



## TOWN COUNCIL MEETING

September 19, 2013

**A** quorum being duly present, Council President Debra Dagwan called the September 19, 2013, Town Council meeting to order at 7:05 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

**PRESENT:** Janice Barton (7:45), Ann Canedy, Frederick Chirigotis, James Cote, Jennifer Cullum, Debra Dagwan, June Daley, Jessica Rapp Grasseti, 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,

### **PUBLIC COMMENT:**

- Laura Kelly asked the Councilors to write a document, to NStar to hopefully stop the spraying. Kelly asked everyone to put in their own words why you do not want NStar to spray. (Exhibit A)
- Susan Gallagher stated major concerns about traffic due to speeding on the streets of Precinct 13 where there are no sidewalks for the children. Gallagher asked for direction of where to go from here.
- Rick Brand spoke about cars driving too fast on Scudder Ave and the safety of the children.
- Mario Boiardi said the speed of traffic is very fast on Scudder Avenue.
- Eddie Gallagher urged the Councilors to look at the very dangerous traffic intersections on Scudder Ave. We need to slow the traffic down.
- Linda Plunkett stated she sees many children walking children in her neighborhood in Hyannis port. Help to make the area safer.

### **COUNCIL RESPONSE TO PUBLIC COMMENT:**

Councilor Cullum thanked the residents of Precinct 13 for coming forward; happy to help make the area safer

Councilor Canedy asked where to send the NStar letter; utilities not subject to some zoning laws; traffic issues are town wide; different strategies can be taken; set up a meeting with your Councilor between the Town Manager, the Police Department, and the DPW;

Town Manager, Thomas Lynch stated many letters have been sent regarding the issue of spraying; the Board of Health has weighed in on this matter; traffic concerns have been brought forward and a meeting will be set up with all.

President Dagwan heard the same complaint about speeding on the streets from Centerville residents and her constituents in Precinct 8.

Councilor Canedy stated those flashing signs have information that can be downloaded regarding the traffic and speed.

Police Chief, Paul MacDonald, stated the smaller signs flash the speed, if the white light above the sign is flashing, that indicates you are speeding. The data that can be downloaded indicates the number of vehicles, minimum speed, and maximum speed.

Vice President Rapp Grasseti suggested that the Council should do another resolve regarding the spraying.

Councilor Daley stated a resolve was passed in 2012 and it did not have an expiration date.

President Dagwan stated she did draft a letter; will provide the letter to the Councilors to support to move forward.

Councilor Canedy individual letters are more effective; discussions with Cape Cod Commission; no data available from NStar as to the effect; Can we get some information together by next meeting.

**ACT ON MINUTES: (Includes Executive Session)**

Upon a motion duly made and seconded it was to postpone minutes of September 12, 2013 to the next meeting in October.

**VOTED: UNANIMOUS TO POSTPONE**

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

On Saturday, meet at the West Barnstable Community building, to clean our streets, offering donuts and coffee; Cotuit is having a clean up on Saturday as well.

NAACP Annual Fashion show, scholarship fund raiser on October 3<sup>rd</sup>; donations accepted; October 5<sup>th</sup> conference on money at CCCC; Six (6) Russian delegates came to the Cape to learn about local government and state government, met with them at the youth center, quite an experience.

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.

**2014-013 AMENDING ZONING ORDINANCES, CHAPTER 240, EXTENDING THE TEMPORARY MORATORIUM ON ESTABLISHING AND PERMITTING MEDICAL MARIJUANA TREATMENT CENTERS AND ASSOCIATED ACTIVITIES INTRO: 09/12/13, 09/19/13**

Role Call of Planning Board Members: 5 in attendance

Joanne Miller Buntich gave the rationale, recommending that the moratorium be extended Open public hearing seeing no one, close public hearing.

The Planning Board unanimously recommends the enactment of 2014-013.

Councilor discussion: Planning board is just beginning to grapple with this, we need more time; recommend the extension.

Upon a motion duly made and seconded it was

**Ordered that:**

Section 1. That the Zoning Ordinance, Article XIII, §240-129C, Temporary moratorium on medical marijuana treatment centers and associated activities relating to Ballot Question 3, is hereby amended by striking the phrase: " January 1, 2014 or until one hundred eighty (180) days after the effective date of the final regulations promulgated by the State Department of Public Health relating to Ballot Question 3, whichever occurs first" and substituting in its place "May 19, 2014."

