

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
March 5, 2009**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order, despite a lack of quorum, at 7:00 pm, on Thursday, March 5, 2009, 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., Leah Curtis, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafo, Jr., Thomas Rugo, and Harold Tobey. **ABSENT:** James M. Tinsley, Jr.

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

PUBLIC COMMENT

John Julius asked the council to correct the map and parcel designation on the TIF to 324-024.002. He said that according to Item 2000-050 all meetings of the Council, School Committee and elected multiple member bodies had to be televised. A recent meeting of the Airport Commission was not televised and the videographer was not admitted to the hall. He also asked about the Airport's attorney re-signing the KMart lease for \$60,000 when the property could bring in much more. He is putting together a lengthy packet for Michael Sullivan. He will ask again next week.

John Alden, reminded the viewers of the March 12 public hearing on the proposed Charter. The Commission would like to gather voter comments. He also asked what would be saved by closing down schools when it will add to transportation costs. It seems like it could be wasted money.

Robert Tucker said that money is going out of the town and government from people who are not supposed to be here, taking the jobs and not paying the taxes. Money is also going overseas. It has got to be stopped.

School Committee

In Attendance: Francis McDonald, Chairman Ralph Cahoon, Thomas McDonald, Patrick Murphy, Superintendent Patricia Grenier and Asst. Superintendent Marie McKay.

Mark Milne, Director of Finance, gave the Financial Outlook & FY2010 Budget Planning. See PowerPoint Exhibit A)

- The Savings Account, 4.7% of revenue, is not expected to be used in FY10
- Assessments are mostly retired teachers retirement payments, for which the town is billed. An increase in retirees will increase the assessment.
- Town investments cannot be long term to keep the needed liquidity, but short term interest rates are lacking.
- Property tax growth will go to cover increase in municipal and school operational costs.
- State aid is based on the Governor's proposals. The House and Senate budgets are not done.
- Pensions have been hit hard by the market and the town's assessment will double.
- Veterans benefits are up due to the number of vets also losing jobs.
- If labor contracts, health insurance, fuel costs, etc., continue to rise, the revenue will not cover them.
- Pension reserves cannot be used for any other purpose.
- If the town is unable to generate savings, the savings cannot be spent.

Chairman Cahoon asked about the effects of the stimulus money. Milne said it will be for Title 1 and Special Education but with strings. He could see a one-time shot of about \$2.5 M. The

schools are ineligible for other funding since our foundation budget is less than net school spending requirements. Assistant Town Manager Thomas Lynch said most of stimulus for the town is for capital improvements, not operating money. Some grants are opening up for energy efficient vehicles, etc. They are monitoring every one. If the grant notification meets a priority, they can go after it.

Councilor Milne asked why it was just a one or two year grant for the Special Ed. Finance Director Milne explained that it was not a sustainability program. Cahoon added that they can't develop programs that then have a legal responsibility to continue beyond the funding. They need to know the ground rules which are not out there yet.

- Milne also asked what the County Retirement Board's purpose is if they are no longer managing the investments. Director Milne said they manage the checks and paperwork. It's just the investment aspect that is now controlled by the state.
- Milne brought up the quarterly tax billing and asked how many taxpayers have chosen not to adhere to the payment schedule. Director Mark explained the benefit of breaking the tax into quarters which lets the town invest it and make money. He will analyze how many have not paid the tax on time.
- Milne asked about the monies from the sale of the Grade 5 School and the Car Quest property. Cahoon said the money from the Grade 5 sale is limited to use for capital improvements – big ticket items. He wants to re-empanel the building advisory committee to look at major capital improvements needed and make recommendations. Milne appreciates the school's commitment to not use savings.

Councilor Joakim asked if grant money would be given to people who might be laid off. What about funding the unfunded mandates? Superintendent Grenier said the Federal stimulus money is coming as a grant. Supplanting, paying with a grant something that has been paid previously by operating money, is not allowed. The school could not use Title 1 funds to fund the salaries of elementary teachers cut. She would like relief or relaxation of some of the use of the funds with supplanting not tied to it. She will know more in April after attending a webinar to learn about the stimulus funds. Joakim added that it could be looked at as putting off the laying off.

Councilor Barry asked when the Marstons Mills School will become surplus property. Cahoon said the School Committee has not discussed what to do with the property. They have to be careful in letting it go because they may want to expand down the road. Maybe they would lease it to get revenue in the short term. Ultimately it will be a group decision with the Council.

Councilor Crocker said providing special needs services may cause people to come in (to town) to receive them. Other school systems may need to become more active in providing special needs services for their towns.

Councilor Rugo asked what the hard dollars were that increased the health insurance costs over the last three years. Cahoon said the superintendent made a presentation on this issue and she can provide it.

