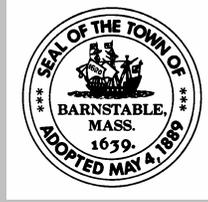


TOWN COUNCIL MEETING



February 26, 2009

A quorum being duly present, Council President Frederick Chirigotis called the regular meeting of the Barnstable Town Council to order at 7:00 pm, on February 26, 2009, at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

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

The Pledge of Allegiance was led by President Chirigotis, followed by a Moment of Silence. President Chirigotis noted the passing of Attorney David B. Cole, and asked that he be remembered during the Moment of Silence.

PUBLIC COMMENT

John Julius stated that with the Town taking such parcels as Chili's off the tax rolls, that he cautioned the council on the tax increment financing agreement. He also felt there was an error in the item on the location. He wanted to know how many jobs are being created, what is the percentage and for how long; and are both RAM Construction and F. W. Webb getting benefits? Not a good idea.

John Doherty noted the planning of a regulatory agreement in the form of a large development in Hyannis. We need to adhere to what we have passed in the form of the zoning bylaws for the greater Hyannis and downtown areas.

COUNCIL RESPONSE TO PUBLIC COMMENT:

Councilor Milne thanked the speakers.

Councilor Crocker had special feelings for David Cole and thanked Pres. Chirigotis for remembering him. We usually do not take these matters lightly (directed at Mr. Julius' comments on the proposed TIF).

Councilor Canedy invited her fellow councilors to subcommittee meetings for the Planning Board – the Hilton Hotel proposal is a complicated issue.

LOCAL PLANNING COMMITTEE DISCUSSION

Local Planning Committee members present: Matt Teague, David Munsell, Ray Lang, Marlene Weir.

- Ms. Weir stated that the board hopes to get the comprehensive plan approved. This is just an opportunity to bring up a subject and work with the council for any further language changes.
- Joanne Buntich, from Growth Management noted on the handout (See Exhibit "A") where the traffic neutral and sewer neutral language has been changed to accommodate the prior wishes of the council.
- Buntich said we have a plan (LCP) that has been in effect since 1998. The adoption of a plan is the first step. The implementation is left up to the boards and committees to choose to do it. The implementation is a secondary effort. This is a roadmap and a pathway.
- Councilor Curtis questioned "poor levels" on the traffic neutral policy and who defines that. Buntich said we took these issues because the council was concerned at prior workshops. She said there are professional standards that you judge these things. Neutral policies do not make it necessarily better but it cannot make it worse.
- Ray Lang said it is not an easy decision to make and it takes a lot of input as to whether something impacts traffic.
- Councilor Barton asked why this says "poor". Buntich said we will take the word out.
- Councilor Munafo addressed the language that talks about the adoption of an ordinance which has not been passed. He does not feel comfortable putting ourselves in a timeframe of 12 months to create this. How binding is this on us?
- Buntich said the 12 months was added due to a comment from the council at a prior presentation. It does not require it, but is a suggestion.
- Councilor Canedy said the old LCP was full of ordinance requests. She said it is a wish list and gives us guidance. She is not threatened – our decisions will make it an ordinance or not make it an ordinance.
- Councilor Milne thanked all for their efforts. We are doing this as part of the Cape Cod Commission Act and it is an off-shoot of the regional policy plan. We need to approve this and then it goes to the Assembly of Delegates for their approval. On the sewer neutral policy – how does the policy come in harmony with the getting of funding for this? What do you want us to do on this? Where is the end of the ball game?
- Buntich stated that we don't know what the language is going to be, or if it may be amended. It has to adapt to the changing environment.
- Weir said we will make final changes to the LCP and we would like the council to approve it. After it is approved, we suggest it be reviewed on a yearly basis. We have done our work, now it is in your hands.

- Ray Lang spoke to the sewer neutral policy. The State and Federal governments are now making monies available; and if we get something that would speed up applications, we would be desirous to change whatever is involved to go into a plan.
- Attorney Weil said this is a planning document. This is a roadmap but is not binding. It is based on the regional policy plan but there is flexibility. The action steps were because of the council's concerns. It is not mandatory. It reflects goals to reach. It will go to the Commission and come back to you for a final vote.
- Councilor Curtis said it has had significant input from the community. She asked if this could come to the top of the list on one of our upcoming agendas.
- Councilor Canedy made a motion that we place the LCP on a date certain and all amendments be made before or at that time. Pres. Chirigotis noted that we are going to try to get it into a final draft.
- Councilor Canedy wants the council to assign a date certain for all proposed amendments and a date certain for the approval of the LCP.
- President Chirigotis agreed that we want to iron out the wrinkles and try to get it passed.

