



TOWN COUNCIL SPECIAL MEETING JUNE 23, 2011

A quorum being duly present, Council President Frederick Chirigotis called the June 23, 2011, Town Council meeting to order at 7:00 p.m. in the 2nd Floor Hearing Room of Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Debra Dagwan, Henry Farnham, J. Gregory Milne, James Munafo, Jr., John Norman, Thomas Rugo. **ABSENT:** Janet Joakim, James Tinsley

President Chirigotis led the hall in the Pledge of Allegiance, followed by a Moment of Silence.

Continuation and wrap-up - Landfill Solar Project Workshop

Richard Elrick offered to answer questions on the project. He emphasized the importance of being able to move forward on this matter on July 14, 2011. They want to make sure that any councilor concerns are laid on the table tonight so that they can address them.

As far as revenues from this project, after staff discussions, Elrick wanted to make sure the monies got put right back into additional renewable energy projects. Another suggestion was to float a bond and pay for the bond with the revenue.

Councilor Dagwan asked what would happen in the case of a catastrophic event. What would the response time be with replacement? She was told that there are backups all along the way. The company will guarantee an annual output; they have insurances and will restore it. She asked if there have been problems in other areas. No one will be without power.

Attorney Charles McLaughlin said the company has a good reputation and they have done a lot of other projects and have strong financial backing. Dagwan said she feels the company is good.

Councilor Crocker asked about financing and are there wrap mortgages? Each town has a separate LLC doing each project. Nothing should snowball between the projects.

McLaughlin said they will get the answer. Crocker asked about the leasing to CVAC and when it passes. If they pass things off or there is limitation on leveraging he wants to know. Attorney McLaughlin will get Kevin Batt to answer the questions. He did thank everyone on the committee.

Councilor Milne wanted to share some of the movement as far as the price changing from the beginning. Early on the price was close to 7.9 cents and it came down a full penny and that was significant. We are getting a phenomenal deal. He stated that most of the meetings of the sub-committee were taped.

Councilor Norman would not like to obligate the money for future councils. He was told and was hoping we will be expending less money on our utility bills. He would like to see this as a savings for this town. I am not overly enticed about the green energy – he is looking at it as a money savings. My personal opinion is we need to have cost savings.

Richard Elrick said it is a policy decision. It is going to be the case where we will get money on a monthly basis. That check will have to go somewhere. Special enterprise accounts can be developed. Doesn't it make sense to invest the money to make a greater return, asked Elrick? It will be an important question.

The company has been issuing monthly checks. Attorney McLaughlin said it is a wonderful problem for you to best spend the dough.

Executive Session Contract Negotiations Non-Union Employees, Town Manager John C. Klimm

Upon motion duly made and seconded it was voted to go into Executive Session to conduct contract negotiations with non-union personnel, Town Manager John Klimm, and to reconvene in Open Session.

VOTE: Roll Call – 7 Yes 4 No (Barry, Barton, Chirigotis Dagwan) 7:38 pm

Reconvened at 8 pm – brief recess for making copies of contract.

June 15 and 16th executive session minutes were under discussion. All were reminded that the council only met on one of those two days, the other was a sub-committee of the council.

Attorney Ruth Weil said regarding the rules of release, the AG stated that evaluations are public record. Minutes can be released once the purpose is no longer relevant.

Attorney Weil noted the minutes of the 15th were sub-committee minutes and that committee would control their release. If the sub-committee wants to meet they can. The minutes would have to be retrieved from the vault since the council did not have them. Councilor Barry said let the committee vote and get the minutes released. He would move on the 16th minutes. Councilor Crocker called for bifurcation and said he respectfully disagrees.

Councilor Rugo, as a member of the sub-committee, wanted to review the minutes of June 15, 2011, so he moved and it was seconded to go into Executive Session to discuss to the extent relevant to review the draft minutes and such complaints, to discuss contract negotiations with non-union employees, and the reputation and character of that non-union employee. At the conclusion of the Executive Session, the sub-committee shall reconvene in open session.

Upon motion duly made and seconded it was voted by the sub-committee to move the question.

VOTE: 4 Yes – (Dagwan, Farnham, Crocker, Rugo)

VOTE: On going into Executive Session and coming back into open session thereafter – ROLL CALL – 4 YES – Dagwan, Farnham, Crocker, Rugo

The Clerk retrieved the minutes of June 15, and the sub committee convened and came back into open session at 8:58 p.m. Chairman Crocker thanked the council and public for their patience.

At that point the council then wanted to approve the minutes of the June 16, 2011 meeting so they moved and it was seconded to go into Executive Session to discuss to the extent relevant to review the draft minutes and such complaints, to discuss contract negotiations with non-union employees, and the reputation and character of that non-union employee. At the conclusion of the Executive Session, the sub-committee shall reconvene in open session.

VOTE: 11 Yes (unanimous) – 9:02 p.m.

