



## TOWN COUNCIL MEETING September 22, 2011

**A** quorum being duly present, Council President Frederick Chirigotis called the September 22, 2011, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

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

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

### **PUBLIC COMMENT:**

- Patrick Page – my rights have been taken away from me for over a year. He has asked for help on his problem for over 6 years. There has to be some shame in all of you. Why is it that I have asked and nothing has happened? I want to apologize to Mr. Burt for the last meeting; I was wrong and I am sorry. My rights have been violated. I have a right to speak. You people are driving me crazy. I am not being treated with dignity. I am owed an apology. I have been trashed by this community. I have been trying to save a house. You will never win this argument.
- Jane Saunders – we are here and will be here until something is done about the problems we bring forth. We have offered to settle. Why would people not want to offer a counter offer? We want our lives back. We have no great fun coming here. Don't you want to bring this era to a close? It makes no sense. The time to settle and work with us is now.
- Mr. Page said in the beginning Councilor Farnham saw his documents and heard him when he said he did not want to sue the town. He has been persecuted.
- Steven J. F. Scannell – spoke on designer drugs being sold under the counter in Hyannis. They are due to be phased out in November. These are chemicals and are leaving people disabled. They are being sold as bath salts and incense. Don't let this confuse you. It is called spice or K-2. One shop owner does not want to sell it. Europe has banned it and six states have banned it. Can we start a focus group? It will crop up again. Local boards of health would be a good place to start.
- Robert Tucker (addressed councilors as their precinct numbers). Tucker said 4 is honorable; he thought that number 3 tried to say the same speech as JFK and that was not right. He said number 3's opponents want Manager Klimm back. Let the 6 people who want Klimm out pay the money. People are disgusted.

- Herbert Bodensiek – wants to know what it will cost to get rid of Manager Klimm and who will take over for him.
- John Alden – these primaries are a waste of time. With such a poor turnout – why did we have it? The recent charter suggested everyone run at the same time.
- Alan Burt – regarding spice and bath salts, stated that they are causing brain damage. If we know people are still selling them, can't we ask them not to sell them? He apologized for his statements from a prior meeting that may not have been fair. You have gone too far; but, you have also done an admirable job. You have a division and hence are not a strong council.

## **COUNCIL RESPONSE TO PUBLIC COMMENT**

- Councilor Joakim said she figured it would cost \$230,000 to pay Manager Klimm for his salary, which did not include vacation, and health insurance and other costs. What is the plan? Did anyone ask for calculations? We also have to hire someone to replace him. She quoted the cost of recent hires in nearby Cape communities. Who is going to want to work here? What was the plan to replace him? Are we misleading people?
- Councilor Milne noted that it would be good to have someone respond on these designer drugs. Also one speaker addressed the charter. He noted his involvement in a court case with the town. The judge's decision went in his favor. He said the charter commissioners also spoke of an ombudsman to work with the public. On another matter – he said as far as the 6 of us – we are individuals. Please understand you have 6 individuals who looked at a question. The councilors have term limits; maybe the manager needs term limits.
- Councilor Dagwan responded to the designer drug issue by stating that the Hyannis Civic Association has a drug task force and would be happy to work with Mr. Scannell. We had a problem last year with an item that was being sold in a store near a school – and the store owner removed it.
- Councilor Farnham received an email from John Kelly from Marstons Mills. He asked the councilors to work hard to get along better. He wanted to know why the seating arrangement is as it is. It was suggested to sit by precinct. Farnham said we did sit by precinct when he was President. Also it was our choice for a while where we sat too. Maybe we do need to change our seating. As far as the compensation for the manager, the committee worked the numbers and figured out the salary and insurance costs and divided it by 18 months. Klimm also is entitled to unused vacation and sick time..
- Councilor Rugo – said if we pay him out we still have to pay for someone to be the town manager so we will be doubling that. It is how you look at it.

- President Chirigotis had previously asked the finance director to look at the numbers and asked him to report to the council.