Councilor Canedy moved again to have all amendments presented and placed on an agenda.

A point of information was made by Councilor Curtis. Do we know how many proposed amendments there are? She would like a date certain.

David Munsell noted that after the last meeting with the council, these two were the main issues – we don't think there are too many other questions. It has to go before the Cape Cod Commission. The planning board would like to get on to the next step.

After a brief discussion, Councilor Canedy withdrew all her motions.

A motion was made to adopt the proposed changes:

- Buntich said that we will remove the word "poor " under traffic neutral and will add words about the standards and under sewer neutral, they will acknowledge DEP or others as far as funding.
- Councilor Canedy addressed taking the word "poor" out. Does that mean if the intersection was formerly an "A" but the proposed development reduced the rating to a "B" that may be reason for rejection of the proposal? She thought the focused concern was only on poor intersections.
- Councilor Barton said we want A's to stay an A. Buntich said you will not find an A or B there.

- Councilor Crocker said that these issues are paramount and the first skinning of the onion. If this is a roadmap; if I care that this is a roadmap; I can't support it. We talk about bringing forward a traffic neutral ordinance in the roadway systems. There are ways that people have worked around the bylaws. You want a cooperative system. This is to enlarge the taxable dollars in the taxable zones. Traffic is your nightmare. The uses that were in place have associated trips built into them. Sewer neutral is a good policy.
- Councilor Farnham has struggled with the traffic neutral policy. Traffic is an issue at the airport rotary. The improvements made this year are very good on Route 132. We can make improvements. What about transfer development rights – possibly in these areas.
- Buntich stated that traffic neutral policy can be met in more than one way. She gave an example.
- Ray Lang said we have never done a TDR and we cannot respond to that. It is a tool that we have not used.
- Councilor Munafo does not look favorably on either of the changes. We need an outline on what the policies are; – he would like to see the last sentence in each of these be “shall” so it won't tell us what to do.
- Councilor Canedy said action points are suggestions. “Shall be brought” should be changed to “should be considered”. The Town Council should consider adopting (last sentence in the blue – refer to handout annexed hereto).

A motion was made to vote on the amendment.

A motion was made and seconded to move the question.

More discussion took place on various amendments.

The motion to move the question was withdrawn.

Some amendments to be considered were: that the traffic neutral refers to the roadways mentioned in the above traffic neutral policy. “Shall be brought” should be changed to “*should consider*”; this should also be done to “the sewer neutral ordinance *should be brought*”.

Buntich said we can remove the full last sentence of traffic neutral.

After more discussion President Chirigotis asked to recess for the purpose of putting all amendments together so that the traffic and sewer neutral policy sections could be voted.

Upon motion duly made and seconded it was voted to go in to an Executive Session for the purpose of discussing strategy for negotiations for land acquisition and to come back into open session at about 8:45 p.m.

VOTE: Roll Call – Unanimous in favor at 8:23 p.m.

The meeting reconvened at 9:17 p.m. (Councilor Canedy left at the end of the Executive Session).

President Chirigotis noted that

2009-058 - APPROPRIATION AND TRANSFER ORDER FOR FY09 PARKING ENFORCEMENT OPERATING EXPENSES – INTRO: 1/08/09, 1/22/09, 2/05/09/2/26/09

was being postponed to March 5, 2009.

President Chirigotis also stated that they would be taking

2009-067 AUTHORIZATION OF A TAX INCREMENT FINANCING AGREEMENT - INTRO: 02/05/09, 02/26/09

out of order.

Councilor Crocker presented the updated resolve. Joanne Buntich noted the members of the TIF Committee and gave the rationale.

