



The Town of Barnstable Town Council

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TOWN COUNCIL AGENDA

October 2, 2003

7:00 PM

Councilors:

Gary C. Blazis

President

Robert R. Jones,

Vice President

Richard G. Barry

Gary R. Brown

Richard W. Clark

Richard D. Elrick

Janet S. Joakim

Audrey M.

Loughnane

J. Gregory Milne

Royden C.

Richardson

Carl S. Riedell

Administrative
Assistant:

Donald M. Grissom

Town Council

Secretary

Cheryl A. Phillips

Town Council

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. ACT ON MINUTES

• SHOALING STUDY PRESENTATION

**• BOARD OF ASSESSORS – EXPLANATION OF
ASSESSING TECHNIQUES**

5. PUBLIC COMMENT

6. COUNCIL RESPONSE TO PUBLIC COMMENT

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

8. PRESIDENT/VICE PRESIDENT COMMUNICATIONS

9. TOWN MANAGER COMMUNICATIONS

10. ORDERS OF THE DAY

A. OLD BUSINESS

B. NEW BUSINESS

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NOTE: It is possible, if it so votes, the Council may go into executive session for the purpose of discussing land acquisition.

A. OLD BUSINESS (PUBLIC HEARING MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

<p>2004-025 APPROPRIATION ORDER FOR GENERAL FUND DEBT SERVICE INTRO.: 08/21/03; 10/02/03</p>
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ORDERED,

that the Town Council does hereby appropriate the sum of \$231,571 for the servicing of general fund debt and, to meet such appropriation, that \$231,571 be transferred from the Capital Trust Fund.

SPONSOR: John C. Klimm, Town Manager

DATE

ACTION TAKEN

**AGENDA ITEM SUMMARY
2004-025**

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Jeff Cannon – Town Treasurer
DATE: 21 August 2003
SUBJECT: Request For Debt Service Appropriation

BACKGROUND: The FY 04 budget estimate of the funds required to service the general obligation bonds that were issued on 15 June 2003 was less than turned out to be necessary. More projects than were anticipated when the budget was formulated were bonded in June and some of the projects had bond maturities (established by bond counsel) that were less than anticipated requiring higher payments over fewer years.

ANALYSIS: This appropriation is necessary for the general fund to meet its FY 04 debt servicing obligations.

FISCAL IMPACT: The Capital Trust Fund has sufficient resources to meet this additional debt service appropriation.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this request.

BOARD/COMMITTEE ACTION: N/A

STAFF ASSISTANCE : Jeff Cannon – Treasurer

B. NEW BUSINESS (To Be Referred To Public Hearing November 6th)

BARNSTABLE TOWN COUNCIL

**2004-030 ORDER AUTHORIZING SALE OF PROPERTY AT 75 IYANOUGH
ROAD, HYANNIS, MA
INTRO.: 10/02/03**

ORDERED,

That the Town Council hereby authorizes the sale of all right, title and interest in the land and buildings owned by the Town having a street address of 75 Iyanough Road, Hyannis, shown on Assessors Map 343 as Lot 007 to James Carron or a nominee under his control for a price of THREE HUNDRED AND FIFTEEN THOUSAND AND NO/100 DOLLARS (\$315,000.00) in accordance with the provisions of a Request for Proposals dated July 28, 2003, without restrictions, and further to authorize the Town Manager to execute and deliver all documents necessary to complete said sale in accordance with the terms of this Order.

**AGENDA ITEM SUMMARY
2004-030**

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: September 23, 2003
SUBJECT: Sale of 75 Iyanough Road, Hyannis to James Carron

BACKGROUND: This order seeks the Council's final authorization and approval of the sale of the above-described property in accordance with previous discussions and an RFP issued on July 28, 2003.

The subject property is the former site of Car Quest Auto Sales located at the corner of Iyanough Road and Cedar Street. The building was foreclosed on and taken for taxes in 1997. The tenant at that time negotiated a lease with the town to continue occupancy. The tenant was removed in June of 2003 for non-payment of rent.

The building was inspected by Building and Health officials. It was determined that in light of the substantial repairs needed to recover the building that it was best suited for private sale. A request for proposals for sale or lease of the property was issued on July 28, 2003.

ANALYSIS: A proposal was submitted by James Carron proprietor of Cape Cod Nutrition Corner, Inc. Mr. Carron's proposed purchase at a price of \$315,000.00 represented a good match to the evaluation material and exceeded the minimum bid required in the Request For Proposals by \$65,000.