Councilor Canedy asked for the reserve fund history and was told it will be provided. The cost savings from school closings is about \$3M. Canedy asked if the closing of schools and keeping Hyannis East open has changed the plans for capital expenditures. Stimulus help toward capital funding is anticipated. Cahoon said the re-empanelled building advisory committee will look at the long term capital projects. In the short term, Grenier will look at capital improvements. Other school projects were submitted to the Governor through the town's submission.

COUNCIL RESPONSE TO PUBLIC COMMENT

- President Chirigotis said the council had already prepared a late file to correct the map/parcel error in 2009-067.
- Councilor Barton reported that the School Committee anticipates fewer buses will be needed because they will redistrict taking into account that some of the students who had been going to MME were not from Marstons Mills.

- Councilor Milne said the Airport Commission falls under the requirement to televise meetings and they should be televised. Mr. Santos ordered the videographer not to come. He feels this is reprehensible and there should be some council response to reprimand the behavior. On the Charter hearing, he urges the voters to attend and give input which is important to the passage of the document in November.
- Councilor Farnham heard a detailed presentation by Att'y. Gilmore on the KMart lease. There is a built in automatic extension unless the lease is in default. The lease did not expire and it is an automatic renewal.

President Chirigotis took Item 2009-069 out of order.

2009-069 APPROPRIATION ORDER FOR CLEANUP COSTS

Upon a motion duly made and seconded a public hearing was opened on this item at 8:25 PM.

VOTE: Unanimous

Superintendent Grenier gave the rationale. She added that a risk management firm was hired to do soil testing in the playground and other above ground areas. As a result, the School Committee must pass a policy never to grow vegetables on the grounds because the chlordane could get into them. Ass't. Manager Lynch added that the cost is \$231,904. The council's reserve fund will be replenished first, at the end of FY09, with excess revenue.

Upon a motion duly made and seconded the public hearing was closed at 8:31 PM.

VOTE: Unanimous

- Councilor Milne commented on the volume of the contaminated area and asked why the funds were not coming out of the school reserves, which are over \$1M. Grenier explained that, the clogged drain kept the bulk of the oil in the basement. Lynch explained that some reserves would be used in the FY10 budget. The thought was that the town could help out because this was an unforeseen occurrence.
- Councilor Farnham asked if insurance, grant monies, or 3rd party culpability could be tapped. Lynch said insurance was explored by David Anthony. There is no way to know who the culprit might have been. There might be Brownfield grant possibilities but it is unlikely.
- Councilor Munafo asked about the cost allocations. Ninety percent of the expense is for the chlordane clean up. The oil came into play because reports had to be written on that as well and it became packaged in with the chlordane. Grenier gave particulars of the costs, reviewing each billed item.
- Councilor Crocker explored when expenditures were made to determine what applied to FY09 as well as the portion of the cost relating to the chlordane; the oil was found in FY 08. Grenier said it was going to cost \$50,000 to close the oil piece. But when the retesting was done, the chlordane was discovered, which required its own process. All bills have been paid and they are all in FY 2009. Clean Harbors was paid in FY08, but none of that cost is in the current amount requested. Crocker would like to see them use their own savings to accept the shortfall.
- Councilor Canedy suggested splitting the cost. Lynch said it had not been discussed. Grenier explained that the school committee planned to save \$1M in their reserve account to be carried into 2010 in order not to have a shortfall. She shared that the estimated unemployment costs are between \$800,000 and \$1M. She was under the assumption that the money was coming from the council's policy reserve.
- Councilor Crocker feels there needs to be agreement on when and how we come to the well since there will be a variety of shortfalls. Unemployment, the move and this money are three dips into the town side.
- Councilor Rugo pointed out that on Jan 8, the town manager said the municipal side was not in a budget crisis but the school is. The council needs to rely on the manager's recommendations.

- Finance Director Milne explained that there are three savings accounts: school, town and council reserve. The latter is being used for this expense. It will be replenished first so it will return to the 4%. It is like a loan from the council reserve.
- Superintendent Grenier said this was the first time she has asked for help. They have had other unforeseen issues, but the unexpected discovery of the chlordane was remarkable.
- President Chirigotis said it was fortuitous.

A motion was made and seconded to move the question.

V

OTE: Unanimous

2009-069 APPROPRIATION ORDER FOR CLEANUP COSTS

Upon a motion duly made and seconded it was

ORDERED That the Town Council hereby appropriates \$231,904 for the cleanup costs associated with the Hyannis West Elementary School and to meet this appropriation that \$231,904 be transferred from the Town Council's reserve fund.

VOTE: 12 Yes (Roll Call)

Councilor Tobey made a motion that was seconded to reconsider Item 2009-069.

VOTE: 8 Yes, 4 No

Motion to amend 2009-069

I move to amend 2009-069 adding "In the event that any money is recovered for this purpose by a grant or insurance or otherwise, that money will be returned to the council's reserve fund."