- This authorization would move an EOA from one area to another. There are currently over 1,000 TIF agreements in Massachusetts. It is between the town, the state and the business. F. W. Webb has grown from 9 to 25 employees. They had the chance to buy the Mill Store, and they need the space.
- Councilor Milne asked what kind of jobs and pay. Buntich directed the councilor to a handout (See Exhibit B) that shows the salaries to be about \$75,000. The current building would be purchased by another company that will also have employees.
- Buntich said there is a reporting requirement. We are ready to monitor them. The company is ready to report since they have done this before.
- Councilor Munafo asked for an explanation of incremental growth. You start with a base tax valuation – in this case FY2010 - and that valuation goes up by a formula and the difference between the current and base valuation is the incremental growth. What happens to the money? Does it just vanish; or is it going to be redistributed to other taxpayers to pay for the TIF.
- Jeff Rudziak, Director of Assessing, noted that this gets diluted in the general tax rate – what is added in value is in this percentage over time. If you have a single rate – everyone pays it. Councilor Munafo said that he does not like to increase taxes on anyone.
- Councilor Crocker stated that the taxes that are paid now are being paid and will continue to be paid.

- Rudziak commented that the building and land is taxed. They can build something larger and will pay 65% on that addition.
- Councilor Milne looked at the positive value of the new jobs to the community.
- Councilor Curtis asked when the jobs would come on line. (Breakdown on the handout).
- Buntich said EOA can be declared in the future at that or other parcels. Each project is then made a special EOA. Councilor Farnham explained the EOA. Farnham referred to the exhibit – it shows that it encourages growth. It is a good program.
- Councilor Barton asked about the employees and where will they look to get them. They will try to attract residents. They train and move people upward.
- Councilor Crocker noted the answers to the questions brought up at public comment earlier in the evening.
- Buntich said communities are aggressively pursuing companies and we have to remain competitive. We are expected to do this.

Upon motion duly made and seconded, it was voted to move the question.

VOTE: Unanimous in favor

Upon motion duly made and seconded, it was

RESOLVED, That the Town Council of the Town of Barnstable delete the property at 108 Breed's Hill Road, Map 312, Parcel 31 from the previously approved EOA for the Route 132 area;

Designate the 108 Breed's Hill Road in Hyannis and shown as the land described in Barnstable Assessors' records Map 312, Parcel 31 as an Economic Opportunity Area designated as "F.W. Webb Company Economic Opportunity Area" (the EOA"),

Approve the Tax Increment Financing Agreement between the Town, F. W. Webb Company and RAM Construction, LLC, substantially in the form as presented to the Town Council (the "TIF Agreement"), and the Tax Increment Financing Plan pursuant to GL c. 40 Section 59, and which EOA,

And authorizes the Town manager to submit an Economic Opportunity Area Application, Tax Increment Financing Plan and TIF Zone, TIF Agreement, and Certified Project Application to the Massachusetts Economic Assistance Coordinating Council all relating to the project as described in the TIF Agreement to be located in the F. W. Webb Company Economic Opportunity Area and to authorize the Town Manager to take such other actions as may be necessary to obtain approval of the Certified Project Application, the Economic Opportunity

Area, the Tax Increment Financing Plan, TIF Agreement and TIF Zone and to implement the TIF Agreement.

VOTE: 1 No (Munafa), 8 Yes - Passed

NEW BUSINESS

2009-065 ACCEPTANCE OF \$1,000 GRANT FROM THE CAPE COD CHAMBER OF COMMERCE – INTRO: 02/26/09

Manager Klimm gave the rationale.

Upon motion duly made and seconded, it was

RESOLVED: That the Town Council hereby accepts the grant award in the amount of \$1,000 from the Cape Cod Chamber of Commerce for the marketing and promotion of Harbor your Arts.

VOTE: 9 Yes Unanimous

2009-066 APPROPRIATION ORDER FOR CEMETERY EQUIPMENT - INTRO: 02/26/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing to be held on March 5, 2009.

VOTE: Unanimous in favor to refer

2009-068 APPROPRIATION ORDER FOR THE VETERANS' BENEFITS BUDGET – INTRO: 02/26/09

Upon motion duly made and seconded, it was voted to refer this item to a public hearing to be held on March 5, 2009.

VOTE: Unanimous in favor to refer

2009-069 FY09 APPROPRIATION ORDER FOR CLEANUP COSTS - INTRO: 02/26/09

Councilor Farnham asked if there are insurance funds or third party culpability.

Upon motion duly made and seconded, it was voted to refer this item to a public hearing to be held on March 5, 2009.

