



**TOWN COUNCIL
MEETING AGENDA
July 12, 2012**

A quorum being duly present, Council President Frederick Chirigotis called the July 12, 2012 Regular 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, June Daley, Jessica Rapp Grasseti, Michael Hersey, Janet Joakim, John Norman, Thomas Rugo, James Tinsley, Jr. **Absent:** Debra Dagwan

The Pledge of Allegiance was led by President Chirigotis, followed by a Moment of Silence. Took out of order 2013-011

✓ **Ratify Appointment of Mark S. Ells as Assistant Town Manager**

**2013-011 – RATIFY APPOINTMENT OF ASSISTANT TOWN MANAGER – INTRO:
7/12/12**

Town Manager Thomas Lynch gave the rationale and educational background of Mark Ells. He felt his skills were such that he will serve the town well.

Upon motion duly made and seconded it was voted to ratify the appointment of Mark S. Ells as Assistant Town Manager for the Town of Barnstable.

VOTE: 11 YES

Newly appointed Asst. Manager Ells thanked the council, and thanked the Town Manager for his consideration and selection. Ells also thanked his wife and six children for their support. He thanked the public works co-workers as well. He looks forward to the opportunity to work with everyone.

✓ **CVEC Workshop**

Richard Elrick introduced Charles McLaughlin, Ron Collins and David Anthony (Cape Light Compact Rep) who were on the panel to give information on the solar projects. (See Exhibit A) Attorney Kevin Batt was present by phone.

He outlined:

- A combination of advantageous factors
- Showed photos of various solar projects
- Purpose is to develop Renewable Energy for the towns and counties
- Broadway Electric Company is the developer
- Identified specifics in the second round
- We as a larger town could host additional projects beyond 10 mw.
- He identified solar arrays on BHS and on the roof of the Senior Center, the West Villages Elementary, a ground array in Independence Park, and Barnstable Airport locations,

- Project details on these locations were reviewed.
- The Structure of the Deal involves allocation of credits and the savings were identified.
- They recommended acceptance of the CVEC agreements.

Attorney McLaughlin thanked Mr. Elrick and Mr. Anthony for their participation. Documents are very similar as to the first round documents. This would be a \$63M capital investment. We don't have to reach into our pockets for this, but the benefits are for us.

Kevin Batt, as special counsel, said there are very strong contractual protections. The documents are virtually the same template as the last round documents. He explained a few of the differences such as the 1 penny adder, the special provision of exceeding 10 mw cap yet you can sell extra credits to other members of CVEC. There are special provisions for roof top units. Special provisions are in place for employees working around schools.

David Anthony went to the schools for their endorsement and they were pleased. He explained some of the energy saving units that are used at BHS. The School Committee endorsed the projects.

<p>2013-008 AUTHORIZING THE TOWN MANAGER TO FURTHER NEGOTIATE AND TO EXECUTE PROJECT DEVELOPMENT AGREEMENTS WITH CAPE AND VINEYARD ELECTRIC COOPERATIVE, INC. – INTRO: 7/12/12</p>

Upon motion duly made and seconded it was voted to refer this item to a second reading in August.

VOTE: Unanimous in favor

Further discussion included some questions on: shade arrays, cost savings, terms of the lease, site maintenance, possible solar glare at the airport (engineering and design is crucial).

The landfill array is still waiting for the studies to be completed – possibly June 2013 before it comes on line. The phase two projects could be another two years.

Workshop ended at 8:12 p.m.

PUBLIC COMMENT:

Robert Tucker says there is a soldier who works for the town who is being put under the bus. There was another shoot out in Hyannis, we need more policemen. People park in handicap spots who don't have a tag.

