



TOWN COUNCIL MEETING April 25, 2013



A quorum being duly present, Council President Debra Dagwan called the April 25, 2013, 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, James Cote, Jennifer Cullum, Frederick Chirigotis, Debra Dagwan, June Daley, Jessica Rapp Grassetti, Michael Hersey, John Norman, Thomas Rugo, James Tinsley, Jr **ABSENT:** Janet Joakim

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

Representative Brian Mannal – Discussing naming the Route 6 overpass in Barnstable

Rep. Mannal (see Exhibit A) came to discuss Bill 3101. The act of dedicating the overpass by Exit 6 in the name of US Navy Seal Kevin Houston is the goal of the bill. Mannal gave an overview of Kevin's service and Kevin as a friend. The exit is near the large American flag adjacent to Burger King and makes it an obvious home for such a memorial.

- Janette Brown-Anderson, Kevin's Mom, said Kevin was a product of the Town of Barnstable. The teachers, the coaches, and others who took the time to help him grow made him the young man he became. He was mischievous too but he was morally sound – he is a product of Hyannis. It was his mission to keep our country safe.
- Courtney Pugliese, an organizer of the Houston 5K, noted how the community comes together in his name.
- Yarmouth Police Officer Steven Xiarhos spoke in support. He said the naming would be a lasting achievement and a fitting tribute. He is a Gold Star father of Nicholas Xiarhos and brought a copy of a similar sign that honors his son in Yarmouth.
- Mike Ouellette, brother of Brian Ouellette who was also killed in action, spoke in favor of this bill. He said the character of these men is so much needed in today's society. People come from all around to the Cape. When they see these signs they can identify and memorialize the soldiers.
- Rob Mador was from Bridges of the Fallen, a non-profit group of Gold Star parents and others who work as volunteers and find bridges to have named for the fallen. He encouraged passage.
- Bruce Wyman said that Kevin gave his life let's give him a bridge

- John Hardy is a disabled veteran and noted that he would have looked up to him if he had served with him. He felt that Kevin needs to be recognized.

Manager Lynch noted that Barnstable has recognized its veterans with about 50 dedications in the town. Currently these have been catalogued, photographed and a video history is being created. This is a good continuation.

Councilor discussion ensued thanking the public for coming and noting that certain individuals rise to the top and deserve recognition. Rep. Mannal was thanked for his efforts bringing the item forward.

Motion for amending House Bill 3101 - was made by Councilor Rapp-Grassetti and seconded:

That the Town Council support House Bill 3101 with amended language, so to recognize not only U.S. Navy Seal, Kevin A. Houston, but also all Town of Barnstable Veterans having given their life serving in the armed forces, during all wars and conflicts, and that the signs, plaques and markers reflect the expanded recognition, and authorizing the Council President to send a letter to the Legislature, in support of the broadened language to amend the Bill.

Rep. Mannal recognized that this motion would amend the bill. He explained the legislative process and stated there would be time to amend it. Councilor Norman as a veteran said he would not be offended by this honoring just one person instead of all. Councilor Rapp-Grassetti wanted it to state that it should honor Town of Barnstable veterans and not be all inclusive for the Cape and Islands.

VOTE ON THE ABOVE AMENDMENT: 8 Yes 4 No (Cullum, Canedy, Tinsley, Norman)

Discussion ensued on the vote and the desire for a unanimous vote.

Upon motion duly made and seconded it was moved to Reconsider the motion.

VOTE: Roll Call - 10 Yes 2 No - (Hersey, Canedy)

On the second vote on the amendment

VOTE: 9 Yes 3 No (Cullum, Norman, Tinsley)

An announcement was made by President Dagwan regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PUBLIC COMMENT

John Julius – some have been offended by his comments. He talked about an easement on the McManus property and a lawsuit he and two others have. He wants a permanent injunction to prevent the town from using the McManus property as a wastewater dumping area. It is over a water supply.

ACT ON MINUTES (Includes Executive Session)

Upon motion duly made and seconded it was voted to approve the minutes of April 4, 2013 with the following corrections: Two spelling errors of proper names were corrected: one on page 4 Kanyock and later on Hans Keijser.

VOTE: 12 yes as amended

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

Councilors announced various activities taking place in Marstons Mills, West Barnstable, Centerville and Hyannis. The volunteers were thanked by Councilor Rapp-Grassetti and the Clerk announced the Primary Election on Tuesday.

ORDERS OF THE DAY

President Dagwan asked that the following items of be taken out of order and dealt with first.