The motion was seconded.

VOTE: Unanimous

On Amended Motion

2009-069 APPROPRIATION ORDER FOR CLEANUP COSTS

Upon a motion duly made and seconded it was

ORDERED That the Town Council hereby appropriates \$231,904 for the cleanup costs associated with the Hyannis West Elementary School and to meet this appropriation that \$231,904 be transferred from the Town Council's reserve fund. In the event that any money is recovered for this purpose by a grant or insurance or other wise, that money will be returned to the council's reserve fund.

VOTE: 12 Yes (Roll Call)

Discussion of Town Council Budget Policy Statement (Exhibit B)

- Councilor Farnham observed that the major growth is in salaries and would like to consider reducing the reserve balances from 4% to about 3.5%. Finance Director Milne said this would free up that sum of money for one year. The rating agencies would like the town to set aside much more – up to 10%.
- Councilor Munafo asked for the history of the 60/40 split. Milne said the policy was in place at the time he arrived in 1998. It was part of a prior decision. It is the council's prerogative to open up this discussion. Munafo suggested that the council should have such a discussion before they finalize the budget policy statement. President Chirigotis thought it would probably be discussed under the strategic plan.
- Farnham asked for Milne's input on changes. Milne has given CFAC that project and a report from them will be forthcoming.
- Councilor Curtis said the budget policy statement was not finished and not done in any formal way. The priorities under #2 were done a long time ago and much has happened since then. She would like to get an opportunity to discuss this.

- Councilor Tobey felt there were discrepancies between the budget policy statement and the strategic plan. Greg Milne agrees; there was a very high interest in roads and this is at the end.
- Councilor Canedy was also interested in how the order of #2 was determined.
- Councilor Milne asked Mark Milne what different ways there were to attack collective bargaining, from a policy standpoint. Milne, commenting generally, said to continue historical negotiated contract levels; COLAs are not sustainable under current economic scenario.
- Ass't. Manager Lynch asked for guidance regarding changes in some points as well as the reordering of the items.
- Councilor Milne asked if there were subjective judgments on what positions to fill when attrition occurs. Yes, they are subjective. The 60/40 split is relevant to this year's budget.
- Councilor Barton felt the 60/40 split was critical and it should be discussed tonight. The Council should match this budget policy statement against the strategic plan.
- President Chirigotis said no vote would be taken on this tonight.
- Councilor Canedy said the completion of the strategic plan should be done ASAP and have CFAC's report available.
- Councilor Cutis would like the strategic plan draft in hand, since the deadline of the 19th is coming. Some priorities are no longer hers.
- Councilor Munafo suggested that a workshop just on this issue would be doable.
- Councilor Canedy suggested all councilors review and send their suggestion to one designated person, to be forwarded to the president, then followed by a workshop to discuss what has been collected.
- President Chirigotis said he would schedule a workshop in a week.
- Councilor Barton asked if the school committee needed the split (60/40) information for the 19th. Chirigotis said the split is established between the town manager and the superintendent and then the council approves it.
- Councilor Crocker agrees with the workshop. Mark Milne pointed out that it was too late in the year to change the 60/40.
- President Chirigotis will find out the availability of the manager and then set a date.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to accept the minutes of February 26, 2009 with the following corrections: to Page 4, first paragraph add to end of last sentence the following: "but with sewer neutral policy in place we couldn't have saved the Horace Mann septic system." To Page 8 add "Lacina" which is the missing last name.

VOTE: 10 Yes, 2 Abstain (Joakim, Barry – not present)

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

- Councilors Canedy, Barton and Milne reported on various association meetings and activities.
- Councilor Munafo thanked the school department for responding to cogeneration plant issue at the high school.
- Councilor Milne clarified the extension of the town manager's contract with respect to the passage of the proposed charter. The entire government starts over and the contract extension does not preempt the status of that office. All contracts would be on a 6 month severance.
- Councilor Crocker would like LCP to put all three sections under one binder.
- Ass't. Manager Lynch announced that the Osterville Library was recently named a "5 Star" Library by the American Library Association. Over 7,000 libraries were surveyed and only 250 received the designation.

ORDERS OF THE DAY

OLD BUSINESS

2009-058 APPROPRIATION AND TRANSFER ORDER FOR FY09 PARKING ENFORCEMENT OPERATING EXPENSES

Upon a motion duly made and seconded this item was postponed to March 19, 2009.

VOTE: 11 Yes, 1 No

2009-066 APPROPRIATION ORDER FOR CEMETERY EQUIPMENT

Upon a motion duly made and seconded a public hearing was opened on this item at 9:50 PM.

VOTE: Unanimous

Assistant Manager Lynch gave the rationale.

Upon a motion duly made and seconded the public hearing was closed at 9:54 PM.

