



Town of Barnstable Town Council Meeting February 16, 2012

A quorum being duly present, Council President Frederick Chirigotis called the February 16, 2012, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

PRESENT: Janice Barton, Ann Canedy, Frederick Chirigotis, James Cote, Jennifer Cullum, Debra Dagwan, June Daley, Jessica Rapp Grassetto, Michael Hersey, Janet Joakim, John Norman, Thomas Rugo, **ABSENT:** James Tinsley, Jr.

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

(Each of the following workshops brought forth a PowerPoint presentation and the presentations were, in most cases, read verbatim. Therefore, the PowerPoint handouts are appended to these minutes as Exhibits and highlights of the presentations and comments are recorded in the minutes. L.H.)

Report of the Town Library Committee

Ellie Claus, Gail Nightingale, Joan Kenney, Debra Schilling, Ted Housman, John Jenkins, and Bob Anthony members of the Library Committee were present. Ms. Claus gave a presentation (see Exhibit A).

- There are 7 libraries
- All are independent 501 3C libraries, each are run by their own board of Trustees and Library Director.
- Libraries have not only books but computers, wireless internet, and online subscriptions
- You can renew a book at home through CLAMS and an interlibrary loan service
- Sturgis Library is the oldest library building in the country.
- Centerville library is one of the busiest
- Cotuit is a modern library in a cozy setting
- Hyannis library has beautiful gardens, and focuses on literacy and language
- Marstons Mills has a large Lilith Gordon Women's Poetry collection
- Osterville will be opening a brand new building
- Whelden has a comprehensive collection of West Barnstable history.

They are proud of what they bring to the community.

Councilor Rapp Grassetto asked about the Kirkman trust was that a one time contribution to the libraries?

It was explained that there are conditions in the will, and they do get monies on a regular basis. They received \$100,000 the last time.

Councilor Dagwan asked about the share for Hyannis.

It was explained Hyannis does get more because of the safety issues.

Councilor Daley asked if you use the same distribution formula with the Kirkman funds as with town monies.

Stan Goldstein stated that they must follow the Kirkman will which says Cotuit gets 2/7s and the rest is divided equally.

Workshop - Town Council Citizen's Advisory Committee

Philip Boudreau, Chairman and members: Lindsay Counsell, George Zoto. and Milton Berglund were present to discuss Comprehensive Wastewater Management Planning. (See Exhibit B) (Note there was also a representative from Stearns & Wheeler present).

- Wastewater discharges are impacting our drinking water, coastal bays, etc.
- We are pressured from EPA, DEP and CCC as well as a lawsuit to do something about it
- This project is to develop a plan to address the wastewater and other problems
- They outlined components of the plan
- 70% of nitrogen loading comes from septic systems.
- Water quality is presently quite good, as well as lakes and ponds but many are impacted or at risk.
- The presenters reviewed various treatment technologies that are available to reduce the nitrogen.
- They identified items that are recommended to be part of all alternative plans
- Possible Decentralized and Centralized plans were identified.

Councilor Cullum asked at what capacity is Hyannis.

She was told: 2M gallons per day/rated capacity is 4.2M gallons. Boudreau said they have looked for areas to expand this and the treatment could be handled there.

Councilor Canedy stated that any benefit should be paid by the users. If the entire town was expected to contribute to the solution, the entire town should have a direct, not just an indirect benefit (she cited "My View" authored by the Cape delegation – see copy of it appended to these minutes as Exhibit B-1).

Councilor Canedy commented on the report's emphasis on regional solution and was glad that the Committee planned to reach out to Mashpee and Sandwich and will include their representatives on the Committee.

Councilor Canedy asked if the Committee envisioned a specific time line which would indicate when each area of town would be addressed and hoped that the Plan would include areas that were not going to be sewered because of soil conditions or lack of need due to low nitrogen levels. Canedy noted that the Report indicated that many of the problems listed in Phase 1 had been addressed. One that was not concerned identified AOC's.

She was told anything not accomplished before would be rolled over to Phase 2 and perhaps reprioritized.

Councilor Canedy noticed the Report stated that fertilizers, etc. contribute 15-25%.

Boudreau said that percentage may be the amount of controllable load and that fertilizers contributed closer to 5% of pollutants. They are hard to regulate and enforce. Education is probably the best way to go.

Councilor Canedy said the Report indicated that by 2007, “most” wells were protected, which implied some were not. Have they been identified as to the next steps taken to protect them?