Reconvened at 9:28 p.m.

B. NEW BUSINESS

2012-001 APPROVAL OF A CONTRACT WITH BARNSTABLE TOWN MANAGER AND ITS EXECUTION – INTRO: 7/14/11

Councilor Crocker read the item in to the record and it was seconded. Crocker said the sub committee reported to the council and the council agreed to bring it into the public forum.

Councilor Barry said he has not seen a sub-committee report. He noted that we just had an outline of the negotiations. He asked Councilor Crocker for the rationale. Crocker said it is in accordance with a vote that was taken in Executive Session. The sub committee gave information to the full council in the form of a contract and that was what it was about.

Councilor Barry said you did not release the minutes to the full council. Atty. Weil cautioned that these should be kept until such time as the contract is signed or negotiations end.

Robert Tucker said this man has been a fair man and he is working for the town. Mr. Klimm helped people. You are losing a very, very good man. Sometimes the banana peel might be on you people. God help the town if that is the way you are.

Royden Richardson said John Klimm has been a friend of mine. He told me he was going to run for Representative and I asked him if he thought he could win, and he won and then won every election he went into and served the town with distinction. Richardson said he was on the search committee for a new town manager. It was a trying time – there was no question Klimm was the man for our town. He has accomplished things we did not think possible.

Richardson also noted that Klimm has been recognized for the fine work he has done. I am sorry that not everyone agrees with me, said Richardson, but he also stated that he doesn't always agree with them either.

Bill Nicholson said he heard about this meeting over the radio and had no idea that something like this was going on. He stated that Klimm is an intelligent, hard-working public servant. I don't know what the reasons are, he said, but my gut says it is vindictive, and petty. Who would want to come to this place? I urge you to think about this. You have not distinguished yourself. Reconsider for the sake of the town and yourselves.

Sue Rohrbach said while the manager has helped on redevelopment, the town has won awards. I am appalled at what will happen. I see this agreement as financially foolish with no reasons for this action. There has been little or no open discussion on any reasons. No one would even know this was going on. How will you explain this to your constituents; and it will cost the town well over \$200,000 with little or no public notice. It is not fair to anyone and to a man who has served this town for over 25 years. She has served on many boards and said that this is the worst process she has ever seen. I am appalled.

Mimi McConnell noted that the previous speakers have said it all. I am appalled and puzzled and disturbed. The citizens will feel disheartened. The public is disheartened due to lack of cooperation, disappointed due to lack of respect. There is little civility on the council. She was dismayed at the council not finding common ground. I know that even if people disagree, if you care, you will forget your personal prejudices and find the common good. I hope that you will rethink your actions; and think how you act in the future. Get over the polarization that has marked the council, the power trips and partisanship. You can do better, and I pray you will.

Len Gobeil said he sat where you sit. We (as councilors) enjoyed it a lot more than you seem to be enjoying it. Mr. President, thank you for allowing the general public to speak on this issue. My question goes to the agreement in regards to page 2 item 4. Can someone explain what the total figure is? The final question is where is it coming from. Was it put into your budget? Is it coming out of this budget?

Meg Loughran asked the councilors who are in favor of this for each person to give one specific reason as to why you are doing this. I want to hear from you a reason to terminate this man.

Royden Richardson said each councilor comes with a dream or vision. One councilor after he was elected, asked to come visit him and he did. The councilor said Darby's off the plate, the manager is gone, and Bob Smith has a target on his back. Why did he run for the Town Council? Those comments have disturbed me for years acknowledged Richardson.

Helen Bresnahan asked everyone to take a good look at the space between Barbara Ford and Tom Lynch, and noted that it may not be filled. Or, she noted it could be filled by someone we don't know, and someone who doesn't know our town. You may have to let other people go. Are you going to be treating these employees the same way you treated Mr. Klimm. Employees are concerned about that and Mr. Klimm and Mr. Lynch.

Councilor Barry stated that he started when Mr. Klimm joined us. He said he is stepping down in November because he wants no more part of this. The Town Manager has a AAA

bond rating during a recession. We have a new youth and community center; we have conservation land. I come here and listen to open government. This is disheartening and it is political. I would like the reasons. He thanked John Klimm for his hard work and dedication. He said he did not want Klimm to leave. He reminded everyone that there is an election in November. Pull papers and run.

Vice President Barton said to say this is difficult would be an understatement. As you saw when Pres. Chirigotis asked for discussion, none of the proponents raised their hands. I think everyone said how I feel. Klimm is a man of dedication and integrity. He is possibly thinking about what is best for this town, and wants to get it over with and to get closure. It has been bad. Barton said she could not imagine what it is like to be in his shoes. Klimm deserves so much better. I think this is huge. I think people need to know what is happening. I think this requires a full council vote. We have to live with this.

A motion was made and seconded to move to postpone this item until a date certain when the full council is present (July 14, 2011).