Mr. Carron will be renovating the property and it will be utilized by his Corporation, Cape Cod Nutrition Corner. Improvements to this property will enhance the appearance of the site and the neighborhood. In addition the town will recover all taxes, interest, and legal fees owed since foreclosure, including rent owed since 1997. The property will also return to the tax roles, and provide annual property tax revenue.

FISCAL IMPACT: Authorization and completion of this sale will result in a credit of \$315,000.00 to the general fund.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends that the Council approve this Order.

STAFF ASSISTANCE: Anthony Troiano, Property Management Coordinator

SPONSOR: John C. Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

B. NEW BUSINESS (To Be Referred To Public Hearing November 6th)

BARNSTABLE TOWN COUNCIL

**2004-031 APPROPRIATION ORDER FOR BARNSTABLE MUNICIPAL AIRPORT
INTRO.: 10/02/03**

ORDERED: That the Town Council does hereby appropriate the sum of \$77,660.00 for unexpected operational expense increases at the Barnstable Municipal Airport. \$48,000 to fund an unexpected increase in aviation jet fuel sales, \$15,000 to fund the purchase of a maintenance contract for the Flight Tracking System, and \$14,660 to fund an unanticipated increase in liability insurance.

SPONSOR: John C. Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

**AGENDA ITEM SUMMARY
2004-031**

TO: Town Council
FROM: John C. Klimm - Town Manager
THROUGH: Quincy Doc Mosby – Airport Manager
DATE: 21 August 2003
SUBJECT: Request For Additional Appropriation

ANALYSIS: This appropriation is necessary for the airport to meet these unexpected increases. In the case of the Flight Tracking System maintenance contract, the item was not budgeted as it was not anticipated that the Airport Commission would elect to purchase the equipment and system rather than lease them.

FISCAL IMPACT: The Airport Enterprise Fund has sufficient reserve resources to meet this additional appropriation.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this request.

BOARD/COMMITTEE ACTION:
N/A

STAFF ASSISTANCE
Quincy Mosby – Airport Manager

11. PUBLIC COMMENT

12. ADJOURNMENT

NEXT MEETING IS OCTOBER 16TH.

BARNSTABLE TOWN COUNCIL MINUTES

SEPTEMBER 4, 2003

A quorum being duly present, Town Council President, Gary Blazis, called the meeting of the Barnstable Town Council to order at 7:00 pm, on September 4, 2003 at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Gary Blazis, Gary Brown, Richard Clark, Richard Elrick, Janet Joakim, Robert Jones, Audrey Loughnane, Gregory Milne, Royden Richardson, and Carl Riedell.

President Blazis led the Council in the Pledge of Allegiance and a moment of silence

President Blazis took a personal moment to explain his condition after undergoing an emergency operation for a subdural hematoma. All his motion and feelings have come back. "My life was put back to me." He thanked everyone for their cards, prayers and good wishes. He thanked John Klimm and his staff, Don Grissom, Bob Jones, Carl Riedell for his friendship, and Roy Richardson, who has a connection to the man upstairs, for his prayers and support. He also thanked Audrey Loughnane for her many calls, Janet Joakim, the greatest guardian angel and Richard Clark who brought lobsters. He further thanked his doctors: Dr. Albert Barrows whose quick action saved his life and Dr. Paul Houle, a brilliant and skillful Neurosurgeon who did not shave his head but secured his skull with staples and screws. Lastly he thanked Cape Cod Hospital for its warm, helpful and compassionate people – from ER to surgery to intensive care. "You don't have to go over the bridge for the best care."

Councilor Riedell pointed out that he forgot to thank the most important person: his wife. Blazis pointed out that after all was said and done, the doctor told him to listen to his wife!

Senators Robert O'Leary, Therese Murray, Chairman Ways and Means, and Robert Travaglini, Senate President

Sen. O'Leary introduced Senate President Travaglini who said he had begun a listening tour of the Commonwealth and spent the day speaking to people in Hyannis to get a feeling for the issues. He found it refreshing and wishes to familiarize himself with faces and issues. He feels an obligation to make informed decisions and pledges access and communication on issues. He introduced Sen. Murray and thanked the council for welcoming him.

Sen. Murray said that throughout the day Travaglini was inundated with Chapter 70 issues, tourism issues, etc. and she felt using this time for more questions would be most valuable.

Councilor Joakim said that a change in leadership means we will see a change in Ch. 70. She also thanked him also for the seminar his office sponsored and asked him to speak on anticipated changes to Ch. 70. Travaglini said he asked Senators Murray and O'Leary to bring him up to speed on the Ch. 70 issues. He will assist in making it fairer for Cape towns.