Boudreau said some work has been done in the Hyannis area, and there is a possibility of moving them. The Representative from Stearns and Wheeler said that there are particular wells not protected and they had not gone forward in the system.

Councilor Canedy commented that the Report stressed cluster systems and yet a potential issue might be that our Boards do not communicate among themselves during the planning process.

Boudreau said that a cluster development is not necessarily the same as a cluster system and is an imperfect solution.

The Report lists a number of action items which include completion of various reports. Canedy asked whether it would make sense to use our resources on gathering all our informational needs first before embarking on a sewerage plan.

Boudreau said that is what we are doing and the actual infrastructure was a long way off.

Pres. Chirigotis reminded all that this is a wastewater plan.

Councilor Norman is humbled by the time, effort and work you have done on this. On private wastewater, a Mashpee/Cotuit development was to have had a system.

He was told they will use conventional until they get enough homes built.

Norman asked about dredging, having noted that after some Cotuit dredging, areas of Marstons Mills somewhat cleared up.

Boudreau said every time we can pick away on the edges by doing things like this it helps.

Councilor Daley stated we need more clams (cultivation of which was declared to be a positive), and noticed the report is 10 months old, wondered about the funding and what is being appropriated.

Boudreau – said we tried to set up a council workshop last summer and it did not work due to council problems. They worked with the county on an MEP study, we put this off to get the answers from the MEP. The CFAC will look at funding.

Daley asked why we can't regulate more treatment of septic systems. She feels Title 5 is a failure.

Boudreau said Title 5 is getting the effluent through the system and into the ground. It was not made to treat.

Councilor Dagwan asked about other systems.

Boudreau says there are some new alternative ones.

Councilor Rugo on fertilizer – how about getting to those who service the lawns – could we regulate and enforce.

Boudreau said we have looked at that but it would be most difficult to enforce - education is 90% of this.

Workshop – Healthcare Reform Law

Acting Town Manager Tom Lynch, Mark Milne, Bill Cole, Debra Blanchette were the panel on this presentation.

Town Attorney Ruth Weil informed the council of the Advisory Opinion of the State Ethics Commission on invoking the Rule of Necessity. (See her full letter attached hereto as Exhibit C).

She stated that under Chapter 69 of the Acts of 2011 (codified under G.L. c. 32B, sections 21-23) enacted changes to the municipal health care that provides cities and towns the opportunity to use some of the state's current cost control measure. Item 2012-065 on the agenda seeks authorization to initiate the newly enacted procedures. The Ethics Commission's General Counsel, in an opinion, indicated that in the Town of Barnstable, if councilors who were subscribers of a municipal health insurance plan were disqualified, it would affect a sufficient number of councilors and deprive the body of a quorum and the ability to take any action. Therefore, it was appropriate for the otherwise disqualified members to invoke the rule of necessity.

Councilors, therefore, who receive the insurance are not required to withdraw from participation as long as each councilor who wants to participate states on the record that s/he is a recipient of health insurance benefits, that this would normally disqualify him/her from participation, but that s/he chooses to invoke the rule of necessity because the Town Council, the only body in a city which can accept the provisions of Chapter 69 of the Acts of 2011, would otherwise be deprived of its ability to take any action due to a lack of a quorum. The following councilors individually made the full required statement before the body in order to act on 2012-065. (see Exhibit C-1 for statement)

Frederick Chirigotis
Ann Canedy
Thomas Rugo
Jessica Rapp Grassetti
Janice Barton

President Chirigotis explained to the hall that 9 members is a quorum (under the Charter) – so if the 6 Town Councilors, (who are municipal health insurance subscribers) left this item would not be able to be discussed and no valid vote could be taken.

Acting Manager Lynch said this was an historic action.

- Manager Lynch opened the presentation – see Exhibit D – and explained the impetus behind the creation of Chapter 69 of the Acts of 2011. It was a compromise plan design that will reduce healthcare cost to cities and towns and provide labor a meaningful role in the process to determine how the savings can be used.

- Goal was to create budget savings and preserve jobs.
- Human Services Director William Cole said you are voting on the process to negotiate the impact of the plan or join the Group Insurance Commission (GIC).
- Cole explained why the Council is voting on the issue, and what will happen if the council does not adopt it.
- The health plan coverage is the same, but co-pays, and deductibles have changed.
- Mark Milne noted that there are advantages and disadvantages of GIC.

(Please see full Exhibit for all details on the presentation).

