned by a Mr. McGregor was a necessary piece. He gave some details where McGregor will retain partial ownership of the parcel, including part of the building that has two tenants in it. McGregor will take down part of the building. In this process we got rid of two relocation expenses. Gilmore commended McGregor's attorney, Attorney Smith and McGregor, and also thanked Frank Sanchez, acting Airport Manager. This acquisition is being done cost effectively without litigation.

Upon motion duly made and seconded it was voted to go in to a public hearing.

VOTE: Unanimous in favor

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

VOTE: Unanimous in favor

- ✓ Councilor Farnham asked if we should revise the amount on the order, since we will be spending less money. Gilmore asked him to keep it the same. The number will be less and there will be relocating expenses and legal costs. Farnham said we will have a lesser amount but does this become a piggy bank?
- ✓ Frank Sanchez said what we don't use will go back into our surplus. We are not authorizing more than we will need.
- ✓ Finance Director Mark Milne said this is an appropriation for only that acquisition. The remaining balance will go back. It is specific.
- ✓ Munafo asked about the language of these purposes and other related expenses. Gilmore said more appraisals will be needed for one thing. Attorney Ruth Weil said these purposes go back to the road; there are appraisal costs; and we put in this language with land acquisitions because there are other expenses related. Munafo is uncomfortable with eminent domain.

A motion was made and seconded to strike after to purchase, "take by eminent domain under chapter 79 of the General Laws of Massachusetts".

- ✓ Gilmore said this is a friendly taking. There is an agreement; eminent domain is a tool and with it you get a clear title. We want to make sure we have it lock stock and barrel. Munafo said it is too casual.
- ✓ President Joakim asked if this amendment will cause a problem. Gilmore said he hopes it will not pass.
- ✓ Barry said we would be crazy to vote for this amendment. We would then have to spend money on title insurance. We can save money and protect our interest by keeping it as is.
- ✓ It was agreed to move the question.

VOTE: 2 YES 10 NO ON AMENDMENT – it was defeated.

- ✓ Curtis thanked Gilmore and McGregor. She asked if the council could find out what the end numbers will be.
- ✓ Councilor Milne raised a Charter Objection.
- ✓ Gilmore said we are on a tight schedule – this was the last piece. A delay will have a financial impact on us. This is the access road.
- ✓ Attorney Weil said the Charter objection is not in order because a vote had not been called.
- ✓ Farnham asked from where the money will come. Gilmore said the FAA wants an appraisal to support the lower number. The FAA said we will not have a problem.
- ✓ Canedy said due to your work and friendly agreement I will support this.
- ✓ Gilmore said he cannot quantify any delay. He also said that he can't figure the monies that a delay would cost.
- ✓ Curtis said the residents have said traffic is an issue and the completion of this access road has been a first priority. I would suggest that my colleague reconsider his charter objection thoughts.
- ✓ Rugo asked if we could gather a consensus on this. There was some discussion on the ruling on the charter objection. Attorney Weil said you are only allowed one charter objection per measure and we had it; and it was not at an appropriate time, so you can vote on it.

Upon motion duly made and seconded it was

ORDERED: that the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under chapter 79 of the General Laws of Massachusetts, or otherwise acquire for airport, transportation, parking and highway purposes a parcel of land located at 191 Airport Road, Barnstable (Hyannis) Massachusetts, described as Town of Barnstable Assessors' Parcel No. 312011, and further described as Lots 1, 2, 3, and 4, containing 65,608 square feet of land, more or less, as shown on a plan

of land entitled "Plan of Land in Hyannis, Barnstable, Mass. for Cape Investment Trust" by Charles N. Savery, Inc., Registered Engineers and Surveyors, dated January 16, 1972, recorded with Barnstable County Registry of Deeds in Plan Book 271, Page 33, a copy of which is filed with the Town Clerk, and to appropriate a total sum of \$2,704,862.00 for these purposes and other related expenses, and to meet this appropriation, that \$2,094,862 be transferred from Project # 0191A, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$610,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and to accept any grants or gifts in relation thereto.

VOTE: 11 yes 1 no (Milne) Roll Call

B. NEW BUSINESS

2009-035 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION – INTRO: 11/06/2008

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

VOTE: Unanimous in favor

2009-036 ACCEPTANCE OF A \$7,500 GRANT FROM THE BARNSTABLE COUNTY LAND MANAGEMENT GRANT PROGRAM INTRO: 11/06/2008

Tom Geiler said this is a \$10,000 project and most of the cost is covered by this county grant. There are about 60 property owners who have already completed similar projects in the front of their properties. This is near the trail and access to the water.