Councilor Loughnane said the community is run by those who show up because they are organized and have special interests. The majority of the people are not organized and their positions regarding overdevelopment and quality of life on the Cape have not been heard. She wanted the overdevelopment issue to be in his mind. Travaglini was glad to know that. His home is in a congested area therefore he understands the need for smart growth.

Councilor Milne, who serves on Cape and Island Selectmen and Councilors Assoc., said they sent a letter to the governor explaining that the Cape is not so rich. "How can you help Murray and O'Leary convince the rest of the government that we are no so rich?" There will be decisive action before the end of the year on Ch. 40B. All have identified Ch. 40B as a priority. Travaglini claims he knows how to get to 21 of the 40 members of the Senate.

President Blazis thanked them for their efforts and for coming.

Sen. O'Leary spoke on the ferry fee – Item 2004-028, encouraging the council to take a serious look at it and to vote to put it on the ballot. Fees and taxes are difficult to promote as public officials, but the movement of people through the Commonwealth has an impact and a cost that falls to the municipalities involved. In this instance it is the hosting the ships and tourists that pass through. They were able to make technical changes that cleared up the problems. The fee would be 50 cents per person for any ship that has a capacity of over 100. The dollars will remain in the community to mitigate the impact; the language on the usage is broad. The fees are not borne by locals but tourists. The public can opt to approve it or not.

Councilor Jones who serves on the SSA subcommittee said they have looked for several years for a formula involving an *in lieu* of taxes component. This is a departure tax so if they buy round trip tickets, they pay \$1 which is split between the two ports. Sen. O'Leary explained the exemptions. It is an effort to tax tourists. Jones asked about the 25% for Yarmouth. O'Leary said it had to do with issues between New Bedford and Fairhaven, but the language was generic and affects Yarmouth by default. His amendments could not be so substantive as to correct this issue or it would have had to go back before committee, etc.

Councilor Loughnane asked if there were criteria for using the money. O'Leary said language is fairly broad, designed to give the community flexibility. It cannot be used for schools, but police salary, infrastructure, etc. are allowable. Loughnane asked whether Barnstable and Yarmouth would have to agree on what to spend the money. The language does not require that.

Item 2004-004 was taken out of order. No objections.

A motion was made and seconded to open a public hearing on Item 2004-004 at 7:35 PM.

VOTE: Unanimous

Councilor Loughnane made the following substitute motion on Item 2004-004: I move that item 2004-004 Appropriation and Loan Order for the purpose of acquiring 217 acres more or less in Marstons Mills and West Barnstable, Assessors Map 84, Lots 2 Too and Woo, Map 83, Lot 7 and Map 104 Lots 2 Too and Woo be adopted as printed in the agenda except that the amount of the appropriation be changed from \$10,250,000 dollars to \$11,281,000 dollars."

Joellen Daley Assistant Town Manager gave the rationale. She introduced Lindsay Counsell who spoke about the property.

Counsell explained the criteria the Land Bank Committee used to evaluate property. (See Map Exhibits A, B and C). Nine hundred seventy-eight acres have been purchased to date with this property.

President Blazis asked the audience who would speak in opposition – three raised their hands. Then he asked who would speak in favor - almost the entire hall raised hands. He suggested that the pro and con speakers alternate.

Noreen Halford is in favor of open space; however, this deal is reminiscent of the Darby property that was promised to open space 18 years ago. What will protect this piece?

Dan Lyons said that the amount of land purchased is almost twice as much as the airport uses. The airport portion is the indigenous grassland. The parcel is not just an airport but land with many uses including watershed. It is a low impact, historic site.

Leah Curtis has questions. What is the money spent vs. the amount of land? Is the purchase of all the acreage necessary since it leaves land bank 2/3 empty? What about the maintenance after purchase? What will the impact be on the town's fiscal stability? Also issues around the Darby land make her dubious. Could a piece be used for affordable housing down the road? Blazis said the agreement is for the total piece. If it were broken up, developers would have paid much more. It will stay as open space. "What there is now will stay that way 50 years from now" he stated. The town manager will deal with the fiscal side. This purchase will not have any cost to the town.

Ed Schwarm, from Marstons Mills is a close resident to the airport and in the path of most takeoffs. The airport has been a good neighbor, environmentally friendly and harmless. Pilots and aircraft mechanics are careful. The town will get a large parcel of open space for descendants to enjoy. If we don't purchase it, it will fall to a developer or a 40B developer. In either case there will be nitrogen and phosphate pollution. If a 40B development were built, the town might have to build a sewerage disposal plant which will cost more than the price of the land. "It will be a win-win. Let's go for it."