Mark Milne, Director of Finance, analyzed the cost of the severance package, which included the transitional period to Dec. 15, and the remaining contract to March 2013. He identified: insurance, disability, health, vacation, payroll, sick leave buy back, Medicare tax and unemployment – for a total of \$347,330. (See Exhibit A )

- Councilor Joakim said that does not include the cost of a new manager, searching for a new one, etc.
- Councilor Rugo said you can back out vacation and sick leave that the manager would get whenever he left.
- Councilor Barry asked where the money is going to come from.
- Councilor Crocker thanked Councilor Rugo for serving on the committee. He tried to set some of the figures straight. It appears that some councilors are shooting at councilors who are running for office. An investigation could have cleared the air. There were 3 attempts to take back the vote. It is what it is.
- President Chirigotis said a councilor called another and said he had 6 votes to get rid of the town manager. The manager was told he was all done and this was done in March.
- Councilor Norman said he came to the meeting assuming the mud slinging was over. It won't keep going. Do you have the facts? You said the 6.
- Councilor Milne said this is conjecture.
- Councilor Barry then stated that on March 10 he was in the airport and received a call from Councilor Crocker who was upset over Donald Grissom's departure. Mr. Crocker said there was a situation at the Regatta in Cotuit and the waitress was John Klimm's niece...and he (Crocker) felt Grissom was being terminated because of it. Mr. Grissom did not want to have an evaluation and did not want to sign a contract, he wanted to be an at will employee.
- Councilor Crocker said as far as the car ride – he called up John and they decided to drive around and talk and this was before he talked to Councilor Barry. He said he (Crocker) told him (Klimm) he could no longer support him. We shook hands and Klimm left the car. Then conversations pursued. He also went over to Councilor Barry's office with letters surrounding the Regatta issue. Barry told Crocker "Fred is acting unfair, but I'm not ready to hang John over it." Rick, correct me if I am wrong?
- Councilor Rugo suggested we move on.

## **ACT ON MINUTES**

The minutes of June 16, 2011 – A motion was made and seconded to accept the minutes with the following correction: 2<sup>nd</sup> page Councilor Milne asked that the word Secretary be put in instead of Clerk of the association.

**VOTE: 11 yes; 2 abstentions – Crocker/Tinsley**

The minutes of June 23, 2011 – A motion was made and seconded to accept the minutes as written.

**VOTE: 11 yes; 3 abstentions - Crocker/Tinsley/Joakim**

The minutes of July 14, 2011 – A motion was made and seconded to accept the minutes with the following correction: Councilor Tinsley said on page 6 his daughter as well as many other students was invited to the State House by Sen. Dan Wolf.

**VOTE: 12 yes; 1 abstain - Crocker**

The minutes of August 4, 2011 – A motion was made and seconded to accept the minutes as written.

**VOTE: 11 yes; 2 abstentions - Crocker/Abstain**

The minutes of September 8, 2011 - A motion was made and seconded to accept the minutes as written.

**VOTE: 11 yes; 1 abstain – Crocker (Rugo out of the room)**

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

- Vice President Barton announced two committee meetings including a No Place for Hate meeting.
- Councilor Farnham noted the progress of the airport complex and the invitation to visit it.
- Councilor Canedy asked about the status of the Executive Session minutes (they will be brought up at the next meeting). She announced the Renewable Energy Com. and how they are looking at solid waste. One solution is curbside pick up and one is pay as you throw.
- Councilor Milne said he hopes that we will take advantage of our neighbors who have had curbside pickup and bring in their experts. We all produce trash. He asked for a department response on designer drugs. This preliminary (referring to the recent election) landed in a tie and created a quagmire. He questioned the charter and the

language in it and asked what will happen in November if the top vote getter does not have twice the number of votes.

- Councilor Dagwan said she and Councilor Farnham went to the airport commission meeting. She said tours will be given soon. She explained some of the other projects that are in the planning phase. She also announced some upcoming events at the HYCC and announced the NAACP fashion show.
- Councilor Tinsley addressed the curbside pickup and asked about possibly holding a workshop on it.
- Councilor Canedy said the Renewable Energy Com. has to finish their research and will then come back with the CFAC for a presentation on curbside pickup.
- Councilor Rugo asked for the video on curbside pickup to be saved on disc for a reference.
- Councilor Milne asked about a wastewater update from the Citizens Advisory Com.
- Asst. Town Manager Lynch stated that on Oct. 6 the drug issue will be addressed. He thanked Mr. Scannell for bringing it forward.
- President Chirigotis said it is the misuse of a legal product that is the problem. While they are legal, it is difficult to handle it. (referring to the drug problem)
- Town Attorney Ruth Weil said normally in a run off it will leave two spots remaining for the November ballot but in the case of a tie in a preliminary it is different. She will re-look at it, but does not believe there is a problem.
- Patrick Page came back to the podium and was called out of order and was ushered out of the room.