So Section 240 §129C as revised now reads:

"C. The moratorium shall be in effect through and including May 19, 2014."

Section 2. That the Zoning Ordinance, Article XIII, §240-129F, Temporary moratorium on medical marijuana treatment centers and associated activities relating to Ballot Question 3, is hereby amended by striking the phrase, "January 2, 2014 or one hundred eighty (180) days after the effective date of the final regulations promulgated by the Department of Public Health relating to Ballot Question 3, whichever occurs first" and substituting in its place "on May 20, 2014."

So Section 240 §129 F as revised now reads:

"F. Unless extended, continued or modified by a subsequent action of Town Council, this section shall cease to be effective on May 20, 2014."

**VOTE: Passes 10 yes, 2 no (Hersey, Tinsley)**

<b>2014-022 RESOLUTION IN SUPPORT OF THE PRESERVATION OF TAX-EXEMPT FINANCING INTRO: 09/19/13</b>
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Presentation given by Mark Milne, Finance Director, the state is talking about removing the tax exempt benefit for municipal bonds. We ask for your support of this resolution to send to the Legislation.

Upon a motion duly made and seconded it was

**RESOLVED:**

WHEREAS, tax-exempt municipal bonds are the primary means by which state and local governments finance three quarters of the critical infrastructure of our nation, including roads, bridges, hospitals, schools, and utility systems; and

WHEREAS, through the tax exemption, the federal government continues to provide critical support for the federal, state and local partnership that develops and maintains essential infrastructure, which it cannot practically replicate by other means; and

WHEREAS, the municipal tax exemption has enabled state and local governments to finance more than \$1.65 trillion in infrastructure investment over the last decade; and

WHEREAS, this tax exemption is part of a more than century-long system of reciprocal immunity under which owners of federal bonds are, in turn, not required to pay state and local income tax on the interest they receive from federal bonds; and

WHEREAS, municipalities benefit from this tax exemption through substantial savings on the interest cost of borrowed money; and

WHEREAS, tax exempt bonds benefit state and local governments who need the support of investors to finance critical infrastructure, taxpayers across the country who depend on this infrastructure for reliable transportation systems, schools, public health facilities, energy, clean water and affordable housing, the federal government, who gets quite a bargain on their partnership with state and local government to provide the nation's infrastructure through the exemption; and investors who buy bonds for many reasons, including the safe nature of these financial products; and

WHEREAS, municipal bonds are the second safest investment, aside from U.S. Treasuries, with state and local governments having nearly a zero default rate; and

WHEREAS, 72.4 percent of the total outstanding municipal debt is held by individual investors, either directly or through mutual funds and money market funds (Source – 2010 Thomson Reuters); and

WHEREAS, Congress and the President have proposed legislation to reduce or repeal the tax exemption on municipal bonds; and

WHEREAS, these proposals to reduce or repeal the tax exemption would have severely detrimental impacts on national infrastructure development and the municipal market, raising costs for state and local borrowers and creating uncertainty for investors; and

WHEREAS, if the proposal to cap the exemption on municipal bonds at 28 percent had been in place over the last 10 years it would have cost state and local governments an additional \$173 billion in interest costs; and

WHEREAS, total repeal of the exemption over the last decade would have cost state and local governments over \$495 billion in additional interest costs; and

WHEREAS, the municipal tax exemption has a long history of success, having been maintained through two world wars and the Great Depression, as well as the recent Great Recession, and it continues to finance the majority of our nation's infrastructure needs for state and local governments of all sizes when no other source exists to do so;

NOW, THEREFORE, BE IT RESOLVED that the Town of Barnstable, Massachusetts opposes any efforts by Congress and the White House to reduce or repeal the federal tax exemption on interest earned from municipal bonds; and

BE IT FURTHER RESOLVED that we oppose any action that would reduce or repeal the exemption on tax-exempt bond interest, and affirm that there should be no legislative action to apply any changes retroactively to current outstanding bonds; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to our Congressional Representatives and key members of the Administration.

**VOTE: Unanimous**

**2014-023 APPROPRIATION AND TRANSFER \$175,000 FROM THE CAPITAL TRUST FUND FOR SAND NOURISHMENT DUE TO STORM DAMAGE AND CREATION OF SANDY NECK PARKING LOT STABILIZATION PLAN INTRO: 09/19/2013**

Opened and moved to a public hearing on October 3, 2013

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of \$175,000 be appropriated for the purpose of funding a sand nourishment project at Sandy Neck Beach; and to meet this appropriation, that \$175,000 be transferred from the Capital Trust Fund, and that the Capital Trust Fund be reimbursed from the Sandy Neck Enterprise Fund Reserve upon the Division of Local Service's certification of the said enterprise fund's reserve.