2013-129 AUTHORIZING TOWN MANAGER TO CONVEY A 65' WIDE EASEMENT OFF SASSAFRAS LANE IN MARSTONS MILLS TO CENTERVILLE-OSTERVILLE-MARSTONS MILLS FIRE DISTRICT FOR CONSIDERATION OF \$100. - INTRO: 04/25/13

Rationale read into record by Town Manager Thomas Lynch and he recommended adoption.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

RESOLVED: That the Town Council does hereby authorize the Town Manager to convey a 65' wide easement over open space off SassafRAS Lane in Marstons Mills to Centerville-Osterville-Marstons Mills Fire District for consideration of \$100, to enable the construction and operation of a public water supply main, to be reduced to 20' wide upon construction, and to execute and record any documents in furtherance thereof.

VOTE: 12 Yes

2013-123 APPROPRIATION – \$40,000 FOR ADDITIONAL FY13 ELECTIONS EXPENSES - INTRO: 4/25/13

Upon motion duly made and seconded it was voted to refer this item to a public hearing on May 2, 2013.

VOTE: 12 yes

2013-124 ACCEPTANCE OF \$27,073.00 GRANT FROM THE MASSACHUSETTS CLEAN ENERGY TECHNOLOGY CENTER FOR THE WATER POLLUTION CONTROL DIVISION - INTRO: 04/25/13

Daniel Santos – Public Works Director explained the grant. They are looking at reducing the sludge through a digestion process.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

RESOLVED, that the Town Council hereby accepts a grant award in the amount of \$27,073.00 from the Massachusetts Clean Energy Technology Center for the purpose of conducting a feasibility study on the addition of digestion to reduce solids, generate agronomic projects and recover energy at the Water Pollution Control Facility and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: 12 yes

2013-125 ACCEPTANCE OF A \$2,500 GRANT FROM THE CITIZENS HOUSING AND PLANNING ASSOCIATION (CHAPA) FOR EDUCATION AND OUTREACH - INTRO: 04/25/13

Joanne Miller Buntich stated that this will produce a small video.

It was unanimously voted to move the question.

Upon motion duly made and seconded

RESOLVED: That the Town Council does hereby accept the Welcome Home Massachusetts Regional Initiative grant award in the amount of \$2,500 from CHAPA for the purpose of hiring a qualified professional to assist in the production of several videos to be used for education and outreach, Further resolved that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: 12 yes

2013-126 AMEND THE ZONING ORDINANCE CH. 240, ARTICLE X PERSONAL WIRELESS COMMUNICATION - INTRO: 04/25/13

Upon motion duly made and seconded it was voted to refer this item to the planning board for a hearing.

VOTE: 12 Yes

2013-127 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION - INTRO: 04/25/13

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

VOTE: 12 Yes

2013-128 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION - INTRO: 04/25/13

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

VOTE: 12 Yes

2013-130 APPROPRIATION --\$200,000 COMMUNITY PRESERVATION FUNDS FOR THE PRESERVATION OF THE CAHOON MUSEUM OF AMERICAN ART - INTRO: 4/25/13

Councilor Rapp-Grasseti recused herself from the vote on this item.

Upon motion duly made and seconded it was voted to refer this item to a public hearing on May 2, 2013.

VOTE: 11 Yes

2013-131 APPROPRIATION -\$100,000 COMMUNITY PRESERVATION COMMITTEE FOR CREATION OF COMMUNITY HOUSING ON SESAME STREET, MARSTONS MILLS - INTRO: 04/25/13

(It was asked, how do you get there?....(Sesame Street).

Upon motion duly made and seconded it was voted to refer this item to a public hearing on May 2, 2013.

VOTE: 12 Yes

2013-132 ACCEPTANCE OF A \$18,000 MASSACHUSETTS CULTURAL COUNCIL ADAMS ARTS PROGRAM FY12 GRANT EXTENSION - INTRO: 04/25/2013

Joanne Miller Buntich stated that it is our 7th year as a successful applicant.

It was unanimously voted to move the question.

ORDERED: That the Town Council does hereby accept the grant award in the amount of \$18,000 from the Massachusetts Cultural Council's Adams Arts Program. These funds will leverage other funds to create, support and promote arts programming in Barnstable. Further resolved that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: 12 Yes

2013-133 AMENDING THE ZONING ORDINANCE PROVIDING A NEW SIGN CODE FOR THE OSTERVILLE BUSINESS A ZONING DISTRICTS - INTRO: 04/25/13

Upon motion duly made and seconded it was voted that this item be referred to the Planning Board

VOTE: 12 Yes

2013-136 RESOLVE ON AN EXEMPTION FOR THE TOWN MANAGER OF AN INTEREST UNDER THE CONFLICT OF INTEREST LAW UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 268A §19 - INTRO: 04/25/2013

Attorney Weil gave the rationale. She explained that the regulatory services does the work on the permits and makes sure that the regulations are adhered to. The Manager merely signs the document. She had spoken with the State and of the two options from the State (the other being to assign the Assistant Manager to sign) she felt this exemption was the easiest. He needs it because a relative now is a manager of several parking lots.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was voted to amend the item by striking the number "two" and substituting in its place the number "six" so that it reads:

RESOLVED: That the interest of Town Manager, Thomas K. Lynch, in the execution of six open air parking lot licenses for HyLine Harbor Tours are hereby found not to be so substantial as to interfere with the objective performance of his duties in the best interests of the Town.

