

## **TOWN COUNCIL MEETING**

### **January 18, 2007**

A quorum being duly present, Council President Janet Joakim called the meeting of the Barnstable Town Council to order at 7:00 pm, on Thursday, January 18, 2007.

**PRESENT:** Richard Barry, Janice Barton, Gary Brown, Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Leah C. Curtis, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafo, Jr., Tom Rugo and Harold Tobey.

Vice President Brown lead the Council in the Pledge of Allegiance. Councilor Crocker asked the hall to remember the fallen troops and their families as well as the passing of John Duffley and John Alger with a moment of silence.

Jeff Rudziak, Director of Assessing, gave the council an update on the status of the Department of Revenue tax rate certification. The DOR has approved the proforma as well as the sending of 3<sup>rd</sup> quarter preliminary tax bills, which are ready to be mailed. He expects approval of 4<sup>th</sup> quarter bills by next week. He passed out a memo from the DOR (exhibit A). There are 31 communities in the same situation as Barnstable. The DOR should have presented new assessing requirements to assessors earlier in the year. Since Barnstable has lots of waterfront property and other unique issues that took more time to assess under the short notice of new guidelines, there has been a delay in completion of the revaluation.

### **COMMUNITY PRESERVATION COMMITTEE**

The following members were present: Chairman Lindsay Counsell, Vice Chairman Laura Shufelt, Clerk Susan Rohrbach, Patrick Princi, Tom Lynch, Terry Duenas, and Marilyn Fifeld.

Town Attorney David Houghton gave an overview of the enabling legislation, his “two minute tour of the Act.” Three resources can be funded with CPC money: community housing, open space and historic preservation. Restoration and rehabilitation funding can apply to properties that have been acquired. Expenditures can be made on private property only if there is a direct public benefit and the town has an interest, such as a restriction, etc.

Chairman Counsell reviewed the topics for discussion. (See Exhibit B)

Should there be a submission schedule in which there are two deadlines, such as late winter/early fall? There has not been a set procedure for accepting the applications. To simplify they switched to a one page letter of intent. The actual process can take up to six months. The committee feels it would benefit from a more predictable time from the beginning with deadlines for applications. There may be exemptions, but the structure would benefit all.

Should a project of a smaller size be accelerated? The committee would like to know the council’s work priorities. What are the council’s preferences among the categories that qualify: historic, conservation, housing, municipal, recreation?

How should projects be weighted and what criteria should be applied? Should there be specific municipal priorities for historic buildings owned by the town? Does the council prefer to see projects addressed that come with matching funds? Would there be a greater interest in projects with their own funding or that could be considered for conservation restrictions?

Comments were as follows:

- Anything that could be fully funded or funded in part would be looked at more favorably.
- The biannual deadline is an excellent idea.

- Is the role of the CPC well known in the community? It should be promoted perhaps with a budget to do so. Perhaps it could get some exposure on the town's website or use some money for ads.
- Members could be guests at civic associations to find out community priorities. Some ideas may float to the top others may not. Matching funds may not make a property rise to the top.
- There needs to be care with municipal items because the CPC money is not a line-item in the municipal budget.
- A requirement of some kind of town ownership is valid for properties that have been helped.
- There should be a plan for how exceptions or emergencies that occur after a deadline are addressed.
- How should the funding be prioritized? There are many municipal buildings that are historic and need attention now.
- Deadlines are a good idea as well as dividing the projects into small and large ones.
- Municipal buildings should be added to the criteria, as well as matching funds.
- The priorities should be housing and open space because of the cost of the land.
- It is important to have this kind of report periodically to give an idea of where things stand. It will help to begin to see where the funds are going, etc.
- The town has had the expertise of many who were involved in the land bank to purchase many tracts of land to preserve the integrity of the town.
- The CPA allows addressing other areas that have not had the prior luxury of money.
- Priorities should be housing first, historic preservation second and land preservation final and it is important to address municipal buildings that qualify.
- Matching funds is an important criterion. Also that the project serves the public – these are public funds.
- An historical perspective would be beneficial with a list of all the land purchased back to the Land Bank, what has been done with housing and the accomplishments of historic preservation efforts. The Land Bank Committee had done much due diligence which gave the council a level of comfort.
- Priorities should be historic preservation and specifically municipal buildings. It is tax payer's money invested in taxpayer owned property.
- The old selectman's building and the community building, both in West Barnstable need attention. Municipal buildings deserve the lion's share of the attention.
- The starting point should occur in advance of the budgeting.
- Emergencies should take precedence and there should be a push behind the town owned properties.
- Should all projects be give equal aid or should only the exceptionally worthy projects be funded?
- The CPC should continue to actively look for opportunities as did the land bank.
- There is no problem giving money to private projects, or with working the percentages between historic and housing, or funding the extra cost of an historically correct roof, for example, over the expense of the simple repair.
- This is a more complex and competitive program.
- It appears from the sheet that there is much more money available for open space.
- There should be more community outreach and the CPC program could be more community driven rather than applicant driven.
- Instead of choosing one private project over another, rather the committee should select a category of qualified organizations and then divide the funding equally.
- The community does not understand it and a town meeting format would bring out the community opinion.
- Both small and large projects should have a chance at the funds.
- There should be flexibility.
- There should be discussion on how the council, the manager, etc. fit into the process.
- Towns with a town meeting format have to have a schedule in order to meet town meeting deadlines.
- A council vote on the strategic plan will also help this group.