Councilor Canedy asked if these are truly invasive willows. Geiler said this is the Danforth property and where it crosses to Mystic Lake, we are getting rid of at least 3 trees.

Councilor Barton said the stand of trees on the property is large and it keeps growing.

Upon motion duly made and seconded it was

RESOLVED, that the Town Council hereby accepts a \$7,500.00 Barnstable County Land Management grant to enable removal of some of the invasive grey willow from the shoreline of Mystic Lake at the Town's Danforth property.

VOTE: 12 yes

2009-037 ACCEPTANCE OF \$2,500 FOR A FY09 GRANT FROM THE BARNSTABLE COUNTY LAND MANAGEMENT GRANT PROGRAM INTRO: 11/06/2008

Joanne Buntich, from Growth Management said we applied for this (Alisha Parker did the work). This is for walking trails and other improvements. Councilor Curtis thanked Alisha for her work, and said it was good knowing that we have staff behind us, who are working on these projects so that we will have access.

Upon motion duly made and seconded it was

RESOLVED, that the Town Council Town Council does hereby accept the Barnstable County Land Management Grant Program Award in the amount of \$2,500.00.

VOTE: 12 yes

Councilor Munafo wanted it stated that he had threatened at the past meeting to do a charter objection on 2009-033 but he didn't. Therefore, he felt that Councilor Milne's charter objection would have been appropriate.

Attorney Weil said when Milne raised a charter objection, it was premature; therefore, she had ruled it out of order and that calling of a charter objection was the basis of the ruling.

Curtis feels the vote was fine and there is no problem.

President Joakim said the meeting will continue.

2009-038 ACCEPTANCE OF A GRANT FROM ARTS FOUNDATION OF CAPE COD IN THE AMOUNT OF \$2,000 INTRO: 11/06/2008

Town Manager Klimm read the rationale.

Joanne Buntich added that Kathleen Girard had also worked on this.

Upon motion duly made and seconded it was

RESOLVED, that the Town Council hereby accepts a grant award in the amount of \$2,000 from the Arts Foundation of Cape Cod to increase awareness of the *Harbor Your Arts (HyA)* programs.

VOTE: 12 yes

2009-039 APPROVE THE CONSERVATION RESTRICTION BETWEEN THE MCCOWAN COTUIT TRUST-1992 (GRANTOR) AND THE BARNSTABLE LAND TRUST, INC. (GRANTEE) INTRO: 11/06/2008

Upon motion duly made and seconded it was voted to refer this item to a second reading

VOTE: 12 yes

Councilor Farnham called the assessor and wants a clarification on the impact on tax consequences on the above.

2009-040 APPROVE THE SECOND AMENDMENT TO THE CONSERVATION RESTRICTION BETWEEN CATHERINE M. CONOVER (GRANTOR) AND THE BARNSTABLE LAND TRUST, INC. (GRANTEE) INTRO: 11/06/2008

Upon motion duly made and seconded it was voted to refer this item to a second reading

VOTE: 12 yes

Late file 2009-041 – APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION

Councilor Chirigotis recused himself

Upon motion duly made and seconded it was voted to refer this item to a second reading.

VOTE: 11 yes

Late File 2009-042 – ACCEPTANCE OF GIFT FROM WEQUAQUET LAKE PROTECTIVE ASSOC.

Upon motion duly made and seconded it was

RESOLVED: That the Town of Barnstable hereby accepts a gift in the amount of \$2,200.00 from the Wequaquet Lake Protective Association, Inc. for the installation of a new metal herring run gate at Phinney's Lane.

VOTE: 12 yes in favor

TOWN MANAGER COMMUNICATIONS:

Town Manager, John Klimm acknowledged the Town Clerk and her staff's work on the recent election.

On the homeless issue, Klimm stated that he wants a separate discussion on it and did not want to be disrespectful to Councilor Barton. He was at the meeting regarding the homeless and Councilor Barton gave an impassioned plea. We need to bring closure by respecting all. We need to respect each other.

Klimm added that last night there was a discussion on the school budget; and he will have much to say on the municipal side. We talk on the revenue sharing side of things, as far as a 60/40 split. He reminded everyone that 66 cents of every dollar goes to the schools which is more than the revenue sharing of 60/40. The School's budget is higher than 60%.

He announced that he is now writing a weekly ENewsletter and thanked those who have sent him comments.

Pres. Joakim thanked Councilor Barton for her report.

ADJOURNMENT

Upon motion duly made and seconded it was voted to

ADJOURN.

Adjourned at: 9:50 p.m.

Respectfully submitted,

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