- Lynch said the costs are out of the town's control. It gives us a tool to implement the premium and implement savings.

Councilor Canedy said she and other councilors had attended information sessions, reviewed a large packet of information. She has read all emails. Many of the questions and concerns raised by the emails have been answered by the presentation. She asked whether the consequence of voting this down would be that we would have no health care plan.

Cole said if the council votes it down, the Plan would become effective, but we would have to use the bargaining process.

Councilor Rugo asked why we can't work with the town manager on this and are we handcuffed to this decision.

Treasurer Debra Blanchette said we have a notice requirement to withdraw by April 1. We have no alternatives.

Councilor Canedy said that it would take time to withdraw and to consider other options. She asked for a commitment from the Administration to review current and alternative plans and options and bring it back to the Council next year so we have the opportunity without penalty to review.

Blanchette noted that Ch 69 was signed in 2011 and it wasn't until the fall that the regulations were formed. We have opted for the least disruption to the employees. This is not a one-time option, but time constraints necessitated us bringing this to you so soon. There are other models Barnstable can look at for future years, but it is imperative that adoption be made now for 2013.

Councilor Canedy wants the alternatives looked at.

Lynch agreed to the commitment. The alternative to not adopt it would be the GIC come June. Under GIC, the town would save money, the subscribers would lose.

Councilor Canedy noted emails she received repeated the suggestion that Plymouth was in the same position and had voted against it.

Cole said Plymouth Selectmen did pass it in November – all unions were involved. Cole said that if Sec. 21 was adopted, there would be a step by step process and the unions would be involved.

Councilor Cullum asked about the fund balance we would leave behind if we went to GIC.
Blanchette said it is about \$24M.

Councilor Cullum asked about the program for drugs coming in from Canada.
She was told through Cape Cod Municipal Health Group you can get some drugs free from Canada.

Councilor Cullum noted it is hard to avoid the rising costs of health care.

Councilor Rugo said we contribute 50% toward health benefits...other towns have a higher contribution. Barnstable is at the minimum by State law. He suggests the savings should go to mitigating or increasing the town's contribution so we can get on par with other towns. Negotiate with the unions so the contribution from the town is higher. He will vote against this. He found a number of problems.

Councilor Cote asked why we can't just stick with what we have now.
Finance Director Milne said Cape Cod Municipal Health Group no longer offers this.

Councilor Joakim brought up discussion on the 50% - fixed cost increases have impacted us. Where is the money going to come from?
Manager Lynch said with union negotiations this issue could be brought up. There is a trade off for loss of services and jobs. Lynch has seen cost saving tools from the state before.

Blanchette said in other communities with higher percentages, they are moving for a more equal share.

Councilor Barton said we do need to look at attracting the right teachers and if there is any way to look at this and change the percentages it would help. The co-payments, and deductibles are scary.

Councilor Hersey asked about the \$1.6 savings.
He was told once the \$400,000 mitigation is gone – it is gone.

Councilor Joakim asked if the cost to the subscribers goes down.
Yes they all will get a reduction on rates. Joakim agrees with Rugo but noted that we are not the School Committee. We have to deal with what we have here.

Councilor Canedy supported Councilor Joakim on that statement.

Councilor Rugo asked about the stand alone plans, noted many towns have not done anything, some have made changes, but asked what kind.
Milne said they are in group plans. We have priced stand alone plans, and were told we would not do as well. Blanchette said we have inquired with the major carriers, and they said we would not have several benefits like wellness programs, the trust fund balance, the pooled risk, Part D subsidies, and zero co-pay prescriptions.

Councilor Rugo would like to see this slowed down or tabled.

Acting Manager Lynch said there was a lot of discussion through the health care group that we are in. Blanchette noted many meetings have been held.

Councilor Rugo said he first heard of it at the last meeting. What were the people thinking – it is going to cost us more money.

Councilor Canedy said we have to make a decision, but noted that this is not a permanent decision. She is voting on expediting a process on mitigating.

Councilor Dagwan was surprised how quickly this had to be done; and noted a stand alone is not the best way to go.

Councilor Joakim said the MTA was at the table on this and they are increasing the deductions so that people would think about their health care costs and how they use it.

President Chirigotis said nothing is being done about the spiraling cost of health care. Health care is very important. We have to do the best job for the benefit of the town.

PUBLIC COMMENT

Peter Leveroni said you did a great job. But this shifts the burden to employees by increasing deductibles and co-pays. They hold off going to the doctors and get sicker and it costs us in the long run. What does it say for the town? Need better management. Think about the families.