Members of the CPC responded.

- Applications from the municipality have been looked at item by item and the committee has knocked out what has been repair vs. historic preservation. This has been researched every step of the way.
- The committee is good at saying no to open space. They have not gone out actively to seek projects and have taken care of open space demands. Other areas need to be addressed.
- They have looked at village priorities and will review them again as LCP is completed.
- The committee could use some guidance from the council with regard to municipal projects. Priorities from council would be of assistance.
- There have not been many proposals for housing. The unpredictability of the committee and the market slowdown has had an effect. Every other funding source has funding rounds whose schedule everyone knows.
- Getting the word out will be helpful. Many communities take their full allocation for housing and give it to one agency or authority. The agencies then decide. Funds may be given to a pre-developer. A schedule will be helpful and they have several applications that will be brought forward soon.
- Procedural items can be easily addressed. A biannual process has consequences, with regard to emergency needs and other funding priorities.
- Publicity and outreach may bring in more projects. There are ways to work with developer with respect to additional affordable housing or less density.
- With respect to the community preservation plan, there are lists of things that they would like to see happen – land they would like to buy, projects they would like to create.
- Member Terry Duenas volunteered to produce an informational video, three or four 30 minute programs, and a PSA for radio stations incorporating the community preservation plan.
- Special exemptions should be included in any deadlines.
- There are grant opportunities with federal deadlines to supplement community preservation funds and a 75% reimbursement for establishing an endowment for historical buildings.

Chairman Counsell will put some numbers and matching fund numbers together for the council as well as a list of projects currently in the queue. Some of the councilors are more prolific with input on the projects. In the end, the manager has to approve all appropriations to come before the council and reviews all applications when approved by the committee; everything goes through his office.

Councilor Milne would like to invoke the town meeting clause for input on the CPA. Mr. Counsell would participate if the council wanted to do that. A recreation plan and an historic plan are still needed and council priorities could be added if the council desires.

Councilor Munafo asked how the committee was functioning. Counsell explained that it took time to find their way within an act that was designed to put disparate groups against each other. He feels the committee has a workable system now. The assistant manager has ‘jump started’ many of their efforts and they are better from his input. Duenas added that the act is extensive with many legal parameters. There has been a learning curve but they have a better handle on it. Sue Rohrbach added that to meet more than one of the mandates is the ideal for which to strive.

Councilor Crocker asked if there were funds for administrative purposes and could money be set aside for affordable housing start-up. Laura Shufelt agreed that there was a need but the first step is important.

Councilor Farnham asked if there is a rating system of our municipal buildings with respect to condition and needs. Marilyn Fifeld said there is an inventory of historical and municipal buildings but an assessment of what they need is necessary and should be done by a professional. A state historical commission grant was used for some professional assessment about 20 years ago. Niedzwiecki said some of that is done for capital budgeting but it can be funded by the CPC.

Councilor Curtis asked for clarification of what council input would be helpful. Flexibility has to be a component. She would support a wide range of projects. There is a lot out there and the town is still working on its knowledge base. Property needing protection from the elements should be given priority. Counsell said the council provided direction in the land bank days and it was helpful.

Categories that are important for a period of time should be identified and could be changed down the road.

Councilor Chirigotis asked if the council should be meeting for an extended time with the committee as they do in creating the strategic plan. Counsell would like even just a few guidelines.

Councilor Canedy suggested the council could rate the various criteria and put them in a prioritized order. Historic, open space and housing are her priorities. Historic has been on the bottom of the list. The structural issues at the Trayser Museum should be done before other issues are considered. There are support committees for housing, historic and land acquisition. She would like an abbreviated packet to be shared with the appropriate committee and the councilor from the precinct. Counsell said they bring the committee on board when they are needed. Each committee's member on the CPC can copy the packet for his committee.