VOTE: 5 yes (Chirigotis, Dagwan, Barry, Rugo, Barton), 6 No - Did not pass

Councilor Dagwan stated that the council has been divided on a lot of issues and it concerns her as a new councilor. I have seen our town manager bring us through good and hard times. To see what is happening with the council and this decision is troubling because we are split. People have no reason. We gave him a 5 year contract and he was given good evaluations. I have received numerous emails and phone calls on this. I prayed about this I try to put myself in that position and how I want to be treated. I would want openness and fairness. I hope he (Klimm) will receive that same kind of openness. There needs to be a rationale for that change; and we need to find out where the money is coming from.

Councilor Rugo said \$238,000 would be the approximate cost. He has heard no basis for removal. What is wrong – nothing is wrong. Twelve out of thirteen councilors extended his contract. The town is doing well, we even have lifeguards. There is no reason, no cause. Who is paying for this, me and you are. People are concerned about the money – this is outrageous. Any golden parachute should become their poison pill.

President Chirigotis said the numbers are far greater. We will have to replace him. When it is toxic, you will have to pay a big paycheck. Standard and Poors gave us a AAA bond rating, we are strong financially, and a model for cost savings. We are in a great position to cut the legs out from under the town manager for no reason and to take over – I don't see it happening. You (some councilors) are in jeopardy for mean petty behavior. He said some statements are made that it is business. We have great business minds on this council. The budget is balanced, no cuts, no layoffs. We have a consolidated financial effort led by the Town Manager. We just hired new police departments. They are certified.

Chirigotis said he has heard the cry for open government, clarity – if you are satisfied that we have gone through a transparent process then I am ok. Can you point to a single article or conversation that rises to remove the town manager? We are offering him a contract that will end sooner than his current one. Honesty, fairness and commitment – remember back when you looked a man in the eye and shook his hand and you made a deal. Tonight I call upon the town manager to release the evaluations. Not a single person has offered a criticism. It is your job if you have an employee you need to change, you tell them what needs to be improved and changed and if you fail to speak it must be ok.

President Chirigotis said he can't support tonight's action because it is not good business. You have to separate the emotional from the personal. Tell me why this is a good business deal? There is no single reason to change the town manager.

Chirigotis suggested that this matter be taken off the table and you apologize and let's move forward. What is the plan from here – do we wing it. Has this been budgeted for, absolutely not?

He said he felt that this has not been thought through; it challenges the town's financial position. We are becoming a banana republic. What about every department head with contracts?

A motion was made and seconded to table this item.

Councilor Crocker thanked Mr. Klimm for his time. He said he hopes things move along. There is no termination it is something completely different. If he is not happy he won't sign it and then there is nothing. Crocker said to President Chirigotis that the council will be looking to him to bring us forward and he is praying for a way to lead us.

A brief recess was taken

10: 22 pm the council was back in session

Vice President Barton and President Chirigotis let the public know that a person who wanted to be heard in general public comment was called out of order because we were not in a general public comment session. We were discussing an item and he was out of order. (Patrick Page).

Councilor Rugo said that the Manager doesn't want to leave, but he can't work with a 7/6 divide. He needs 9 people supporting him.

Councilor Norman thanked the people who came and stood up and asked questions. The money, he explained is a year and a half buyout. Klimm's buyout represents .001% of the budget. Norman noted that we did not fill the Rec. Director's position. His job was parceled out. The town manager has an excellent staff and they put in many long hours. There are department heads who are qualified and could step into the role of temporary manager. A lot of the discussion is personnel based and therefore it is not open by law. This manager has done many good things. Norman said he saw in Klimm someone who looks tired of the process, the attacks and blogs. This is not a personal attack. I believe it is time for a change. I appreciate the call for transparency. It depends on the issue as to how the votes go.

VOTE: 4 yes (Chirigotis, Barry, Barton, Rugo), 7 no on motion to table

Councilor Munafo moved the motion and it was seconded

Councilor Rugo stated that Klimm's staff may leave. He picked the excellent staff that he has; now they may be part of the cost of this...it is wrong for the golden parachute.

Upon motion duly made and seconded a motion was made to move the question.

A charter objection was raised by Vice President Barton.
Attorney Weil said the approval of this item is a non-measure and therefore charter objections are not able to be raised.

VOTE: on motion to move the question. 3 No (Chirigotis, Barton, Barry) 8 Yes

Upon motion duly made and seconded it was

RESOLVED: That the Town Council approves a contract with the Town Manager and authorizes the Council President to sign on behalf of the Council and the Town of Barnstable.

VOTE: 6 Yes, 5 No – (Barry, Barton, Chirigotis, Dagwan, Rugo)

Upon motion duly made and seconded it was voted

TO ADJOURN.

VOTE: 11 Yes at 10:38 p.m.

ADJOURNED AT:

Respectfully submitted,

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

NEXT MEETING: July 14, 2011

Upon