

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
December 2, 2010**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7 PM, on Thursday, December 2, 2010 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., Debra Dagwan, Henry Farnham, Janet Joakim, J. Gregory Milne, John Norman, Thomas Rugo, and James M. Tinsley, Jr. **Absent:** James Munafo, Jr.

President Chirigotis led the Council in the Pledge of Allegiance and a moment of silence. Councilor Barry remembered the passing Julie Blanchard, former Barnstable police officer. Councilor Milne remembered the passing of David Simser, Barnstable County entomologist.

PUBLIC COMMENT

Paul Colye feels the town and state are killing business. Taxes, fines, fees and permits are increasing rapidly and he, as a laborer, feels it is keeping him from finding work.

Robert Tucker spoke about illegal people who are not paying taxes or excise taxes as well as not registering their vehicles. He also spoke about people illegally parking in handicap spots.

Al Baker requested that Fred Chirigotis be nominated for Council President and Jan Barton for Vice President. He feels that Councilor Barton has put much quality time into town issues.

John Alden discussed a pedestrian safety issue. He lives near where the young mother was killed recently. The issue needs to be addressed since many residents cross the road there and it seems to have become a problem.

COUNCILOR RESPONSE - None

Addition to Agenda: Presentation on Oil/Hazardous Materials in water at the Barnstable Municipal Airport

Airport Manager Bud Breault, introduced Joseph Longo from The Horsley Witten Group, Inc. and David DeLorenzo, from the DEP.

Town Attorney Ruth Weil opined that this last-minute addition to the agenda would not be against the requirements of the Open Meeting Law so long as no official votes were taken.

Joseph Longo, Engineering Associate made a PowerPoint presentation. (See Exhibit A) He reviewed the water quality throughout the airport, describing the remediation plans. Monitoring wells have tested under the minimum concentration allowed.

David DeLorenzo, DEP, said Barnstable has a high quality of drinking water. The water quality recently tested at airport wells is excellent. He reassures all that drinking water is in good shape. He worked on the early projects and was responsible for evaluating sites in the airport area. There is no indication that contaminants are moving, not even in surface water. They are being controlled. All drinking water standards have been met.

- Councilor Milne asked for more information about the Mary Dunn wells and the north central site – what about the sediment? Longo said that data from 2000 to 2007 have shown a decrease

in contamination to the sediment at the north central site. The next step, Phase 2, will determine whether the sediment should be removed.

- Mark Ells, DPW Director said Well MD2 has been shut down until contamination issues caused by the Fire Training Academy are addressed. Other wells are fine.
- Councilor Crocker asked when the issue was identified; Longo replied in the early '90s. Longo also designed the delineation map at that time. Final remediation needs to address the fact that the source is not migrating down. The contamination is parts per million in the drinking water.
- Councilor Canedy asked if yellow hatched area is a "brownfield". Longo said it could be termed that and the remediation cost is expensive.
- Councilor Norman asked for what is the Airport #1 well used: a test point? Down gradient wells were put in to continue monitoring the system. Airport 1 is not contaminated. Assessment could begin in FY12 if funds are available.
- Councilor Farnham asked about the status of the Fire Training Academy. Director Ells said the well it impacted has been closed and will not be reopened any time soon; perchlorate in the well was identified as coming from the Fire Academy. The town is working with the county on the issue. Tests are still detecting containments, but in much smaller amounts. There is no contamination in other wells.
- Councilor Canedy asked whether the town could consider a supplemental CIP request to get it funded in 2011. Manager Breault doesn't think it is an issue; however Canedy feels it has become a perceived issue among the public.

• **NStar presentation – 345 kV Transmission Project**

Henry V. Oheim, Jr., P.E., Project Director, NStar, made a PowerPoint presentation (See Exhibit B). Abutters at each potential site have been notified and asked to give feedback. The public hearing date is Dec 15, 2010 at Barnstable High School.

- Councilor Canedy asked if this was subject to Old Kings Highway regulation or review. The site located on Oak St. is while the other isn't. She asked for the list of abutters for councilors in the OKH, which he will send.
- Councilor Tinsley said Oak St. appears to have the lowest abutter impact. Mr. Oheim explained that the existing 345 kV line, built in the 1980s, and has half-life of around 50 years. It has been operating at 115kV which is less than it can handle; the conductors are very heavy.
- Councilor Farnham asked whether there are differences in the landscaping between what was approved and what exists. He suggested more buffering would add appeal to what is there and make the neighbors happy.
- Councilor Canedy suggested they consider contacting OKH for an informal discussion so any issues could be raised and explored to avoid an issue at a hearing.
- Councilor Barton asked if the existing substation would remain. Yes.
- Councilor Crocker suggested running the sites in parallel until a decision on one is made since both sites each have plusses and minuses. Mr. Oheim said that Nstar has no preference. Cost and public/town opinion will be weighed heavily. NStar's siting board could trump local zoning but he doesn't think they would do so. Crocker suggested having the ZBA review and asked about mitigation to the town. A mitigation agreement and memorandum of understanding should be negotiated sooner than later.

