



Town Council Meeting October 20, 2011

A quorum being duly present, Council President Frederick Chirigotis called the October 20, 2011, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

PRESENT: Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Debra Dagwan, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafo, Jr., John Norman, James Tinsley **ABSENT:** Thomas Rugo

The Pledge of Allegiance was led by President Chirigotis, followed by a Moment of Silence. Councilor Canedy recognized several community leaders who have recently passed.

No Place For Hate Committee Proclamation for PEACE WEEK

Vice President Janice Barton read a proclamation acknowledging Peace Week in Barnstable. She said it is a time to reflect on Peace. Present from various committees who work on this project were: Elizabeth Ells, Steve Brown, Bobbi Moritz, Dr. Peter Edwards and Chief Paul MacDonald. This was the 5th Peace Week in Barnstable. (See copy attached as "A").

PUBLIC COMMENT:

- Steven Scannell thanked the council for its recent response on the drug issue. He spoke on solid waste and asked the town to look at 5 different models. He suggested that to tax items at the beginning and use the taxes to take care of it at the end is a good plan. This could work on the Cape in the form of a consortium. Recycling is labor intensive and this would be a good worthy endeavor.
- Patrick Page stated his rights have been taken from him. He said his wife, Jane has suffered from this; and there had been a no trespass on him. He read a letter sent from his wife, The letter was from Mass Highway in 2009. They said that water runoff and sediments have flowed from their property onto the highway. They warned that damages could be billed to them for labor to fix the issue. Mr. Page said he started this all to save a house. This flooding goes into his easement. He has had it with the council and conservation not answering his questions. There is a similar situation at Route 130 and Route 28. He has tried to turn the cheek. My wife is tired and exhausted. This town has stolen from us. Please investigate this. I have a problem and you need to do something about this. This is six years. I am in pain and so is my wife. I am angry all the time now. It is not right.

- Jon Julius held up the executive session minutes of June 15, 2011. These are the minutes with the truth in them. There was never an attempt to fire John Klimm; it was John Klimm's idea to come to the council to create a buyout. This was an attempt to smear the five councilors. These minutes hold the truth. The minute taker was not the Clerk. Mr. Klimm had a statement prepared. He did not give the statement to be filed with the script. It is not over. The attorney general is looking into this.
- Robert Tucker said Mr. Klimm sat in the back of the room and said that he wanted to do his job and not to sit home. The pain you are putting on him should not have happened. If you want to be on the council you should be at the debates. The taxpayers are watching. Mr. Klimm did not want to leave.
- John Alden is a concerned citizen about what has transpired. He has heard people talking. He is disgusted from national government down to local government. Democratic government should be run by people who can talk to one another. We have to learn how to work together so that we can have a good government.
- Albert Russo said we were mistreated by the legal and building department. We bought a house and were immediately told we had an illegal apartment, he said. The town knew about it for 25 years, but they came after them. Nothing has changed since then. He thought maybe one councilor would contact him. It was selective enforcement. He dealt with a Ms. Edson who filed a false civil complaint that said we were in violation of the law. (It was uninhabited and unoccupied.) We are going to see that the people we dealt with are held accountable. We won the case and it is now being appealed. This is not going away. I have not heard from you. Everything is in the public record. You are elected to serve the people of the town not the Town Manager. I would love to discuss this with you. This should not happen in the Town of Barnstable or anywhere.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Canedy addressed the other models for solid waste/renewable energy and would be interested in seeing other models. Regarding Mr. Page, she would like to have an Executive Session with the council and staff to review the history on his issues. She would also like to discuss Mr. Russo's issue as well.

Councilor Canedy pointed out The Barnstable Patriot had formal televised debates. Mr. Cote could not make the Patriot debate for Precinct 5. The Patriot did not hold that debate honoring one candidate's scheduling conflict, and did not allow one candidate to "debate" unchallenged. They did not throw anyone under the bus. Councilor Canedy said that she felt that was the fair way.

Councilor Farnham followed up on the police department's follow up on the "bath salts" issue. He stated that the Board of Health is looking into regulating the products. He thanked Mr. Scannell for bringing it to everyone's attention.

Councilor Milne said his response to public comment was a series of questions. He never got any answers and has lost his optimism. It is not the first time he has walked out with nothing. There are many people who have issues who do not come here. I have a healthy distrust of government. I am frustrated. I ask questions. This is a sad community.

Councilor Barry explained that the councilors do not get involved when the town is involved in litigation. Mr. Russo sued the town. He knew what was going on. We can't help people in their lawsuits. Russo won his case. We can't discuss the issue. As far as Mr. Page, he has talked to him. He is an angry man. Barry wrote a letter on his behalf. If Mr. Page gets a lawyer the town will sit down with him.