✓ **Interviews with Assembly of Delegate Candidates**

<p>2013-010 APPOINTMENT TO FILL VACANCY IN BARNSTABLE COUNTY ASSEMBLY OF DELEGATES SEAT - INTRO: 7/12/12</p>

President Chirigotis announced that each candidate would be allowed a 3 minute opening statement and would then answer six questions. (See Exhibits marked B)

The questions were:

1. How do you envision the Assembly's role relative to economic development for Barnstable County?
2. What service(s) is/are Barnstable County most effectively providing at present?
3. What is your position on regional water protection initiatives?
4. What (if any) town services would you like to see regionalized?
5. As an Assembly Delegate, how would you balance the interests of the citizens of the Town of Barnstable with the interest of citizens in the County of Barnstable?
6. Do you have any suggestions on how county government could be improved?

Terry Duenas – Ex. Director of C3TV, he explained his background and his committee work in the town and county. He has a BA and Masters. He is dedicated and has a goal of fairness and asks for support.

1. He felt county government is important to the town and the assembly is the citizens voice in county government. Economic Development increases wealth to the community and we must ensure that we can still live work and play. We need to take care of water quality and wastewater.
2. Regional policy planning, technical assistance, planning tools, regional open space initiatives, critical services. Regionalization is so important.
3. Felt it is the most important – our quality of life and development – it must support sustainability. Our special commissions study feels it is most important.
4. We need to take issues such as CVEC and have the county deal with it – e-permitting was talked about; things that are beyond the scope of town budgets.
5. I represent the town of Barnstable, but I am a citizen of the county and remember is this going to be fair and equitable for all the towns. I will always look out for the town, but look at the whole of Cape Cod.
6. Take large issues like energy, wastewater, etc. and look at them on a regional basis, that will improve county government – and make it more efficient. He will listen...with a goal of sustainability.

J. Gregory Milne – Prior councilor who tried to do what is best for the Town of Barnstable. Two women inspired me, my mother and Eugenia Fortes. He brought the pledge of allegiance to the floor of the council meetings. He is sincere. He identified the committees he has been on.

1. The Cape Cod Commission Act removed the grandfathering in zoning. Protect Mom and Pop businesses and village character; and wastewater.
2. The county dredge is very valuable; the Cape Cod Commission; county health department; and county extension and water protection collaborative.

3. Clarified he is not in favor of NWRA and the public record will illustrate. He would like all the towns to work together to get funding, and then collaborate a way to create funding not through taxation.
4. He does not favor any municipality becoming a service Mecca. I don't believe that is within the desire portfolio for Barnstable residents. County government can look at what is better to do regionally. What do the towns want and need and what makes sense.
5. It would be like balancing precinct vs. town. Obviously you are elected and you have to focus on those who sent you – but we are one Cape Cod. We have to work together.
6. Substantial discussion needs to be made on the weighted vote – feels assembly and others should be elected non-partisan. Mosquito control, make it not tied to the state and have it county controlled. Focus on wastewater is paramount.

He asked the council to give him fair consideration.

Patrick Princi – diverse – commercial fisherman, intake supervisor at NOAH, worked for Rep. Klimm, loves the town of Barnstable, identified his various jobs including working for Senator O'Leary.

1. Suggesting working with Cape Cod Chamber of Commerce and economic leaders in the towns to help bring clean industries. The local small businesses are the key to our local economy. Continue at a county level.
2. Cape Cod Commission is most important – the GIZ for example is most important to us. They work with us. The health and environmental department is essential and Cape Light Compact has brought in energy efficiency projects.
3. Goal is clean water and how we can protect it – it is not necessarily local vs. regional – Barnstable has done a lot on it. We need to look at it regionally but we should not fall short. The county dredge has to continue to come in. We bring in a ton of money through restaurants and hotels – look for Federal dollars and look to the legislature for help.
4. E-permitting there needs to be an easier way – and assessing as well.
5. Look to the citizens of Barnstable first – understand the other towns' issues and make sure the Cape is taken care of. We need to be in contact with the town council and the villages at all times.
6. Non-partisanship is an issue it will bring more people together. We don't necessarily need a larger county government.