VOTE: 12 Yes as amended

A. OLD BUSINESS

2013-096 APPROPRIATION AND TRANSFER ORDER - \$200,000 Airport Enterprise Fund Capital Improvement Plan for testing, design, and construction of Runway 6 engineered material arresting system (EMAS) - INTRO: 03/21/13, 04/04/13, 04/25/13

Town Manager Lynch introduced Airport Manager Bud Breault. He showed a power point presentation (see Exhibit B) which explained the enterprise fund reserves. Other slides explained the reimbursement summary; projects, pending project.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$200,000** be appropriated for the purpose of funding the testing, design, and constructing of the Runway 6 Engineered Material Arresting System (EMAS) as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$200,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call – 12 yes

2013-097 APPROPRIATION AND TRANSFER ORDER - \$102,000 Airport Enterprise Fund Capital Improvement Plan for design of a new fixed base operations facility - INTRO: 03/21/13, 04/04/13, 04/25/13

Manager Breault gave the rationale.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$102,000** be appropriated for the purpose of funding the design of a new Fixed Base Operations Facility as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$102,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call – 12 yes

2013-100 APPROPRIATION AND LOAN ORDER - \$260,000 Airport Enterprise Fund Capital Improvement Plan for airfield lighting regulators and runway hold-position signs - INTRO: 03/21/13, 04/04/13, 04/25/13

Manager Breault gave the rationale. Questions were asked on the borrowing statement, which is standard in this type of item; and the grant. It was explained that if the town does not get the grant they may not go forward with the project, but since it is a safety issue they will try to complete the work.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$260,000** be appropriated for the purpose of funding Airfield lighting regulators and runway hold-position signs as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$260,000**, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call - 12 yes

2013-101 APPROPRIATION AND LOAN ORDER - \$7,800,000 Airport Enterprise Fund Capital Improvement Plan for design and construction of the main terminal ramp—phase 2; construction of aircraft deicing pad; relocation and reconstruction of all taxiway alpha from runway 33 end to runway 15 end; other miscellaneous airfield improvements INTRO: 03/21/13, 04/04/13, 04/25/13

Manager Breault explained the funding on this item and that they are ready to go out to bid next week.

Discussion took place on the effect this will have on the businesses at the airport - it is being worked out. The council is looking for a more detailed breakdown of costs. Breault hopes they will come in under the bid estimates - the designs are done.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$7,800,000** be appropriated for the purpose of funding for the design and construction of the main terminal ramp – phase 2; construction of the aircraft deicing pad; the relocation and reconstruction of all of taxiway alpha from runway 33 end to runway 15 end; and other miscellaneous airfield improvements as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$7,800,000**, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call - 12 yes

2013-102 APPROPRIATION AND LOAN ORDER - \$810,000 Airport Enterprise Fund Capital Improvement Plan for a new fuel farm - INTRO: 03/21/13, 04/04/13, 04/25/13

Manager Breault spoke to the fuel farm and the tanks therein. Thanks were given for trying to eliminate the underground tanks.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$810,000** be appropriated for the purpose of funding a New Fuel Farm as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$810,000**, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call 12 yes

2013-103 APPROPRIATION AND LOAN ORDER - \$634,000 Airport Enterprise Fund Capital Improvement Plan for the East Ramp sewer extension - INTRO: 03/21/13, 04/04/13, 04/25/13

Manager Breault stated that those on the ramp will need to connect to the sewer and the septic systems will be removed. It is airport property and there are leases.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$634,000** be appropriated for the purpose of funding the East Ramp Sewer Extension as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$634,000**, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call – 12 yes

2013-098 APPROPRIATION AND TRANSFER ORDER - \$200,000 Airport Enterprise Fund Capital Improvement Plan for airport terminal and ARFF (aircraft rescue and firefighting) building improvements - INTRO: 3/21/13, 04/04/13, 04/25/13

It was explained by Manager Breault that due to cost cutting in the original building of the facility this control system was taken out. It was noted that for marketing and safety reasons the lights are important - it was suggested the Airport Commissioners come in to talk to the Council about their marketing at some point.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$200,000** be appropriated for the purpose of funding airport Terminal and ARFF Building Improvements as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$200,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call – 12 yes

2013-099 APPROPRIATION AND TRANSFER ORDER - \$90,000 Airport Enterprise Fund Capital Improvement Plan for airfield access control and security upgrades - Intro: 03/21/13, 04/04/13, 04/25/13

This is being done so that all access points will be upgraded.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was

ORDERED: That the sum of **\$90,000** be appropriated for the purpose of funding Airfield Access control and Security Upgrades as outlined in the FY 2014 - FY 2018 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that **\$90,000** be transferred from the Airport Enterprise Fund reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: Roll Call - 12 yes

Town Manager Lynch announced that this concludes the Town's CIP Plan and presentation items for this year.