President Chirigotis said this plan choice is to increase the deductibles.

Bill Cronin announced the Hyannis Civic Association meeting of all 5 councilors from the Hyannis area on March 5. Citizens can meet their councilors at Town Hall.

Brooke Styche from the teachers association said she knows the council has no way to change co-pays or deductibles, but the town has not done anything to increase contributions.

Stan Goldstein encouraged the council to search long and wide for a new Town Manager.

Felicia Penn noted that the search committee wanted to look for a Manager in the town. She did not believe we should cast our net for those swimming in the pool. Open Cape is due to change the way we do things. We have the time to do this. Make the right decision and have a wide search.

Robert Tucker asked the councilors to say hi when you see people. New Asst. Manager is a good man. Don't let what happened to the old manager happen to the new. He stated the former Town Manager was hired by Portsmouth without a search.

Brent Jansson researched the health issues. Your rates are a one time saving from an \$8M take away. GIC increased over 9%. Why doesn't CCMHG lower their profit margins? Research the figures.

Joe Hoffman noted that we have an opportunity to get a new manager with a full search and get the best person for the job.

Bert Russo is appealing to the council regarding a legal decision. This is about how we treat fellow citizens. We want to end this civilly. There are 6 auxiliary apartments on our street and 80 such units in Cotuit. End the madness

Keith Copp said 75% of the largest bargaining unit are at their top step. We are the only town on the Cape that has 50% contribution. Barnstable sits at the bottom. No one will come to Barnstable with the lowest starting, ending salary and health care split. If you want the best and brightest – you have to look at change.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Canedy (responding to Tucker) noted that regarding the Manager search in Rhode Island, there was a search, it cost \$20,000, resulted in 64 applicants and took 5 months.

ACT ON MINUTES (Includes Executive Session)

Upon motion duly made and seconded it was voted to postpone action on the minutes of February 2, 2012 until the next meeting.

VOTE: 10 yes 1 no (Dagwan) 1 abstain (Daley)

Upon motion duly made and seconded, it was unanimously agreed to take item 2012-065 out of order.

NEW BUSINESS

2012-065 ORDER TO ENGAGE IN THE-PROCESS TO CHANGE HEALTH INSURANCE BENEFITS UNDER MGL C.32B, §§ 21-23 – INTRO: 02/16/12
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Acting Manager Lynch introduced the item. He gave the council their choices. A no vote would send this to traditional bargaining. Rates will begin on July 1.

- Chris Kelsey, from the Police, acknowledged that some of this is out of the council's hands, it was created by the legislature. The process is the problem. CCMHG and administration might have been talking about it but we haven't. The state employees on GIC are 85/15 in their contribution split. The increases do not help us. Towns that have accepted have talked to their unions and negotiated. The process is broken.
- Steven Seymour noted that we do pay the lowest amount in the state. He said that with the added co-pays etc. individuals could in fact find as much as a 21% increase in health care costs. We have problems with health care costs and it is national.
- Peter Leveroni suggested that this be tabled and allow time to improve the dialogue with union members and town representatives.

- Patrick O’Leary said percentages are bargaining issues. He gave a number of figures on costs and stated that at the airport for some employees 22% of their income goes to pay for health care.
- Christy Salley said she has heard from teachers who can’t stay because they can’t afford the health care. None of us can afford to get sick.
- Andy Gauthier said it seems that the town will now play ball with the state but we should be able to have a third option of business as usual along with the other two options. That should be viable as well.

Councilor Joakim said we need to feel more comfortable on this in order to vote.

Upon motion duly made and seconded it was voted to postpone this item to the next scheduled meeting of March 1st

VOTE: 10 Yes 2 No – (Canedy, Norman).

Councilor Barton suggested to everyone that they please stick to high performance team work together on this. It was done in good faith tonight. We will come up with an equitable solution.

OLD BUSINESS

**2012-035 AMENDING THE ZONING ORDINANCE, CHAPTER 240, ARTICLE II – INTRO:
11/17/11, 02/02/12, 02/15/12**

Attorney John Kenney presented the proposed map for the rezoning near BJ’s. (see map attached as Exhibit E). He explained changing the lines along the business and industrial zoned areas. This was recommended by the Planning Board.

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing 2012-035.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to go out of the public hearing.