Councilor Crocker pointed out that the process has to go through the CPC to the town manager then to the council. He doesn't think the council input should be made until the manager has brought it forward. President Joakim felt they needed input. Manager Klimm felt this was a different animal with different roles for the committee, manager and council. He has allowed every project to come before the council. The council should have the ability to look at a project and respectfully disagree, without it being looked at as a slight of the CPC or the manager. "There are no bad guys here." Klimm added that the CPC needs the independence to do the work they are doing so well. It's not going to be simple and may not be pretty.

Councilor Curtis feels the dialogue is important and informative. When applications come before the council, time must be allowed to make sure the council has an opportunity to debate. Councilor Canedy pointed out that the committee has asked for a policy and in recent projects the subject of not having any policy has been made.

Counsell said that when applications are discussed, it could be an opportunity to invite the public – not a town meeting – but an open dialogue.

## **PUBLIC COMMENT**

Paul Revere spoke about a permitting issue.

John Julius said he was glad to see the questions about the CPC and would like to see the council ask questions in the future. He also spoke about the purchase of the property at 725 Main Street, questioning why the town paid \$653,000 for an abandoned gas station that was on the DEP's Brownfield list, and why no one checked the list. In addition there was never a conservation restriction deeded and he wondered why there is a sewer restriction. He also feels there have been illegal expenditures at the airport. His group is preparing a packet for submission to the Attorney General's office.

Alan Burt spoke about the affordable housing problem. He doesn't feel the council has come to a consensus about whether it believed this is a crisis. He feels it should be settled among them before they can address the problem. Recent actions, such as the defeat of the AHOD and the adoption of the rental ordinance, which has hindered rentals, are indicative. The rental ordinance has addressed some severe problems along with very minor issues. He suggested that the council allot several hundred thousand dollars to subsidize rentals.

Lou Gonzaga asked how many times the council could add to an appropriation when the money appropriated has not been enough. He feels municipal buildings should be preserved because it is our heritage. There is not enough enforcement of rentals. To get to the stage of eviction doesn't occur over night because the tenant has many rights. His major objection is the cars parked outside because it is a safety issue. That and the overcrowding are safety issues that may cause the town to be sued. If tickets are not paid, cars should be towed.

Deborah Tavano, once homeless, moved into her new home after getting a Section 8 voucher and a few months later she had to move out because the landlord was found to have code violations. It's not fair to her. She became the victim.

Peter Doiron spoke on a variety of subjects including his hopes that both the charter petitioners and the current appointed charter commission can get together. He pointed out that the DEP says they are not responsible for pollutants coming from airplanes. He feels Exit 6 ½ is not needed but encouraged by those who do not want industrial park traffic on the local roads that are already in place for industrial park access.

Robert Tucker said his name was mentioned with respect to issues he raised and he was criticized for his mention of car parking issues. The police chief has been working well in the area.

## **COUNCIL AND TOWN MANAGER RESPONSE TO PUBLIC COMMENT**

Councilor Farnham responded to the illegal usage of land bank money for the golf course, etc. There had been much legal review of the process. The building was removed and the site cleaned up prior to the purchase of the Main St. parcel. The Danforth purchase was open space and the buildings a gift. The golf course is also a legal purchase. All land bank appropriations have been cleared by legal counsel.

Councilor Crocker said rental ordinance is all encompassing and it is difficult to understand the repercussions until it is has been operational for a time. The 'win' part of the story is that it has improved the environment for the renters. There are the win-win stories as well as a need to review it down the line.

Councilor Milne said he did not support the ordinances because they applied to every home in the town. He appreciated that Councilor Farnham elaborated on the open space purchases. He asked the chair to allow the legal department to comment on that as well.

Councilor Barton is not sure there is a consensus on affordable housing. However, she feels there is probably a majority of the council in favor.

Town Manager John Klimm pointed out that the unit (Ms. Tavano's) is an illegal unit and should people be allowed to live in an illegal unit. There is a public policy about that. When that came to light the town acted appropriately. People have commented that things have improved. Others are not satisfied. However, should the inspectors disregard other health and safety issues if they find them? No one has been fined to date. The owners have received written letters. Would you want the town to make exceptions that they would not make in other parts of town? Whether this public policy debate should be reopened is for the council to decide. No one has been selecting illegal apartments and only time will tell if the ordinance makes sense. Klimm said there is a dichotomy in the community on this issue, from be flexible and turn the other way to enforce aggressively. The people who have been asking leniency don't live in the affected areas. The inspections have been fair, objective, routine and comprehensive. He added that it would be more productive to call his office rather than comment at public comment. He would appreciate the courtesy of hearing the complaint and having an opportunity for action.