• **Town Council Nomination of Officers**

Assistant Town Clerk Lucia Fulco explained the procedure for electing the officers. Fulco opened the floor for nominations for the office of Town Council Vice President.

Councilor Barry nominated Janice Barton; Councilor Rugo seconded.

Councilor Norman nominated Gregory Milne; Councilor Crocker seconded.

Councilor Milne nominated Ann Canedy; Councilor Farnham seconded

Councilor Canedy nominated Henry Farnham; Councilor Milne seconded

Councilor Farnham nominated James Crocker; Councilor Norman seconded.

Councilor Crocker nominated John Norman; Councilor Milne seconded.

Councilor Norman nominated James Munafo; Councilor Milne seconded.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

A motion was duly made and seconded to close the nominations for Vice President.

VOTE: Unanimous

Fulco opened the floor for nominations for the office of Town Council President.

Councilor Rugo nominated Fred Chirigotis; Councilor Barry seconded.

Councilor Norman nominated Gregory Milne; Councilor Crocker seconded.

Councilor Milne nominated Ann Canedy; Councilor Farnham seconded.

Councilor Canedy nominated Henry Farnham; Councilor Milne seconded.

Councilor Farnham nominated James Crocker; Councilor Milne seconded.

Councilor Crocker nominated John Norman; Councilor ? seconded.

Councilor Norman nominated James Munafo; Councilor ? seconded.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

A motion was duly made and seconded to close the nominations for President.

VOTE: Unanimous

A motion was duly made and seconded to hold the election at the next meeting on December 16, 2010.

VOTE: Unanimous

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to postpone action on the minutes of November 17, 2010 to the meeting of December 16, 2010.

VOTE: Unanimous

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

Councilor Tinsley reported on the success of the new hostel that opening last spring in Hyannis. It was very successful and is looking forward to a successful next season. Councilor Dagwan announced the Christmas Stroll this weekend and the holiday festival at the Zion Museum. Councilor Canedy pointed out that fire alarm registrations are due 12/31. She asked that a report of numbers of alarms and revenues be prepared for this year. Councilor Barton reported on the superintendent search (Exhibit

C). She also said the annual Sleep-out will happen. Councilor Milne announced the upcoming Cape & Islands Selectman and Councilor meeting in Bourne and recognized the councilors who were at the Thanksgiving football game.

ORDERS OF THE DAY

Items 2011-033, 2011-034 and 2011-035 were taken out of order.

A motion was made and seconded to amend the sponsor on the above items to say Town Manager.

VOTE: No objection.

2011-033 ALLOCATION OF TAX LEVY FY11 – TAX FACTOR

Upon a motion duly made and seconded, a public hearing was opened at 8:30 PM.

VOTE: No objection

Jeff Rudziak, Director of Assessing, gave the rationale. He then made a PowerPoint presentation (See Exhibit D) relating to items 2011-033, 2011-034 and 2011-035.

Councilor Milne asked about the fine for not filing income/expense statements from commercial properties. The fine is now \$250.00 (was \$50). In the past, it was easier to pay the fine than filing.

Councilor Farnham asked about creating the financial statement. Rudziak created a model blending into norms and averages so as not to punish a good manager. He attempts to determine what is normal for the type of commercial property to come up with an equitable model for the middle range.

Councilor Tinsley asked how many of the 280 properties owners also own the business.

Councilor Milne asked whether there was a need for council legislation on the fine now raised to \$250. No. The law states the penalty.

Bill Putnam said the small business rate went up 50% and almost put him out of business. Why should businesses be penalized? He feels the form is unintelligible. He suggested handing in the financial report rather than the form. As an example, he said the fire department raised taxes to commercial properties even though residential properties more often use the service.

Skip Simpson, on behalf of the Hyannis Area Chamber of Commerce, said the split tax rate makes no sense while the commercial tax rate is already high. The room tax has increased 25%, and the meals tax has also gone up.

Robert Tucker suggested penalizing the people who are shipping money overseas and get that revenue for the town.

Upon a motion duly made and seconded, a public hearing was closed at 9:07 PM.

VOTE: No objection

2011-033 ALLOCATION OF TAX LEVY FY11 – TAX FACTOR

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the fiscal year 2011.