Wanted to come home and serve the town...he named the local associations he has played a role in. He is dedicated and would like to serve in this position.

Some council discussion followed.

Manager Lynch gave rationale

Upon motion duly made and seconded it was

RESOLVED that the Town Council, acting under the provisions of Section 2-10 of the Barnstable County Home Rule Charter, hereby appoints Patrick Princi to fill the vacancy in the Barnstable County Assembly of Delegates seat.

VOTE: Duenas 0 Milne 2 Princi 10

ACT ON MINUTES

Upon motion duly made and seconded it was voted to approve the minutes of June 21, 2012

VOTE: 10 yes 2 abstain (Norman – Cote)

Upon motion duly made and seconded it was voted to release the subcommittee executive session minutes: Town Manager contract Committee of June 21, 2012 and Town Manager Search Committee of June 21, 2012.

VOTE: 10 yes 1 no (Canedy) 1 Abstain

Councilor Canedy thanked Sen. Brown for easing permits on Eco Tours. Barnstable Business Association will be hosting a concert on Tuesday.

Councilor Cote – July 21 – Osterville Day – Car Parade

Councilor Cullum – went to Dr. Mary’s house call – she is a strong lady and we are fortunate to have her.

Councilor Joakim thanked the Manager for the fireworks and parades on the 4th of July.

Pres. Chirigotis acknowledged the great parades all over town

ORDERS OF THE DAY

A. OLD BUSINESS

2012-152 AMENDING THE GENERAL ORDINANCES, CHAPTER 168, REGULATORY AGREEMENTS, REGULATORY DISTRICTS MAP TO INCLUDE MAP 289, PARCEL 110 INTRO: 6/21/12, 7/12/12
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Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing item 2012-152.

VOTE: Unanimous consent

Joanne Miller Buntich explained the rationale (see map further in this item). Please include 40 acres to include Hyannis Inn and Conference Center in the Regulatory Agreement District.

Upon motion duly made and seconded it was voted to go out of the public hearing at 9:16 p.m

VOTE: Unanimous consent

Councilor Canedy asked about possible issues or concerns by the Hyannis business districts. Councilor Cullum said the BID people on the west end need a bookend and we are hoping that we can have something that will open up that area.

A motion was made to postpone allowing for further input from Hyannis Civic Association and others. No second.

A motion was made and seconded to move the question.

VOTE: Unanimous in favor to move.

Upon motion duly made and seconded it was

ORDERED:

Section 1

By amending the map entitled "Regulatory Agreement Districts" dated May 28, 2009 by replacing the map with the map entitled "Regulatory Agreement Districts Map" dated December 28, 2011 as prepared by the GIS Unit. The Regulatory Agreement Districts Map dated December 28, 2011 adds the property at Map 289, Parcel 110 to the Regulatory Agreement Districts.