Councilor Crocker said this was probably not the last report on illegal apartments. Councilor Canedy said, whenever possible, illegal apartments are turned into accessory apartments. The Section 8 voucher group does not evaluate the apartment.

## **REPORTS FROM TOWN COUNCIL, BOARDS, AND COMMITTEES**

Councilor Barry announced that the Conservation Commission voted to close Crocker Neck permanently as a result of 18 or 19 letters from citizens. It is noteworthy that over a period of time, only three complaints have been filed with the police department.

Councilor Munafo said the council compensation committee will meet on Monday and have feedback for the council.

Councilor Rugo reported on a January 5<sup>th</sup> meeting he had with Bill Murdock of the Trust Fund Advisory Committee. They are working on some previously unattended town affairs. A report should be forthcoming.

Councilor Brown said Cynthia Cole of the BID spoke on a panel to towns about the BID at the recent MMA conference.

President Joakim said the MMA meeting was very productive.

Councilor Barton announced that Operation In From The Streets raised over \$20,000, with Eastham and Chatham raising the amount of their donations this year.

Councilor Curtis announced that the town has taken over the management of the Hyannis Golf Club. The staff and the Golf Committee are working well and the committee will open a limited number of memberships to non-residents of the town at a higher rate. The Personnel Committee is addressing the issue of military leave for town employees. The Appointments Committee has openings on various committees which are posted on the website.

President Joakim said that the CFAC honored John Ladner at their last meeting, presenting him with a plaque. He has worked on this committee for a more than 13 years and is stepping down. He has also served on the statewide Chapter 70 Roundtable for a number of years. Joakim will be replacing him on that committee.

## **ACT ON MINUTES**

Upon motion duly made and seconded it was voted to approve the minutes of January 4, 2007 with the following corrections: on page six, under Councilor Munafo's comments, the two mentions of 'visual blocking' should be changed to 'visual blight;' and on page nine, Councilor Canedy's comment should read "Councilor Canedy said that the order would help justify not having to pay for a videographer for extra meetings" deleting "that it helps by" and omitting the phrase "that may put everyone to sleep."

**VOTE: Unanimous (Councilor Rugo out of the hall)**

## **ORDERS OF THE DAY OLD BUSINESS**

Upon a motion duly made and seconded it was voted to postpone:

**2007-042 ALLOCATION OF TAX LEVY,**

**2007-043 ADOPTION OF CHAPTER 653, SECTION 40 OF THE ACTS OF 1989 WHICH AMENDS MGL CHAPTER 59, SECTION 2A (a), ASSESSMENT OF NEW CONSTRUCTION**  
and

**2007-044 ADOPTION OF CHAPTER 59, SECTION 5 (54) PERSONAL PROPERTY EXEMPTION** to February 15, 2007.

**VOTE: Unanimous (Rugo out of the hall)**

## **2007-065 APPOINTMENTS**

Upon a motion duly made and seconded it was

**ORDERED** That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**WATERWAYS COMMITTEE APPOINTMENT:**

Frederick Komenda, 65 Elliot Road, Centerville, MA 02632, term expires 06/30/2007

**PORT COUNCIL REAPPOINTMENT:**

Robert Jones, 65 Pinewood Road, Hyannis, MA 02601, term expires 12/31/2008

**VOTE: Unanimous**

**2007-069 COMMUNITY PRESERVATION FUND APPROPRIATION FOR COMMUNITY HOUSING AND HISTORIC RESOURCES, 46 AND 50 PEARL STREET**

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on February 1, 2007.

**VOTE: Unanimous**

**2007-071 COMMUNITY PRESERVATION FUND APPROPRIATION FOR HISTORIC REHABILITATION (COURTYARD ENTRY AREA OF TOWN HALL)**

Upon a motion duly made and seconded it was voted to open a public hearing on the above item at 9:35 PM.

**VOTE: Unanimous**

Manager Klimm gave the rationale. The existing doors have been a serious hazard to the public.

Upon a motion duly made and seconded it was voted to close the public hearing at 9:37 PM.

**VOTE: Unanimous**

Councilor Munafo wanted to know how this is different from maintenance. Klimm said the project meets the threshold of not being routine maintenance, which is more like paint and wallpaper. This has to meet the requirements of the Historic Committee as well as the Hyannis Historic District, making the project more expensive than outside routine maintenance. Lindsay Counsell added that this will be period reconstruction of the whole entryway. The doors are bad and they slam shut. The project meets the requirement because the replacement is with period style doors which will be historically correct. Munafo also asked about awnings on the building to keep people from being hit by ice. Counsell has required that the shell of the building and roof also be dealt with historically.