Councilor Milne will not support the Factor of One. He supports the split tax.

Councilor Farnham said so many businesses are struggling. Room tax and meal tax have increased. He would like to help the residents but cannot see shifting even the 10% of last year. He feels it is wrong to talk about it at this time.

Councilor Canedy did support split tax historically, but we are in the middle of a recession. She will support a Factor of One.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

On Item 2011-033

VOTE: 11 Yes, 1 No (Milne)

2011-034 ALLOCATION OF TAX LEVY FY11 – RESIDENTIAL EXEMPTION

Upon a motion duly made and seconded, a public hearing was opened at 9:14 PM.

VOTE: No Objection

Upon a motion duly made and seconded, a public hearing was closed at 9:14 PM.

VOTE: No objection

Councilor Canedy said this tax affects year round residents as well as second home owners. It affects many who are not wealthy and are struggling to remain in their retirement or ancestral homes. This is a progressive tax and she is against it.

Councilor Crocker reviewed the \$90,000 exemption amount vs. the property value. Rudziak explained that the advantage is in the value of the property. With a \$90,000 residential exemption, an owner of a \$110,000 value property would pay taxes on \$20,000. Crocker will not support.

Councilor Farnham said the benefit is to people who own the lower value homes and get the most help by this. He will support. Other cities and towns get more local aid and this helps mitigate the unfairness of the state's formula.

Councilor Barton also supports because it helps those who need it the most.

Councilor Joakim also supports. She heard that the tool was developed for areas like ours.

Councilor Milne said the second home market drove property values up on the Cape. Cape Cod has highest cost of living and lowest income in the state. A negative vote would create a tax increase. The recipients are folks who have to budget for the property tax payment.

Councilor Tinsley said Precinct 9 will benefit in the majority. Without the exemption, it will be a tax increase for those who can least afford it. It has helped many families. He will support.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

2011-034 ALLOCATION OF TAX LEVY FY11 – RESIDENTIAL EXEMPTION

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to adopt a Residential Exemption percentage of 20% for fiscal year 2011.

VOTE: 10 Yes 2 No (Canedy, Crocker)

2011-035 ALLOCATION OF TAX LEVY FY11 – SMALL COMMERCIAL EXEMPTION

Upon a motion duly made and seconded, a public hearing was opened at 9:26 PM.

VOTE:

Upon a motion duly made and seconded, a public hearing was closed at 9:26 PM.

VOTE:

A motion was duly made and seconded to delete word “not” from the language of the resolve.

VOTE: Unanimous

Councilor Tinsley feels a small business property owner should have the same benefit as small home owner. Councilor Crocker shares the feeling. He will support the exemption.

Councilor Joakim asked what effort would this take. Director Rudziak said they have to identify which properties are involved. The list of small businesses is large and the staff would need to get verifications, etc. In 2007, 223 businesses qualified.

Councilor Milne asked how many other communities do this. Not many. He will support the item. Councilor Norman said it seems like much paperwork for a little gain to the business. Councilor Tinsley feels the decision should not be made by how hard the employees have to work for the constituents.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

2011-035 ALLOCATION OF TAX LEVY FY11 – SMALL COMMERCIAL EXEMPTION

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to adopt a Small Commercial Exemption for fiscal year 2011.

VOTE: 6 Yes, 6 No (Barry, Canedy, Chirigotis, Farnham, Norman, Rugo) No majority. Item fails.

OLD BUSINESS

2011-028 ACCEPTANCE OF MGL CHA 188 S 66 EARLY RETIREMENT INCENTIVE PROGRAM

Town Manager John Klimm gave the rationale. This gives the town a tool to combat a non-rosy financial outlook. It also gives the town an opportunity to find senior employees who will retire rather than having to fire younger employees. He can't tell at this point how many will be interested and how much money it will save. He asks that the council allow him to use this as a tool and explore what kind of savings might occur. It might forestall the necessity to fire someone.

Councilor Canedy asked if this would be voluntary and would there be any temptation to pressure someone. Klimm said he would not pressure employees. However, not everyone who qualifies may be able to participate. Not all positions lost can be back-filled and still meet the law's spending limits. And if a number of employees from a department apply, and their departure would impair the function of the department, all of them will not be able to retire under the incentive.

Councilor Crocker asked if the first group who come forward are not able to go, would the offer happen again for others to participate. No, it is a one-time event. Once the deadline for submitting your name has passed, no others can be added.

President Chirigotis said the persons at top of the scale go while people lower on the scale and younger will remain.