VOTE: Unanimous in favor to refer

ACT ON MINUTES

Upon motion duly made and seconded it was voted to approve the minutes of February 5, 2008 with the following corrections: Councilor Milne said on page 2, ¾'s down , where he spoke in the 5th bullet, second line –going to be replaced should not be there, there has never been a sidewalk. It should say *now being proposed*. Two lines below that 3rd word, it should say *in his or her precinct*.

VOTE: Councilor Curtis and Councilor Farnham abstained (they had both been out of town at the last meeting); all others voted in favor of approving as amended.

LATE FILE

2009-073 – NSTAR & VERIZON NEW ENGLAND, INC – EASEMENT ORDER INTRO. – 02/26/09

Upon motion duly made and seconded, it was voted to refer this item to March 5, 2009.

VOTE: Unanimous in favor of referral.

LCP – A new version of the LCP amendments was presented, that included the amendments discussed earlier in the evening. Three small changes were made to this document: word “poor” was crossed out in the traffic neutral policy; the last sentence under the sewer neutral policy should read: If adopted, the sewer neutral and nitrogen limit policy may be amended from time to time to incorporate changes made necessary by policies, definitions or regulations adopted by the Commonwealth or the Cape Cod Water Protection Collaborative.

A motion was made and seconded to accept the language as amended in blue.

VOTE: 3 No (Crocker, Farnham and Munafo) 6 Yes - PASSED

COUNCILOR COMMUNICATIONS

- ✓ Councilor Munafo thanked Lynne Poyant for her help at the Senior Center. He also thanked the School Department, Patricia Grenier and Tony (no last name given) for the muffler that was put on the cogeneration plant – it has been great.
- ✓ Councilor Milne thanked Joanne Buntich for speaking at the Hyannis Civic Association meeting. He re-stated that he would like an update from the schools on how reserves have been used in the past. And, he also would like an update from the Manager on the airport expansion and the way the process works.
- ✓ Councilor Crocker thanked the manager. We have a series of issues and we need to take caution.
- ✓ President Chirigotis said that we not only mourned the passing of Attorney David Cole; but we now will create a special committee to find and appoint a new Cobb Fund Trustee.

TOWN MANAGER COMMUNICATIONS

Manager Klimm said that he has requested from the schools an analysis of savings and the other request on reserve spending. There is a need for renovations at the airport and we support conceptually the project; but there were 19 conditions that need to be met. We need a firm commitment that the funding is concrete. Not all preconditions have been met.

Manager Klimm also stated how sad the town is over the loss of David B. Cole. Klimm said that he will forever miss his intellect, honor, integrity and love for the town.

Klimm asked that the DPW Director, Mark Ells, give an update on the Barnstable Harbor. Ells explained that there are 3 viable alternatives at Barnstable Harbor – all steel, steel/stone and

stone. We will move forward with all steel. The steel is the more costly – the funding is not there to move forward. We need a funding mechanism. We are looking at all alternatives. There is risk involved – we will keep you advised.

Councilor Curtis asked what is the most dangerous time of the year when more damage can occur.- what risk we are running by not fixing it. Ells said the timber at the south end needs to be replaced and you can't gauge how long it will last. We have reinforced the area. Some repairs can be made. He could not say when the most dangerous time is – they will continue to monitor it.

Councilor Farnham asked if there is a parking impact. The steel option would keep the current parking. You lose parking when you go to stone.

Councilor Crocker asked if he is going to get permits for both and go with what you can get funding. Ells said we are funded to go one design one permit. We will find out about possibly doing 3 permits. We need a short term funding. Ells said if we go in-kind/in-place we will be fine.

Councilor Munafo asked about comparisons. Ells said the useful life 20 – 40 or more range. Steel vs. stone have similar lives. We have varying opinions on costs.

Klimm thanked those who came to the public hearings etc.

Manager Klimm announced that there is a flood insurance workshop coming up on March 19th to help residents reduce home insurance cost. He also welcomed Scott Lajoie as the new Cynthia Cole.

Councilor Rugo asked about the status of the new monies from the Feds. Klimm said we are in daily contact with the state delegation. There are many lists. The school will get some monies for special ed.

ADJOURNMENT

Upon motion duly made and seconded, it was voted to go in to Executive Session for the purpose of discussing personnel negotiations, and not to return to open session; at 10:43 p.m.

VOTE: Unanimous

Respectfully submitted,

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



NEXT MEETING: March 5th