## **ORDERS OF THE DAY**

<b>2012-005 ADOPTION OF THE TOWN OF BARNSTABLE MULTI-HAZARD MITGATION PLAN – INTRO: 8/4, 9/8, 9/22/11</b>
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Joanne M. Buntich gave a brief rationale see attached Exhibit “B” that explained the mitigation plan.

Councilor Munafo asked what would happen if we did not adopt this. Buntich said we have never completed one. There is no particular penalty, but we do get notices from the State and unless we adopt a plan we cannot apply for and possibly receive some grants. Some elements are required. Councilor Munafo moved and it was seconded to go to page 30 of the plan and remove action 5.

Buntich said this has been public since the beginning and is on the web. What you edit might cause us to go back to the process again.

Councilor Canedy asked about the plan. Buntich said this began prior to her being in her position. We picked it up with the goal to finish it. This is a fresh process and followed the public process. Canedy questioned the dams in town and their status. Buntich said they are considered hazardous based on what they are.

Councilor Joakim asked about deadlines and if we could postpone the item. (Deadline not until beginning of the year).

Councilor Farnham noted that on page 35 action 24 has to do with fire standards. West Barnstable homes are surrounded by woods. This is a town-wide document – but this is a fire department issue. Buntich said the fire departments worked on this as well.

Councilor Canedy participated in a group that had received a wildfire management grant and it came through conservation and we worked on an implementation plan for Barnstable Village. They planned to go by fire district and by village.

Councilor Tinsley noted that this has been approved by the State and Federal levels, if we are changing something they have approved, wouldn't it have to go back for approval? He questioned the process for a reduction on flood insurance. Buntich explained the process which would be a step toward flood proofing areas.

Vice President Barton said she would not be in favor of postponing but would be ready for a vote.

Upon motion duly made and seconded it was voted to postpone to Oct. 6, to get an answer if amended would it cause the plan to be re-certified.

**VOTE: 10 yes; 3 no Canedy/Chirigotis/Barton**

**2012-018 AUTHORIZING THE TOWN MANAGER TO EXPEND FUNDS FROM COMCAST LICENSING FEES FOR THE BARNSTABLE FIBER OPTICS NETWORK (BFONI-NET). – INTRO: 9/8, 9/22/11**

President Chirigotis stated that item 2012-018 would be postponed to no date certain.

**2012-025 ACCEPTANCE OF MGL CH. 40, SEC. 13C WORKERS' COMPENSATION RESERVE FUNDS & DESIGNATION OF DIRECTOR OF FINANCE TO MANAGE SAID FUNDS – INTRO: 9/22/11**

Asst. Manager Lynch gave the rationale. Finance Director Mark Milne also explained the process of being self-insured on workers comp.

Councilor Munafo asked if we are going to be setting this up every year. Milne said if we decided NOT to do it anymore – we would have to pay anything outstanding.

Upon motion duly made and seconded it was

**ORDERED:** That Section 13C of chapter 40 of the Massachusetts general laws is hereby accepted and the Town of Barnstable Director of Finance is hereby designated to manage said reserve funds.

**VOTE: 13 yes**

**2012-012 TRANSFER \$950,500 FROM EMPLOYEE BENEFITS & INS. INTO INSURANCE RESERVE TRUST FUND FOR SELF-INSURING WORKERS COMP. PROGRAM – INTRO: 8/4, 9/8, 9/22/11**

Asst. Manager Lynch gave the overview. Mark Milne, David Anthony and William Cole were present for the rationale. Milne said Anthony put the insurance package out to bid. Unfortunately, no one wants us for property and casualty insurance. However, the quotes we did get fell into the budget amounts. The workers comp did not fall within the budget – so we decided to self-insure for this year.

Councilor Crocker asked about bifurcating out some of the insurances. Milne said we did that and also looked at self insuring on other parts too.

Councilor Munafo asked what was paid out last year. Mr. Cole from HR said 2010-11 had a cost of \$488,000. He has the history going back to 2007, which averages out to \$650,000. The highest was \$899,000 with a low in the \$400,000's.

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

**VOTE: Unanimous.**

Upon motion duly made and seconded it was

**ORDERED:** That the sum of \$950,500 be transferred from the FY12 appropriation for Employee Benefits and Insurance under council order 2011-122 to the Town's Insurance Reserve Trust Fund for the purposes of self-insuring the Town's FY12 Worker's Compensation Program.