VOTE: Unanimous consent

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

VOTE: 12 yes

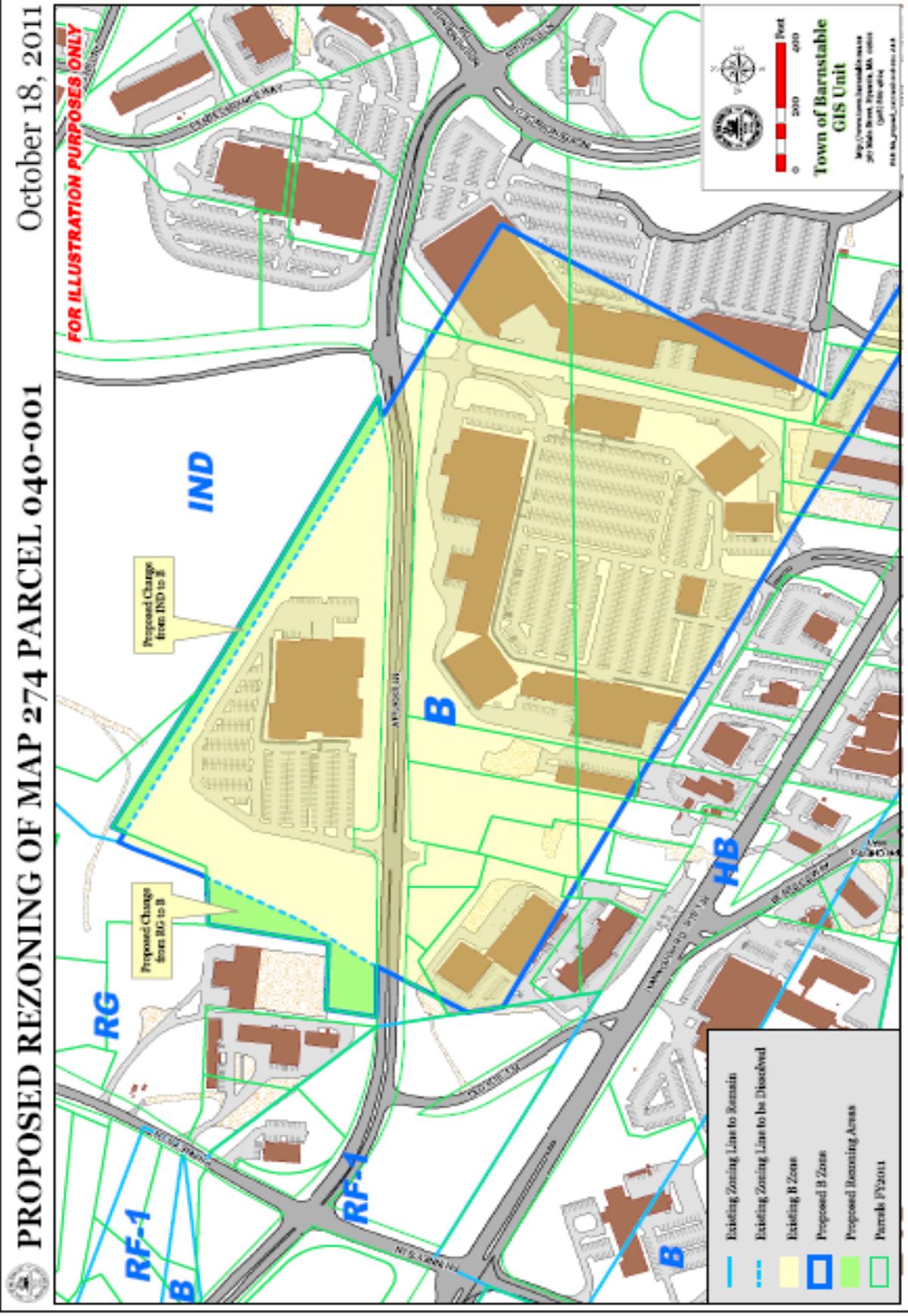
Upon motion duly made and seconded it was

ORDERED: That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows.

By amending the official zoning map of the Town of Barnstable titled “ZONING MAP OF THE TOWN OF BARNSTABLE, MA,” adopted September 1, 1998 as amended through September 8, 2011, by expanding the B, Business Zoning District as it affects Parcel 274, Map 040-001 off Attucks Lane in Barnstable, rezoning portions of this property from Residence G and IND to Business for the entirety of the parcel. This proposed expansion of the Business Zoning District is shown on maps entitled “Proposed Amendment to the Town Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel

040-001; Proposed Amendment to the Barnstable Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001; Proposed Amendment to the Hyannis Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001 dated October 18, 2011 as prepared by the GIS Unit.