Councilor Canedy said there is an ongoing Oak Street issue referred to by Mr. Page and that this issue should be reviewed by the Council. President Chirigotis said we will have to try to get the issues on the agenda.

ACT ON MINUTES (Includes Executive Session)

Sept. 22, 2011 – Upon motion duly made and seconded it was voted to postpone action on the minutes of Sept. 22, 2011 (as they appear in the packet of this evening's meeting) until the first meeting in November.

VOTE: 10 Yes 2 No – Farnham and Tinsley

Oct. 6 2011 – Upon motion duly made and seconded it was voted to approve the minutes of October 6 2011 correcting the spelling of Councilor Canedy's last name/

VOTE: 12 yes – Unanimous

March 17th Minutes – Councilor Janet Joakim asked to bring the Executive Session minutes of this meeting forward for discussion and possible approval.

Councilor Crocker questioned this action stating they deal with a personnel matter. Has the issue been resolved and can they be opened? Councilor Canedy asked if these minutes were now complete with attachments.

Pres. Chirigotis said they would put it on the agenda for discussion.

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF,

- Councilor Tinsley apologized for being late.
- Vice President Barton announced tickets on sale for Taste of Marstons Mills this coming Sunday.
- Councilor Canedy noted that Mr. Tom O'Connell sent an email and was looking for information about placing a memorial bench at a local beach. Manager Lynch will respond during his communications.

- Councilor Canedy said she testified before the Joint committee on Telecommunications Utilities and Energy at their hearing at Knight Auditorium on land based wind turbines. She testified on her own behalf. She feels the town needs to take a position on the issue. She is requesting a workshop or a series so they can come up with a statement and a position on land based wind turbines. President Chirigotis said state law could trump it and we do need a workshop. Canedy said there is some urgency. Chirigotis said we can schedule for Nov. 3rd.
- Councilor Dagwan attended the recent airport meeting and reported the transition to the new tower is going well. They are working with the arts council to improve the interior of the terminal. There will be a dedication ceremony on Dec. 9 with State officials. The Voices of the Village (Hyannis) will be meeting Oct. 25. She brought up the African American Patriots, and we have 9 that are on the list. She wants to support the resolution recently addressed in the Beacon.
- Councilor Milne also spoke on the Selectmen/Councilors meeting as did Councilor Dagwan. He said the next one will be on Nov. 4 at the Orleans Inn. The topic will be on the relationship between the executive and legislative branches of the government. He would like to see the bench followed up on for Mr. O'Connell as well. He would like to see wastewater on the agenda as well. He asked about the terms of the councilors with respect to the redistricting. The Town Clerk will get back to the council with a review.
- Councilor Tinsley asked about possibly changing the Selectmen/Councilors meetings to a different day and locations.
- Councilor Crocker asked about the Town Clerk's email on possible charter changes. He will bring it up later in the meeting.
- Councilor Farnham announced tours of the West Barnstable railroad station and the train trip. Ticket sales are vigorous.
- Councilor Canedy responded to the email from the Clerk that the Rules Committee which is chaired by Councilor Farnham is working on the council rules and will then look at possible charter revisions.
- Town Clerk Hutchenrider reminded everyone about the upcoming Nov. 8, 2011 Election.

ORDERS OF THE DAY

A. OLD BUSINESS

2012-005 ADOPTION OF THE TOWN OF BARNSTABLE MULTI-HAZARD MITGATION PLAN – INTRO: 8/4, 9/8, 9/22, 10/06, 10/20

Joanne Miller-Buntich said we do not have a definitive answer to the question that was asked at the last meeting. The question was on the amendments and whether if

amended it would have to go back through the process. She said she will be happy to chase this down.

A motion was made and seconded to postpone action.

Buntich said it has to be adopted some time after the first of the year. The benefit of adoption is we will become eligible for grants once this is filed. Buntich wants the council to be comfortable to vote on this.

Councilor Joakim asked if this will affect insurance rates. This does not affect the insurance rates.

Councilor Norman said this is non-binding. He thinks we are chasing something that does not need to be chased. He would rather move forward on this.

Councilor Tinsley agrees with Councilor Norman. He asked the questioned originally. He feels the same way as Norman and would like to vote on it.

Councilor Canedy withdrew the motion to postpone.

Councilor Milne said we have many creeks and we could get grant money if this passed. We need funding to get these projects done.

Councilor Munafo has a problem with #5. He has seen plans be used as a stick. He can agree with everything. He asks to strike mitigation action #5.