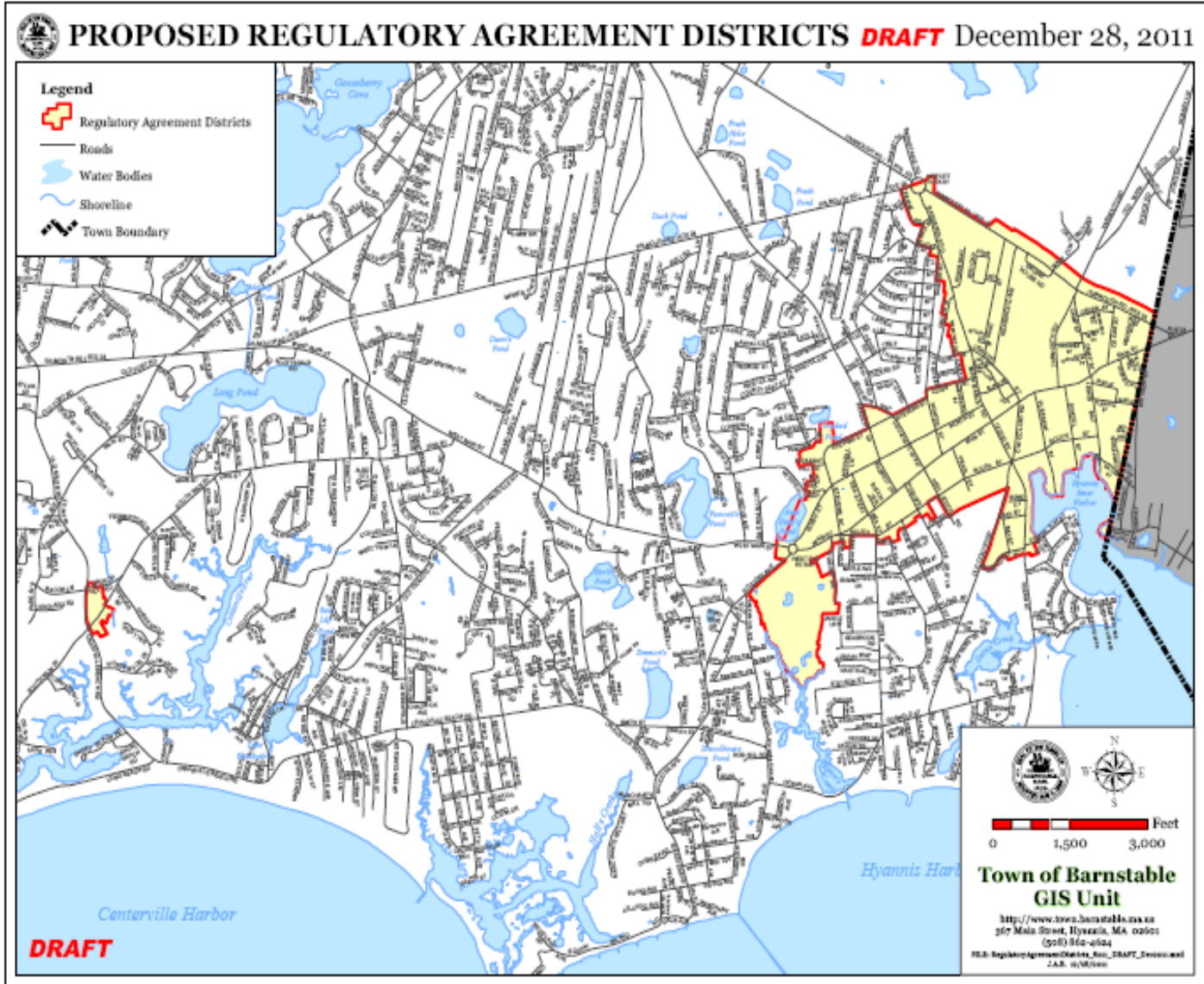
Section 2

Section 168-1 "Purpose and intent; legislative authority; boundary; single-family residence exception" introductory paragraph be amended by replacing the words "attached map, dated May 28, 2009, entitled "Regulatory Agreement Districts" with the words "Regulatory Agreement Districts Map dated December 28, 2011."

Section 3

Section 168-1 B. be amended by replacing the words "attached map" with the words "Regulatory Agreement Districts Map dated December 28, 2011."

VOTE: 12 yes – ROLL CALL



2012-155 AMENDING THE GENERAL ORDINANCES, CHAPTER 1, ARTICLE I SCHEDULE OF FINES, §1-3 AND CHAPTER 40, BOATS – INTRO: 6/21/12, 7/12/12

Joe Gibbs gave the rationale on updating the fines on mooring violations. He explained some of the other changes. They cleaned up this area of the ordinances and divided it differently.

Upon motion duly made and seconded it was moved that section 40-5 D(2) of the proposed ORDER be amended by substituting “Stewart’s for the typographical error, “Steward”.

VOTE: Unanimous in favor

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing item 2012-155.