**VOTE: Unanimous**

**2012-016 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION – INTRO: 9/8, 9/22/11**

Upon motion duly made and seconded it was

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

**BOARD OF ASSESSORS**

Jeremy F. Gilmore, 27 Broken Dike Way, Centerville, as a member to a term expiring 06/30/2014

**COMMUNITY PRESERVATION COMMITTEE**

Lindsey B. Counsell, 1183 Old Stage Road, Centerville, as a member to a term expiring 06/30/2014

Terry Duenas, 690 Cedar Street, W. Barnstable, as a member to a term expiring 06/30/2014

**DISABILITY COMMISSION**

Linda S. Cook, 82 Gleneagle Drive, Centerville, as a member to a term expiring 06/30/2014

**ECONOMIC DEVELOPMENT COMMISSION**

Jeanine Marshall, 195 Willow St, W. Barnstable as a member to a term expiring 06/30/2014

**HUMAN SERVICES COMMITTEE**

Bill Doherty, Barnstable County Commissioner, 3195 Main Street, Barnstable, as a representative member to a term expiring 06/30/2014

Mary Pat Messmer, Cape Cod Child Development, 83 Pearl Street, Hyannis, as a representative member to a term expiring 06/30/2014

Roy Richardson, Cape Head Injured Person's Housing, 9 Park Avenue, Centerville, as a representative member to a term expiring 06/30/2014

**HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION**

Joseph A. Cotellessa, 65 Sylvan Drive, Hyannis, as a member to a term expiring 06/30/2014

Paul S. Arnold, 27 Foster Road, Hyannis, as an alternate member to a term expiring 06/30/2013

**SCHOLARSHIP COMMITTEE**

Janice A. Cliggott, 6 Tidal Lane, Hyannis, as a member to a term expiring 06/30/2014

**ZONING BOARD OF APPEALS**

Brian Florence, 126 Laurie's Lane, Marstons Mills, as an associate member to a term expiring 06/30/2014

**VOTE: 12 yes; 1 no, Canedy**

<b>2012-017 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION – INTRO: 9/8, 9/22/11</b>
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Upon motion duly made and seconded it was

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

**COMMUNITY PRESERVATION COMMITTEE**

Paul R. Curley, 27 Lancaster Way, West Barnstable, as a Planning Board representative member to a term expiring 06/30/2013

**VOTE: Unanimous**

**2012-019 APPROPRIATE & TRANSFER \$1,042,000 CPA FUNDS FOR STRUCTURAL HISTORIC PRESERVATION OF THE SCHOOL ADMINISTRATION BUILDING – INTRO: 9/8, 9/22/11**

Asst. Town Manager Lynch gave the rationale on this item.

Upon motion duly made and seconded it was voted to open this item for a public hearing.

**VOTE: Unanimous**

No comments made.

Upon motion duly made and seconded it was voted to close the public hearing.

**VOTE: Unanimous**

Councilor Tinsley asked about the roof. Mark Ells said about 10% of the slate needs to be repaired. The roof over the bulkhead will be totally redone.

Councilor Canedy asked about the Trayser Museum possibly receiving a little money and doing some small fixes on a number of buildings. Ells said that scopes and recommendations have been completed on about 5 buildings. They have a CPC request ready to go on the priorities on those buildings.

Councilor Milne will not support this. He did not feel it was set up to fix the town buildings. If voters had not approved the CPA – what would we have done with these buildings. If we are going to own these buildings where are the budgeted monies to repair these, by liquidating some of the other buildings?

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

**VOTE: 10 yes, 3 no - Munaf/Crocker/Farnham WITHDRAWN BY MAKER**

Lindsay Counsell, chair of the CPC, said we looked at the School Adm. Building and only funded some of the costs for some of the repairs. We are restoring the building to look as it was – it is an historical restoration.

Councilor Crocker asked Counsell if he was comfortable with the contingencies. Counsell said he was comfortable with the built in contingencies and hopes to save on that building as we did on the Town Hall.

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

**VOTE: 13 yes**

Upon motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of G.L. c. 44B, the sum of One Million Forty Two Thousand and No/100 (\$1,042,000.00) Dollars be appropriated; that in order to fund this appropriation Eight Hundred Forty Two Thousand and No/100 (\$842,000) Dollars be transferred from Undesignated Funds in the Community Preservation Fund and Two Hundred Thousand and No/100 (\$200,000) Dollars be transferred from the amount appropriated under Town Council order 2010-013 Appropriation & Loan Order Community

Preservation New Town Hall; and that the Town Manager is authorized to contract for and expend the amount appropriated, subject to oversight of the project expenses by the Community Preservation Committee, for design, repair or replacement of the roof, brick pointing, windows, soffits and gutters for preservation of the historic structural resources at the School Administration Building located at 230 South Street, Hyannis, MA (map 326 parcel 021).