Councilor Milne he would be comfortable with a sewer neutral policy.

Councilor Crocker feels a sewer neutral policy would hinder development. When you stifle the development the burden goes back on the taxpayer.

Councilor Tinsley said this is a non-binding plan. We can see how it might or may be used. He will vote no on the amendment and yes to the plan.

Councilor Farnham asked to amend in mitigation #5 on page 30, first paragraph – remove “whether or not” and insert “unless” town sewer is available.

Councilor Munafo said this plan should not have #5 in this.

Buntich said the process starts on the local level then it goes to the state and Federal and once they all agree – then it comes back for local adoption.

Councilor Canedy asked why the Council didn't see and approve it before submission to the State and Federal Governments. Buntich said we followed what we were told to do. She said it does not bind and it is a process.

Councilor Joakim said you met the criteria and you met the State and Federal criteria and we can get benefits from this. We should support this as written.

A motion was made and seconded to move the amendment to strike.

VOTE: 12 yes to move.

The vote on the motion to strike #5.

VOTE: 2 yes – Munafo and Crocker 10 no – Did not pass

Councilor Farnham asked for a vote on his amendment to change the words in #5.

A motion was made and seconded to move the amendment to strike whether or not and insert unless on page 30.

VOTE: 12 yes to move

Vote on the amendment

VOTE: 3 Yes Munafo, Crocker, Farnham, 9 no – Did not pass

A motion was made and seconded to move the question.

VOTE: 12 yes to move.

Upon motion duly made and seconded it was

RESOLVED, that the Town Council hereby adopts the Town of Barnstable Multi-Hazard Mitigation Plan

VOTE: 9 yes 3 no (Crocker, Farnham, Munafo)

2012 -030 taken out of order

2012-030 FY12 SNOW AND ICE OVERDRAFT ORDER – INTRO: 10/20/11
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DPW Director Mark Ells gave the rationale.

A motion was made and seconded to move the question.

VOTE: 11 yes 1 no - Farnham

Upon motion duly made and seconded it was

ORDERED, that pursuant to Chapter 44, Section 31D MGL, which provides for the ability of the Town to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal; the Town Council approves expenditures in excess of available appropriation for snow and ice removal for fiscal year 2012, subject to further approval action by the Town Manager.

VOTE: 12 yes

Councilor Farnham said the amount used to be much less than the \$600,000 the town now sets aside. He always felt it is appropriate to have the higher amount than we used to have, because it is more realistic. He encouraged Director Ells to possibly increase it to like \$800,000 to make it even closer to the actual amounts that are spent for snow and ice.

2012-028 AMENDING THE ADMINISTRATIVE CODE FOR THE HYANNIS WATER BOARD INTRO: 10/20/11
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Upon motion duly made and seconded it was voted to move this item to a second reading on Nov. 3, 2011.

VOTE: 12 yes

The Town Clerk was asked by Councilor Crocker to explain her email regarding suggested charter changes. She suggested inserting into the charter review committees for the ordinances and for the charter that may convene on a regular basis. She also suggested that the council look at preliminary elections and either remove them; or move them 12 weeks prior to the town election instead of 7 weeks to meet the Federal requirements for absentee voting. She also felt that councilors should be required to collect more than 25 signatures, either 50 or 75 would be appropriate.

2012-029 A RESOLVE SUPPORTING HB1972-TO SIMPLIFY OVERSEAS VOTING, PRESERVING THE RIGHT TO A SECRET BALLOT & PROVIDING A SUBSTANTIAL COST SAVINGS - INTRO: 10/20/11

Councilor Crocker read the item into the record and Asst. Town Manager read the rationale.

Councilor Canedy suggested an amendment to be added to the end of the Resolution. "Resolved: If the legislature cannot support combining the elections, the September Primary would be moved to the second Tuesday in August to meet the Federal requirements for absentee voting.

The Clerk explained the difficulties of insufficient time for absentee voting and the work around at the last election involved emailing ballots, with voters losing their rights to a secret ballot. Combining both elections would be a cost saving.

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

VOTE: 12 yes

Vote on the amendment.