VOTE: Unanimous consent

Upon motion duly made and seconded it was voted to go out of the public hearing at 9:23 p.m.

VOTE: Unanimous consent

Upon motion duly made and seconded it was

ORDERED: That Chapter 1 of the General Code of the Town of Barnstable is hereby amended by adding to Article I, Section 1-3 Schedule of Fines, after the words "Ch. 40, Article II Houseboats \$100" the following, "Ch. 40, Article III Moorings (1st Offense) \$100; (2nd Offense) \$200; (3rd and Subsequent Offenses) \$300."

IT IS FURTHER ORDERED: That Chapter 40 of the General Code of the Town of Barnstable is hereby amended as follows:

1. After the words "Article I Operation" by adding "OF MOTORBOATS, ABANDONMENT, DIVERS, ETC."
2. In section 40-1 A, after the word "posted" by adding the words "speed/wake".
3. By striking section 40-3 and substituting the following:

"§ 40-3. Operation and responsibility.

A. Vessel operators are responsible for their wake at all times and shall not operate a vessel in a reckless or negligent manner so as to endanger the life, safety, or property of any person.

B. No person shall operate or maintain any vessel in a manner that violates Massachusetts General Laws, Chapter 90B, or any regulations adopted there under, or any other state or federal law that may apply."

4. In section 40-5 B, inserting after the words "docks, floats" the word "moorings", after the word "surfboard," the word "tube", and by striking the words "motor boat" and substituting the word "vessel".

5. In section 40-5 D (1), by adding a second sentence, "Skiing will not be permitted here on Weekends and Holidays."

6. In section 40-5 D (2), by striking the words "residence of Ralph A. Gibbs" and inserting in its place the words "the stone jetty at the entrance to Stewart's Creek".

7. In section 40-5 D (4), by striking the word "tripod" and inserting in its place the words "#1 Buoy".

8. By re-numbering 40-7 to 40-16.

9. By re-numbering 40-8 to 40-17, adding the words "Chapter 40 or" after the words "of this", and by striking after the word "fined" the words "not less than \$25. more than \$200 thereafter", and by adding the following after the word "fined":

"in accordance with the schedule of fines set out in Chapter 1, Section 3. With respect to violations of Articles I of this Chapter 40, each violation thereof shall be a separate offense. With respect to violations of Articles II and III of this Chapter 40, each day such an offense is found to occur shall constitute a separate offense and shall be fined as a first, second, or third and subsequent offense as the case may be."

10. By striking section 40-9.

11. By re-numbering section 40-10 to 40-18, inserting the words "Chapter 40" after the word "this" and by inserting the words "a final" after the word "such".

12. In Article II Houseboats & Houseboat Marinas, by re-numbering sections 40-11, 40-12, 4-13, 40-14, 40-15, 40-16, and 40-17, to new numbers 40-7, 40-8, 40-9, 40-10, 40-11, 40-12, and 40-13 respectively.

13. By adding a new Article III entitled "Moorings".
14. By re-numbering section 40-18 to 40-14 and in the new section 40-14 A, adding after the word placement, the following "; and in accordance with all the provisions of the Town's Mooring Regulations."
15. In the new section 40-14 B, by striking the former first sentence and substituting the following, "Every mooring and every vessel attached to said mooring shall be annually permitted by the Harbormaster."
16. In the new section 40-14 D, by adding the word "/removing" after the word "up" and by adding the following after the word follows, "(in addition to all costs directly associated with the removal):
17. In the new section 40-14 D, by striking the dollar amounts \$10, \$15, and \$20 and by substituting therefore the dollar amounts \$100, \$150, and \$200 respectively.
18. By adding a new section 40-15 as follows:

"40-15 Anchoring

Anchoring will be allowed pursuant to the Town's Mooring Regulations. However no vessel shall be anchored in any marked channel or so as to impede safe navigation."