2013-032 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING, "CHAPTER 54. BUILDING AND PROPERTY MAINTENANCE" - INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/15/13

Public Hearing was opened.

- ✓ Milton Berglund has received a copy of the proposed amendment with the deletions and he disagrees with the deletions. The previous versions cite they should be in a safe condition – it is not esthetics, we are looking at safety. Don't accept revisions. There is also no evidence where codes have excess government enforcement and interference with a person's rights.
- ✓ Laura Cronin – we have about 85% of what we wanted.
- ✓ Linda Rowell – addressed the vacant buildings – should not be allowed to be left boarded up.

Councilor discussion emphasized the council's prior request for a list of vacant properties, and also a list from the Board of Health of regulations that are not working or additional help that is needed. Councilors just received the amendment in their packet and without the items they had requested, many felt they were not ready for a vote this evening. There was a request for a sunset clause in a year.

Attorney T. David Houghton said that three items the Board of Health had come forward with are included in the new amended item. It was also noted a draft of abandoned buildings item was presented at the workshop and is awaiting sponsors and introduction.

A motion was made and seconded to move this item to May 2, 2013.

VOTE: 12 yes

2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES - INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13

Upon motion duly made and seconded it was voted to continue this item to May 2, 2013.

VOTE: 12 yes

2013-043 AMENDING THE GENERAL ORDINANCES, ARTICLE 1, §1-3, CHAPTER 170, RENTAL REGISTRATION - INTRO: 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13

Upon motion duly made and seconded it was voted to continue this item to May 2, 2013.
VOTE: 12 Yes

2013-082 APPROPRIATION ORDER OF \$50,000 TO CONDUCT A PLANNING PROCESS TO STUDY THE NOVEL AND COMPLEX ISSUES OF SITING MEDICAL MARIJUANA TREATMENT CENTERS - INTRO: 03/07/13, 03/21/13, 04/04/13, 04/25/13

TOWN MANAGER FORMALLY WITHDREW MOTION
We believe we can do the work in house.

Upon motion duly made and seconded it was voted to approve the withdrawal.
VOTE: 12 yes

2013-083 AMENDING THE GENERAL ORDINANCE, CHAPTER 40, BOATS, S.5 B - INTRO: 03/21/13, 04/04/13, 04/25/13

Lynne Poyant – Dir. Of Community Services – explained the reasoning behind this item to make this section of the Code valid.

There was a small amount of discussion regarding skiing in North Bay, which you can still do. There are adequate regulations for jet skis. Joe Gibbs does not believe that this will affect skiing in the ponds.

It was unanimously voted to move the question.

Upon motion duly made and seconded it was
ORDERED: That Chapter 40 Section 5 of the General Code of the Town of Barnstable is hereby amended by adding to Section B after the words “other boats or of the shore” the words, “Additionally there shall be no water skiing within 300 feet of a shoreline being used as a swimming area whether public or private.”

(New wording will be as follows:)

Water skiing as hereinafter permitted is subject to the provisions of Section 8, Chapter 90B of the General Laws of Massachusetts and to the further restriction that there shall be no water skiing within 150 feet of bathers, divers, piers, docks, floats, moorings, other boats or of the shore. Additionally, there shall be no water skiing within 300 feet of a shoreline being used as a swimming area whether public or private. For the purpose of this article, the words "water skiing" shall include the towing or manipulation of a surfboard, tube or other similar device behind a vessel.

VOTED: 12 yes Roll Call

Town Clerk –Vacancy of the Office – Will bring an item up at the next meeting.

President Dagwan announced that the Town Clerk Linda Hutchenrider will be retiring in June and she will be bringing a vote forward to appoint an acting clerk at the next meeting..

TOWN MANAGER COMMUNICATIONS - Town Manager Thomas Lynch

- RFP Committee for the Armory met and discussed the Real Pirates proposal.
- Administrative Code review will take place
- Barnstable Police Department provided mutual aid to Boston, he asked them to report on it at the May 2, 2013 meeting.
- Manager Lynch recently attended a session on what to do during emergencies such as a shooting that included role playing.
- They are reviewing the outline for the re-opening of the shooting range
- Town received a Community Partnership Award

ADJOURNMENT

Upon motion duly made and seconded it was

VOTED: to adjourn.

ADJOURNED: at 10:30 p.m.

Respectfully submitted,

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

Attachments:

- A: Text of Mass House Bill 3101 and info presented by Rep. Mannal
- B. Print of Powerpoint from Airport

NEXT REGULAR MEETING: May 2, 2013