A motion was made and seconded to move the question.

**VOTE: Unanimous**

**2007-071 COMMUNITY PRESERVATION FUND APPROPRIATION FOR HISTORIC REHABILITATION (COURTYARD ENTRY AREA OF TOWN HALL)**

Upon a motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B, the sum of Forty Thousand and No/100 (\$40,000.00) Dollars be appropriated and transferred from the amount set aside for Historic Resources in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144; that the Department of Public Works is authorized to contract for and expend the amount of (\$40,000.00) for the purpose of rehabilitation of the New Town Hall, including courtyard entry area contained on the property having the address of 367 Main Street, Hyannis, MA, map and parcel number 326-021.

**VOTE: Unanimous (roll call)**

## **NEW BUSINESS**

### **2007-072 GRANT ACCEPTANCE - \$10,000.00 WILDLIFE GRANT**

Upon a motion duly made and seconded it was

**ORDERED:** that the Town Council hereby accepts a Cape Cod Cooperative Extension Wildfire Assessment and Preparedness Program Land Management and Wildfire Grant in the amount of \$10,000.00 to continue to clear and maintain access roads within the West Barnstable conservation area and to reduce fuel loadings at residential interface areas in Barnstable along the Barnstable / Sandwich town line.

Manager Klimm gave the rationale. He recognized Darcy Karle for her assistance.

Councilor Crocker asked if the matching amount has been approved. Tom Geiler, Director of Regulatory Services said it has. This is part two of the project that began last year. The grants go a long way.

Councilor Munafo asked about the budget. Director Geiler said the Conservation Commission has a budget, but this grant allows leveraging budgeted money.

**VOTE: Unanimous**

### **2007-073 GRANT ACCEPTANCE - \$75,000.00 (REDPP)**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council hereby accepts a Regional Economic Development Pilot Program (REDPP) Grant for FY 2007-2008 from Barnstable County's Cape Cod Economic Development Council (CCEDC) in the amount of \$75,000.

Manager Klimm gave the rationale. He has asked division and department heads to leave no stone unturned in their attempt to find funding. This is the second year of this grant.

Councilor Crocker asked about matching funds. Ruth Weil, Director of Growth Management, said they have used other grant money for the match.

Councilor Curtis recalled that there had been a prior comment to include the fire district in lighting decisions. This money will allow additional staff support for coordination. The fire district's role is to function on the committee to make sure that nothing about the lighting is inconsistent.

**VOTE: Unanimous**

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

Councilor Barton announced the upcoming Marstons Mills Village Association meeting on February 6<sup>th</sup> at 6PM in the Burgess House. Ruth Weil and Paul Niedzwiecki will answer questions.

Councilor Canedy announced a seminar at the Sturgis Library on the tax consequences of conservation restrictions. The Barnstable Civic Association meeting will take place on January 29<sup>th</sup> at 7 PM. Paul Niedzwiecki is the guest speaker.

Councilor Milne announced two meetings at the police station: January 23 at 5:30 PM to focus on the business area of Hyannis with involvement by the BID, and at 7 PM for the police department to meet with the Hyannis Civic Association and residents of the Sea St. area to focus on neighborhood issues. He also suggested that the people attending the council meetings be told early in the meeting that even though an item is moved to another night they can comment on it. President Joakim will do so.



## **PRESIDENT/VICE PRESIDENT COMMUNICATIONS**

President Joakim said the council will vote on the strategic plan at their next meeting. She said the MMA Conference was an excellent weekend. She did hear from the new governor who has made a commitment to work with municipalities.

## **TOWN MANAGER COMMUNICATIONS**

Manager Klimm said he had appointed Lt. McDonald as a temporary chief for 60 days and now is appointing him to serve as Interim Police Chief until 12/31/08. He has demonstrated leadership and vision with his more hands-on approach. Klimm has received many unsolicited calls, letters, etc on what McDonald has been able to do since November. There is a higher visibility of the police than in the past.

President Joakim also announced that the town received an Innovation Award in recognition of their combining the school and town finance departments.

## **PUBLIC COMMENT**

none

Upon a motion duly made and seconded it was voted to adjourn the meeting at 10:05 PM.

**VOTE: Unanimous**

Respectfully submitted,

Lucia Fulco,  
Assistant Town Clerk