19. And by adding a new Article IV entitled "Severability".

The composite changes to Chapter 1 and Chapter 40 are attached as Exhibit A. In the event of a conflict between the narrative provisions set forth above and the text in the attached Exhibit A, Exhibit A shall prevail.

VOTE: 12 YES ROLL CALL

B. New Business

2013-001 AMEND ZONING ORDINANCE GROUND WATER PROTECTION OVERLAY DISTRICTS, § 240-35 – INTRO: 7/12/2012

Upon motion duly made and seconded it was voted to refer this item to the Planning Board for a Public Hearing.

VOTE: 12 yes

2013-002 ADMINISTRATIVE CODE AMENDMENT- HISTORICAL COMMISSION §241-22 – INTRO: 7/12/12

Upon motion duly made and seconded it was voted to refer this item to a second reading in August.

VOTE: 12 yes

2013-003 ACCEPTANCE OF A \$50,000 GRANT FROM THE MASSACHUSETTS HISTORICAL COMMISSION FOR IMPROVEMENTS TO THE CUSTOM HOUSE (Trayser Museum). INTRO: 7/12/12

Manager Lynch gave the rationale.

A motion was made and seconded to move the question.

VOTE: Unanimous consent to move.

Upon motion duly made and seconded it was

RESOLVED: That the Town Council hereby accept the Commonwealth of Massachusetts Historical Commission Grant in the amount of \$50,000 for the purpose of making improvements to the Custom House (Trayser Museum) and hereby authorizes the Town Manager to contract for and expend the grant for that purpose

VOTE: 12 yes

2013-004 AUTHORIZING THE TOWN MANAGER TO ACCEPT A GIFT OF LAND ON OAK STREET, WEST BARNSTABLE – INTRO: 7/12/12

Manager Lynch gave the rationale. Henry Ohime from NSTAR explained the new transmission line that was coming to the Cape. They are giving back land as they are required to when they take land. Councilor Canedy asked if this was the land swap she knew about. She thanked him. (See map – Exhibit C)

A motion was made and seconded to move the question.

VOTE: Unanimous consent to move.

Upon motion duly made and seconded it was

RESOLVED,

That the Town Manager is authorized to accept the deed or gift of a vacant parcel of land situated on Oak Street in the Town of Barnstable, Commonwealth of Massachusetts, comprising One Hundred Twenty Thousand One Hundred and Twenty square feet of land (120,120 Sq. Ft.) (2.75 acres), more or less, designated as “LOT 2” shown on the “APPROVAL-NOT-REQUIRED, PLAN OF LAND, OAK STREET, WEST BARNSTABLE, MA”, dated April 25, 2012, prepared by SMC Surveying and Mapping Consultants.

VOTE: 12 yes

2013-005 ACCEPTANCE OF A GIFT \$10,000 FROM THE FRIENDS OF THE BARNSTABLE COUNCIL ON AGING TO THE BARNSTABLE SENIOR SERVICES DIVISION FOR FUNDING ADDITIONAL HOURS FOR THE OUTREACH COORDINATOR POSITION – INTRO: 7/12/12

Senior Services Director Madeline Noonan gave the rationale. Councilor Joakim thanked the Friends for this money. Vice President Barton thanked Ms. Noonan and the friends.

A motion was made and seconded to move the question.

VOTE: Unanimous consent to move.

Upon motion duly made and seconded it was

RESOLVED: That the Town of Barnstable hereby accept a gift in the amount of \$10,000 to support the funding of additional hours for the Barnstable Senior Center’s Outreach Coordinator Position and hereby authorizes the Town Manager to contract for and expend the gift for that purpose.

VOTE: 12 yes

2013-006 ACCEPTANCE OF GIFT OF FOUR BEACH WHEELCHAIRS FROM THE SMILE MASS ORGANIZATION FOR CRAIGVILLE BEACH, COVELL'S BEACH, KALMUS BEACH AND VETERANS PARK BEACH. INTRO: 7/12/12

Lynne Poyant, Director of Community Services, gave the rationale. Patti Machado, Director of Leisure Services said that the Disability and Recreation Commission work together. She said she met a lady at the beach who ultimately bought a home here and was able to go into the water for the first time in years with the new chair. The lady was in tears and stated it was the best place to live.