VOTE: 10 yes 2 no Barry, Munafo

A motion was made and seconded to move this item as amended

VOTE: 12 yes

Upon motion duly made and seconded

RESOLVED, that the Town Council supports the proposed House Bill *H1972 – An Act Regulating Election Primaries.*

VOTE: 11 yes 1 no (Munafo)

The Town of Barnstable

RESOLVE IN SUPPORT OF H1972 “An Act Regulating Election Primaries”

- WHEREAS,** according to the Department of Defense Federal Voting Assistance Program (FVAP), there are 11,691 active military duty Massachusetts residents residing overseas; and
- WHEREAS,** for the November 2010 election, Massachusetts requested a waiver from a requirement of the Military and Overseas Voter Empowerment Act (the MOVE Act) to send absentee ballots to Americans overseas at least 45 days before an election “due to a late primary”; and
- WHEREAS,** a report by the Secretary of the Commonwealth revealed that in the November 2010 election only 400 ballots from Massachusetts active duty military personnel stationed overseas were counted; and
- WHEREAS,** the General Court is considering H1972 “An Act Regulating State Primaries”, a bill that moves the state primary to allow Massachusetts residents residing overseas to vote privately and securely, and combines the presidential primary with the state primary to save taxpayers at least \$8,000,000.00; and
- WHEREAS,** a number of states have moved their primary dates earlier in the year to comply with the federal MOVE Act and to provide relief to taxpayers by reducing the cost of election; and
- WHEREAS,** the Massachusetts state primary scheduled for September 18, 2012 stands alone as the last state primary in the country in 2012; and
- WHEREAS,** in written testimony the FVAP concluded: passing HB1972 will significantly improve voter success for many military members, overseas voters and their families”; and
- WHEREAS,** HB1972 simplifies the election process, decreases the opportunity for “voter fatigue”, reduces the cost of elections for taxpayers, and establishes fairness among candidates.

NOW THEREFORE BE IT RESOLVED: That the Town of Barnstable Town Council does hereby support the adoption of HB1972 “An Act Regulating Election Primaries” pending before the 187th General Court of the Commonwealth of Massachusetts, and directs the Town of Barnstable Clerk to transmit a copy of this action to the municipality’s State Delegation and to the Joint Committee on Election Laws.

RESOLVED: If the legislature cannot support combining the elections, the September Primary would be moved to the second Tuesday in August to meet the Federal requirements for absentee voting.

Frederick Chirigotis, President
Barnstable Town Council

Passed: Oct. 20, 2011

TOWN MANAGER COMMUNICATIONS

Acting Town Manager Tom Lynch addressed the budget action calendar and some important dates coming up, including an update on the health insurance reform act. He outlined some of the actions. He also announced that there had been damage to the gym floor at HYCC. A sprinkler head was broken. The gym has been divided in half and insurance adjusters and floor installers have looked at it. It will cost around \$90,000 to repair (to be covered by insurance). It will be down for a good week. He complimented the fire department and staff for their prompt action.

He announced 75% recovery for response on Hurricane Irene. As far as the bench request, Mr. O'Connell was told we have a moratorium on benches. We have dozens pending. There are many issues on repairs. The benches are put in but without maintenance many are in disrepair. Some are covered by sand at the beaches. We get complaints on why we are not repairing these. There are places we do need benches – maybe we can direct people to areas where we do need them. They are working on a policy that may also include some residential requirements.

He briefly touched on a betterment issue that CFAC looked at and will be coming before the council. On the 11th of November there will be more signage put up at Veterans Park and there will be a remembrance for Kevin Houston on the Village Green. There is a citizens group that is also organizing an event on Nov. 12 at the High School in Mr. Houston's honor.

Manager Lynch is working with a vendor on an internet product that will work with the citizens. He will have more information on it in the not too distant future. It is being used nationwide.

Councilor Canedy asked about HYCC and if there is a deductible. Yes, it is \$5,000 but he explained that we might be able to cover that. She asked about staff not being able to shut off the water until the Fire Department responded and how can this scenario be avoided going forward. Lynne Poyant, said that staff now knows where the shut off is. They reviewed the playback on the cameras and the staff did a great job. As far as the bench goes, Ms. Poyant said that Mr. O'Connell will pay for continued maintenance. Manager Lynch said that this was a visitor and maybe we need to again look at a policy. Councilor Canedy had some other suggestions. Lynch said we will vet the policy through the council.

Councilor Farnham thanked Mr. Lynch for his report and the open communication.

Councilor Crocker asked about the reimbursement figure and was told it was \$129,000. Crocker asked about the flooring and if there is any contingency fund where we can start work and then be reimbursed. Ms. Poyant said they are just waiting for the vendor sign-off. So hopefully they will be ready to go the next day after that.

Councilor Norman talked about memorials along side of the road – but when do we go forward. We should look at an ordinance to back up the town.

ADJOURNMENT

Upon motion duly made and seconded it was
VOTED: to adjourn
ADJOURNED: at 9:35 p.m.

Respectfully submitted,

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



NEXT REGULAR MEETING: November 3, 2011