Human Resources Director William Cole, in answer to several questions by Councilor Tinsley, explained that the town cannot go back to the pool for additional possible retirees. There is a maximum number allowed to retire and they must have seniority within classification.

Manager Klimm said the town could be looking at an excellent amount of savings. The last retirement package occurred 5 or 6 years ago and another one will not be done again for several years down the road. The intent of the law is that some positions be eliminated.

Councilor Tinsley feels there is some leeway to back fill with 30% of the salaries of all those going. Unused vacation and accrued sick time has to be forfeited to the retirement association.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

2011-028 ACCEPTANCE OF MGL CHA 188 S 66 EARLY RETIREMENT INCENTIVE PROGRAM

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts the provisions of Chapter 188, Section 66 of the Acts of 2010 authorizing the establishment and implementation of an early retirement incentive (ERI) program in accordance with the provisions therewith

VOTE: Unanimous

2011-030 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded it was

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

STEAMSHIP AUTHORITY PORT COUNCIL

Robert R. Jones, 65 Pinewood Road, Hyannis, representing the Town of Barnstable to a term expiring 12/31/2012

PLANNING BOARD

David P. Munsell, 3528 Main Street, Barnstable, as a member to a term expiring 06/30/2013

ZONING BOARD OF APPEALS

William H. Newton, 101 Curlew Way, Cotuit as a member to a term expiring 06/30/2013

A motion was duly made and seconded to move the question.

VOTE: Unanimous

On Item 2011-030

VOTE: 11 Yes, 1 Abstention (Canedy)

2011-031 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded it was

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

PLANNING BOARD

Cheryl A. Bartlett, 230 Gosnold Street, #10A, Hyannis, as a member to a term expiring 06/30/2012

ZONING BOARD OF APPEALS

Scott M. Harvey, 47 Lewis Pond Road, Cotuit, as an associate member to a term expiring 06/30/2012

Alex M. Rodolakis, 83 Blantyre Avenue, Centerville, as a member to a term expiring 06/30/2012

A motion was duly made and seconded to move the question.

VOTE: Unanimous

On Item 2011-031

VOTE: 11 Yes, 1 Abstention (Canedy)

NEW BUSINESS

2011-032 ACCEPTANCE OF \$1000 GRANT FROM THE ARTS FOUNDATION OF CAPE COD

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby accept a grant award in the amount of \$1,000.00 from the Arts Foundation of Cape Cod to market and promote the Harbor your Arts Program

Growth Management Director Jo Anne Buntich gave the rational.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

VOTE: Unanimous

2011-036 AMEND ADMINISTRATIVE CODE-ADMINISTRATIVE POLICIES & PROCEDURES

Upon a motion duly made and seconded this item was referred to a second reading on January 6, 2011.

VOTE: Unanimous

2011-037 AUTHORIZATION TO REFUND GENERAL OBLIGATION BONDS

Upon a motion duly made and seconded this item was continued to January 6, 2011.

VOTE: Unanimous

2011-038 FY11 SNOW AND ICE REMOVAL OVERDRAFT ORDER

Upon a motion duly made and seconded it was

ORDERED: That pursuant to Chapter 44, Section 31D MGL, which provides for the ability of the Town to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal; the Town Council approves expenditures in excess of available appropriation for snow and ice removal for fiscal year 2011, subject to further approval action by the Town Manager

Manager Klimm gave the rationale.

Councilor Crocker said the past practice has been not to be specific but to provide flexibility.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS

Manager Klimm announced that the annual fee hearing is Dec 7 at 1 PM. A fee schedule was provided. (See Exhibit E) He also said that CFAC reviewed the Administrative Code regarding financial issues. The CFAC packet (Exhibit F) was given to the council.

Vice President Crocker made the following motion, which was seconded:

In accordance with the Open Meeting Laws, I move to go into Executive Session to discuss strategy with respect to litigation on the basis that I declare that an open meeting may have a detrimental effect on the litigating position of the Town and not to reconvene is Open Session.

Upon a motion duly made and seconded the open meeting was adjourned at 10:25 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk

EXHIBITS:

- A. PowerPoint Presentation: Oil/Hazardous Materials in Water at the Barnstable Municipal Airport**
- B. PowerPoint Presentation: NStar update of the Lower SEMA 345 kV Transmission Project**
- C. List of Superintendent Search Committee members and a Superintendents Salary & Benefits Schedule**
- D. PowerPoint Presentation: Proposition 2 ½ and Tax Levy Shifting Options**
- E. Notice of Public Hearing on Permit & Fee Changes and a List of Fees**
- F. Notice of Public Hearing on Changes to Code Part IV, Cha 401, Article IV Financial Management Procedures**