**VOTE: Unanimous to move to a public hearing on October 3, 2013**

**TOWN MANAGER COMMUNICATIONS:**

30 students attended the Suffolk program

Ribbon cutting at the Marstons Mills branch of the Cape Cod Cooperative Bank

October 9<sup>th</sup> going to the State House-healthy by design

HYCC open house-Saturday

ICMA conference

Letters sent to NSTAR to curb spraying and encourage use of mechanical clearings

**Mark Ells, Assistant Town Manager**

Workshop regarding West Barnstable Shooting Range with Conservation

Addressed insurance related issues and safety issues

Many suggestions taken

Public hearing on October 1<sup>st</sup>

Talking with the public

Hope to move forward shortly after the first (Exhibit B)

President Dagwan declares that an open meeting may have a detrimental effect on pending litigation regarding Marty v. Town of Barnstable;

A motion was made and seconded to go into Executive Session to discuss strategy with respect to litigation strategies relating to the case Marty v. Town of Barnstable, based upon the declaration of the Chair that an open meeting may have a detrimental effect on the litigation position of the Town, and to reconvene in Open Session.

**VOTE: 12 Yes, Role Call (8:05)**

Reconvened at 8:40 PM in the Selectmen's Conference Room for a workshop to discuss 2013-166

Open to a public hearing

Workshop on 2013-166 Amending the Code of Barnstable General Ordinances-inserting Chapter 224 Vacant or Foreclosing Properties Intro: 02/16/13, 7/11/13 (Exhibit C)

Councilor Cullum gave the rationale. Councilor Canedy passed out (Exhibit D) some Q & A's, hoping to make this a remedial ordinance, not punitive.

The idea is to separate out the bank owned properties from the Vacant and/or Abandoned properties. Both Councilors's stated they did not want to fine anyone; they want this ordinance to open up the lines of communication with the owners of the properties.

The intent of this ordinance should be to make the streets and community safe. If someone is deceased, if the property hasn't been maintained, find out who is responsible until probated. If the responsible person refuses to work with the Commissioner, then step up the action.

If a Municipal fine is imposed, typically the judge will mitigate that substantially, so that it can become something manageable. A more sensible approach...if the town has to step in to secure the property the town sends a bill to the owner of the property.

Councilors pointed out that the figure of three hundred dollars is still in this Item.

Looking at page 7 of the Item; a question remains as it pertains to the violation of penalties. How do you build that out? All well and good that we are coming up with these problems but you have to be able to fund them.

Section 224-8B which indicates before the Town takes any steps they have to obtain a court order to enter the property

Per the Legal team we have received a grant of \$60,000 to identify foreclosed properties through the attorney general. If we go the court receivership route, the court will appoint a receiver. This is the way to start a dialog, so we can secure these properties. Part of a whole process

Real driving impetus is to get the owners of the problems to talk to us. As you were going over this was there any specific law or communities that have already done this? This was modeled after Springfield's law that has sustained the courts scrutiny.

Canedy stated she would like to rework the item to satisfy Rugo's concerns, as this is meant to be a remedial effort.

If it is a foreclosing property there is no entry by the town. With this grant from the AG's office it is a perfect time to make a move on this item.

In Subsections A and B, #224-4B bullet #9...maintain the property in accordance with Mass State Sanitary Code and State Building Code. A failed septic system does that mean the bank has to take care of the septic?

Keep the last two lines regarding disposal of trash, debris and standing water; Cullum wants to strike the majority of number 9, to clear up any confusion.

Revisit (13) a cash bond of \$10,000.00, provide 24 hour on site surveillance; we need clarification on that one.

224-5 Signs and markings...can we just have one on the property

Change two year review...a year after this passes

Councilors Cullum and Canedy will take these back and put these together before our next council meeting.

Thank you for your effort.

Substantial rewrite, so bring the new item, on the third, continue on the 17<sup>th</sup> for a vote.

**ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED to adjourn.**

**Unanimous**

**Adjourned at 9:30 PM** Respectfully submitted,

Ann M. Quirk, CMC

Assistant Town Clerk – Town of Barnstable

Exhibits:

- A Protect our Cape Cod Aquifer
- B West Barnstable Shooting Range
- C Item 2013-166
- D Q & A's