**VOTE: 11 yes – 2 no – Milne / Barry**

## **NEW BUSINESS**

<b>2012-022 DESIGNATION OF ACTING TOWN MANAGER – INTRO: 9/22/11</b>
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Councilor Rugo made a motion, which was seconded to designate the Assistant Town Manager as Acting Town Manager to serve until Dec. 15<sup>th</sup>

Councilor Crocker questioned the process and advancing this into an open session. It is difficult and is contrary. How do you see it going from here?

A motion was made and seconded to move the question.

After some various comments, Councilors Crocker and Munafo left the room at 9:30 pm.

Councilor Milne asked to ask a couple of questions and was granted the right. He wanted to know if the Asst. Manager was going to apply for the Manager's position and if he was going to continue with his county position.

On the motion to move the question.

**VOTE: 8 yes; 3 no - Milne/Canedy/Farnham (2 out of the room Crocker/Munafo)**

Upon motion duly made and seconded it was

**RESOLVED**, that the Town Council, acting under the provisions of the Charter of the Town of Barnstable, shall vote to designate an individual to perform the duties of the Town Manager as outlined in Sections 4-2 and 4-3 of the Charter for the Town of Barnstable.

And, that the Assistant Town Manager shall be the Acting Town Manager to serve until December 15<sup>th</sup>.

This appointment is effective September 30, 2011.

**VOTE: 11 yes Roll Call**

<b>2012-023 ACCEPTANCE OF A \$7,758.40 GRANT FROM THE FRIENDS OF THE BARNSTABLE COUNCIL ON AGING TO FUND A PART-TIME VAN DRIVER – INTRO: 9/22/11</b>
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Madeline Noonan, Senior Services Director gave the rationale.

Upon motion duly made and seconded it was

**RESOLVED:** That the Town of Barnstable hereby accept a grant in the amount of \$7,758.40 to the Barnstable Senior Center for the funding of a part-time van driver.

**VOTE: 11 Yes - (Crocker/Munafo out of room)**

<b>2012-024 ACCEPTANCE OF A \$61,200 FY11 PORT SECURITY GRANT PROGRAM AWARD – INTRO: 9/22/11</b>
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Lynne Poyant and Joe Gibbs were present and this was the 5<sup>th</sup> grant they had received. Mr. Gibbs wrote the grant. Councilor Farnham recognized Mr. Gibbs' efforts.

Councilor Barry asked about the boat break-ins in Cotuit and if that area is on the list for a camera. Gibbs explained that it is basically for the areas that have large vessel needs like the Steamship Authority areas.

Councilor Norman said maybe in the Harbormaster's budget we could find some money for that. Even boat owners might be willing to pitch in and help on that.

Upon motion duly made and seconded it was

**RESOLVED:** That the Barnstable Town Council does hereby accept a 2011 Port Security Grant Program (PSGP) award from the Department of Homeland Security, FEMA in the amount of \$61,200. Of which \$51,100 is for upgrades to the Hyannis Harbor cameras and \$10,100 for additional accessories for the remote operate underwater vehicle (ROV) previously awarded.

**VOTE: 11 yes - (Crocker/Munafo out of the room)**

### **TOWN MANAGER COMMUNICATIONS**

Asst. Manager Lynch said we have many issues and will be moving forward on them. He is interested in serving in an interim roll. He will be willing to help in any way possible. He thanked the council for the confidence vote and will meet with the department heads after the 30<sup>th</sup>. He is looking at the agenda as they will be continuing work on the budget. That is the first agenda item, and then there are solid waste issues.

Councilor Canedy feels that input on the budget should be sooner in the process instead of later. Lynch said he has an idea on that and he will be talking about it shortly.

### **ADJOURNMENT**

Upon motion duly made and seconded it was

**VOTED: to adjourn.**

**Adjourned: at 9:45 p.m.**

Respectfully submitted,

Linda E Hutchenrider, MMC/CMMC  
Town Clerk-Town of Barnstable  
NEXT REGULAR MEETING: October 6, 2011