Ms. Machado stated the staff tells people about what is offered at the beach and staff can help them as they have been trained.

A motion was made and seconded to move the question.

VOTE: Unanimous consent to move.

Upon motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept a gift of four beach wheelchairs to be used by the Barnstable Recreation Division for Craigville Beach, Covell's Beach, Kalmus Beach and Veterans Park Beach.

VOTE: 12 yes

2013-007 ACCEPTANCE OF GIFT OF EIGHT LIFEGUARD TOWER CANOPIES FROM THE GLENNA KOHL FUND FOR HOPE FOR KEYES (SEA STREET) BEACH, VETERAN'S BEACH, THE LOOP, AND KALMUS BEACH. INTRO: 7/12/12

Ms. Poyant gave the rationale. She told the council about the Glenna Kohl fund and how she had worked for the town prior to her death. Councilor Canedy said some funds come from Milway Beach Polar Fund – and another event at Dowses in May.

A motion was made and seconded to move the question.

VOTE: Unanimous consent to move.

Upon motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept a gift of eight lifeguard tower canopies from the Glenna Kohl Fund for Hope to be used by the Barnstable Recreation Division for Keyes (Sea Street) Beach, Veteran's Beach, The Loop and Kalmus Beach.

VOTE: 12 yes

2013-009 – APPROVE TO FILE BILL FOR WEST BARNSTABLE FIRE DISTRICT – SPECIAL LAW – HEALTH INSURANCE – PART-TIME EMPLOYEES – INTRO; 7/12/12

Manager Lynch gave the rationale. Councilor Canedy asked if Cotuit reduced the benefit and we didn't vote on it. Councilor Rapp Grassetti said the difference may be because it was a citizen petition which she believed was currently in the legislature.

A motion was made and seconded to move the question.

VOTE: Unanimous consent to move.

Upon motion duly made and seconded it was

RESOLVED, that the Town Council approves the request of State Representative Randy Hunt to file a bill pursuant to a petition by the West Barnstable Fire District under Article 21 of the April 25, 2012 Annual Meeting Warrant for enactment of the following special law.

“An act relative to the West Barnstable fire district.

SECTION 1. Notwithstanding chapter 32B of the General Laws, part-time elected officials of the West Barnstable fire district who receive a salary or a stipend shall not be eligible for participation in the district’s contributory health plan; provided, however, that those part-time officials elected before April 25, 2012 and who currently participate in that plan shall be eligible to continue to participate until the end of their current term. Part-time elected officials who receive a salary or stipend and who elect to pay 100 per cent of the cost of the official’s participation in the town’s health and life insurance benefit plan, plus any administrative costs that may be assessed by the prudential committee, may be considered eligible to participate.

SECTION 2. This act shall take effect upon its passage.”

VOTE: 11 yes 1 abstain (Tinsley)

TOWN MANAGER COMMUNICATIONS

- Manager Lynch thanked the public employees for their work over the 4th of July holiday at all the events.
- He also addressed an event in Osterville last week as well.
- Bob Canevassi will be Director of Public Works.
- The south side of the Cape is now a no-discharge zone.
- There is a new Stop & Shop opening and he invited the councilors.
- Working on issues regarding recent criminal activities

ADJOURNMENT

Upon motion duly made and seconded it was voted to adjourn.

ADJOURNED at: 9:55 p.m.

Respectfully submitted,

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

Attachments:

A – Power point – Solar Projects – 2012

B – Letter on Vacancy on Assembly of Delegates; applications and letters and emails

C – 2013-004 – Map of land to be donated to Conservation

NEXT REGULAR MEETING: August 2, 2012