VOTE: Roll Call – 12 yes unanimous



**2012-063 AUTHORIZATION –THE ISSUANCE OF REFUNDING BONDS BY TREASURER –
INTRO: 02/02/12, 02/16/12**

Acting Manager Lynch gave the rationale on the item.

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing 2012-063.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to go out of the public hearing.

VOTE: Unanimous consent

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 in order to reduce interest costs on outstanding bonds of the Town, it is hereby authorized in accordance with the provisions of **Chapter 44, §21A** of the General Laws, or any other enabling authority, the issuance of refunding bonds to refund all or any portion of the principal of and the interest on, any bonds of the Town outstanding as of the date hereof, and to pay any related redemption premiums and any other costs incidental and related thereto.

VOTE: Roll Call 11 yes – Rugo out of room

2012-067 – APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION – INTRO: 02/16/12

Upon motion duly made and seconded it was voted to refer the following appointments to a second reading.

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Laurie K. Young, 142 Great Bay Road, Osterville as a member, to a term expiring 6/30/2014

CULTURAL COUNCIL

Mary Carolla-Allen, 312B Pleasant Pines Avenue, Centerville as a member, to a term expiring 6/30/2013

HISTORICAL COMMISSION

Laurie K. Young, 142 Great Bay Road, Osterville as a member, to a term expiring 6/30/2014

HOUSING COMMITTEE

Sue W. Davenport, 148 West Main Street, Hyannis as a member, to a term expiring 6/30/2014

PUBLIC WORKS COMMISSION

Robin C. Young, 142 Great Bay Road, Osterville as a member, to a term expiring 6/30/2013

WATERWAYS COMMITTEE

Paul J. Everson, 21 Wren Lane, Marstons Mills as a member, to a term expiring 6/30/2014

YOUTH COMMISSION

Rose Silva, c/o BHS 744 W. Main Street, Hyannis as a member, to a term expiring 6/30/2012

Upon motion duly made and seconded there was unanimous approval to add this reappointment to the list of appointment:

Reappointment – Board of Health Dr. Paul Caniff for a 3 year term until 6/30/2014.

VOTE: 12 yes to refer

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF,

- Councilor Barton made a couple of announcements one on an upcoming meeting and another on the signing of a banner for John Klimm at SYGSA.
- Councilor Cote noted that the problems with the cost of health care need to be addressed to those who legislate and govern them

Upon motion duly made and seconded it was voted to extend the meeting past 11:00 p.m. in order to complete the agenda and possibly go in to Executive Session.

VOTE: 11 Yes 1 No (Canedy)

- Regarding the health insurance costs, Councilor Canedy said we have to consider all the constituents including the taxpayers.
- Councilor Dagwan gave a plug for HYCC activities next week.
- Councilor Cullum wants to see all Hyannis councilors at the Hyannis Civic Assoc. meeting.

President Chirigotis declared that the discussion of litigation strategy in open session with respect to the case of Limoncelli v. the Town of Barnstable Zoning Board of Appeals and the Town of Barnstable may have detrimental effect on the litigating position of the town.

A motion was duly made and seconded that the Town Council go into Executive Session to discuss litigation strategy with respect to the case of Limoncelli v. the Town of Barnstable Zoning Board of Appeals and the Town of Barnstable, based on the President's declaration that an open meeting may have detrimental effect on the litigating position of the Town, and not to reconvene in Open Session.

Councilor Canedy suggested prior to the vote that the council put this off so we could have time and discuss it at a reasonable hour – Councilor Rugo agreed.

Councilor Norman said we could get the ball rolling. He noted that Mr. Russo speaks respectfully and we owe it to him to start the process. Councilor Rapp Grassetti agreed to let's get this going.

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

VOTE: Unanimous

Vote on going in to Executive Session – Roll Call - 11 Yes 1 No (Dagwan) at 11:00 p.m.

Respectfully submitted,

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

Attachments:

- Exhibit A Town Library PowerPoint notes
- Exhibit B Barnstable Citizens Advisory Committee report on Comprehensive Wastewater Management Planning
- Exhibit B-1 Copy of “The View”
- Exhibit C Letter from Town Attorney Ruth Weil and copy of Ethics Commission decision
- Exhibit C-1 Statement on 2012-065
- Exhibit D Q & A on Healthcare Reform

NEXT REGULAR MEETING: March 1, 2012