VOTE: No objection

Councilor Farnham said this work used to be done by private companies. Would it be outsourced again or is it better operated by the town? Ells said there were a significant number of plots available in Marstons Mills. Fees are comparable to other municipalities. Ells looks at the privatizing option frequently and the town's offering has been more cost effective since 1999.

A motion was made and seconded to move the question.

VOTE: Unanimous

2009-066 APPROPRIATION ORDER FOR CEMETERY EQUIPMENT

Upon a motion duly made and seconded it was

ORDERED That the sum of \$21,714.56 be appropriated for the Structures & Grounds Cemetery Program for the purpose of purchasing burial equipment used by Town staff to maintain cemeteries and perform interments in town cemeteries, and to meet such appropriation, that \$21,714.56 be transferred from the Town's Sale of Cemetery Lots Special Revenue Fund.

VOTE: 12 Yes (Roll Call)

2009-068 APPROPRIATION ORDER FOR THE VETERANS' BENEFITS BUDGET

Upon a motion duly made and seconded a public hearing was opened on this item at 9:59 PM.

VOTE: Unanimous

Ass't. Manager Lynch gave the rationale.

Upon a motion duly made and seconded the public hearing was closed at 10 PM.

VOTE: Unanimous

Councilor Canedy said this is an area she believes may receive stimulus funds. If it is included will the money be reimbursed to savings? Lynch said if there were reimbursements, they will be applied. This is the district share.

Councilor Crocker pointed out that the key words are that it is our share.

A motion was made and seconded to move the question.

VOTE: Unanimous

2009-068 APPROPRIATION ORDER FOR THE VETERANS' BENEFITS BUDGET

Upon a motion duly made and seconded it was

ORDERED That the sum of \$110,000 be appropriated from available funds for the purpose of funding the Town's FY 2009 Veterans' benefits budget.

VOTE: 12 Yes (Roll Call)

2009-073 NSTAR & VERIZON NEW ENGLAND, INC. EASEMENT ORDER

Upon a motion duly made and seconded it was

ORDERED That the Town Council vote to grant to NSTAR Electric Company and Verizon New England, Inc. utility easements in a portion of 141 Bassett Lane property (Map 309, Parcels 004 and 264) in Barnstable (Hyannis), Barnstable County, Massachusetts, as shown on a plan of land entitled, "PLAN SHOWING ELECTRIC EASEMENT OFF OF STEVENS STREET SCALE 1" = 50' OCT. 6, 2008 IN BARNSTABLE (HYANNIS) MA PREPARED FOR THE TOWN OF BARNSTABLE BY THE D.P.W SURVEY SECTION File:04093" a copy of which plan is on file with the Town Clerk's Office, and to authorize the Town Manager to take any steps necessary to finalize said easement.

Councilor Crocker gave the rationale. The Easement Plan was done by the DPW Survey Section. Councilor Milne applauds doing this as underground utilities.

VOTE: 11 yes, 1 Abstain (Munafo out of room)

NEW BUSINESS**2009-070 AMEND GENERAL ORDINANCES – WATER SERVICE FEE COLLECTION PROCEDURES**

Upon a motion duly made and seconded this item was referred to a public hearing on March 19, 2009.

VOTE: Unanimous

2009-071 GRANT ACCEPTANCE – MASS. CULTURAL COUNCIL

Upon a motion duly made and seconded it was

ORDERED, That the Town Council does hereby accept the grant award in the amount of \$40,000 from the Massachusetts Cultural Council's John and Abigail Adams Arts Program.

Joanne Buntich gave the rationale.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2009-071

VOTE: Unanimous

2009-072 APPROPRIATION & TRANSFER ORDER – HYANNIS WATER SUPPLY SYSTEM

Upon a motion duly made and seconded this item was referred to a public hearing on March 19, 2009.

VOTE: Unanimous

LATE FILE

2009-067 AUTHORIZATION OF A TAX INCREMENT FINANCING AGREEMENT

Upon a motion duly made and seconded it was

RESOLVED that the above-referenced resolution approved by the town council at its meeting on February 26, 2009 is hereby amended by striking the reference to Barnstable Assessors' Map 312, Parcel 31 and substituting therefore "Barnstable Assessors' Map 324, Parcel 024-002". In all other respects, the resolution of February 26, 2009 is ratified and confirmed.

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS

Assistant Manager Lynch introduced Scott Lajoie, the new Director of the Hyannis Business Improvement District.

Lajoie said he was previously with Cape Cod Magazine. He will be filling the very large shoes of Cynthia Cole, former director. The district is moving in a great direction and he is energized to tackle the upcoming issues.

Councilor Tobey made a motion that was seconded to enter executive session for the purpose of discussing land acquisitions and not return to public session at 10:15 PM.

VOTE: Unanimous (Roll Call)

Respectfully submitted,

Lucia Fulco
Assistant Town Clerk