Eugenia Fortes said conservation was needed. She feels we won't have to have the override because we have money to take care of things.

John Hampton was representing the Indian Ponds Assoc. whose membership includes over 500 voters near the Cape Cod airport. They favor this very much and they commend the council for its foresight. They are concerned that use of the property for any purpose other than an airport will contribute to the pollution of the various ponds within the Indian Pond area.

Diane Burden expressed strong opposition to maintaining it as an airport. There is much noise pollution. Birds are singing in the trees now and it feels natural again. Planes take off early and may circle around towing gliders. Before the airport it was a recreational area for the town. The town needs walking trails, picnic areas, etc. There are plenty of airports for the little planes.

Bob Frazee is the president of the Wheeler Road Homeowners Assn. He brought copies of a small survey of his association on the airfield (See Exhibit D). There was a 50% return on the questionnaire. There was not much discussion about noise. The airfield use would be less severe than other uses since these are not commercial heavy duty aircraft, but single engine sport aircraft.

Kevin Kenyon, who sells turf to golf courses, and the like, asked about a lease to use it as a turf farm. Turf farming can maintain it while harvesting the turf. He can arrange to supply the turf to ball fields and golf courses in Barnstable. It would also benefit the grass landing of the airport since the grass would be mowed and it would conserve open space.

Dave Chase grew up on Mystic Lake. He loves the sound of the planes. It was a terrific place to grow up. As a child he would stop by to check out the aircraft. His son took his first flight out of there. The area was called 'the plains' and it is one of the last plains. The town fought for the character of the villages in the LCP. This is an important part of that character. He commends the council for bringing it up to the plate.

David O'Connor is thrilled that the purchase will be more than twice the area of the airport. He was a commercial pilot and could not have acquired the skills anywhere else. It cannot grow beyond a grass airfield. He spoke about airports elsewhere in southeastern Mass. that are now condos, strip malls and landfills.

Patty Kellogg is not opposed to the purchase but opposed to the airport use. This is the first summer she can sit out on her deck. The airport is not recreational use, it is a business. The Hyannis airport used to be grass strip too and look at it now. Do we know FAA requirements? The town should look into flight patterns, controls over airport noise and that it is not expanded.

John Riccardi said you can deal with the noise at Marstons Mills. It is not a super active area; it is closed at night so there are no lights; and in the winter when it gets dark there is no noise. He felt it was 'a foul' when people move into an area with an existing airport and then complain about it. The price is a deal. There are many opportunities to be had such as putting up hangers and renting them.

Sue Rohrbach said it has been a high priority for the land bank committee for a very long time. She is happy Danforth has negotiated while we still have the money to pay for it. It is important to a lot of people.

Greg Wargin is in favor of the airport staying. Noise doesn't bug him. He wouldn't move next to Logan and expect them to close it for the noise.

Jim Crocker said the tax payers are unclear on some of the issues. It seems to be more like \$51,000 per acre not \$35,000. This is a huge commitment to the town. Have there been studies on 21E? Has the town given consideration to selling the waterfront piece as 9 lots?

Don Treimann lives next to the airport. He is thrilled to death about it.

A motion was made and seconded to close the public hearing at 8:15 PM.

VOTE: Unanimous

Substitute Motion

2004-004 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$11,281,000.00 FOR THE PURPOSE OF ACQUIRING 217 ACRES MORE OR LESS IN MARSTONS MILLS AND WEST BARNSTABLE

Upon a motion duly made and seconded it was

ORDERED, that the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain, or otherwise acquire for the purposes set forth in chapter 293 of the Acts of 1998 as amended by section 211 of chapter 127 of the Acts of 1999 and/or chapter 79 of the General Laws of Massachusetts, land and interests in land in the Town of Barnstable (Marstons Mills and West Barnstable) further described in Exhibit "A" hereto annexed and specifically incorporated herein by reference together with the layouts of streets and ways shown on plans of and/or appurtenant to the land in Exhibit "A"; appropriates the sum of ELEVEN MILLION TWO HUNDRED EIGHTY-ONE THOUSAND AND NO/100 (\$11,281,000.00) Dollars for said acquisition or taking and related costs; authorizes the Town Manager to contract for and expend said appropriation for such purposes and accept any gifts or grants in relation thereto; and to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow the sum of ELEVEN MILLION TWO HUNDRED EIGHTY-ONE THOUSAND AND NO/100 (\$11,281,000.00) Dollars for said acquisition or taking and related costs.

President Blazis explained that there was no plan to cut up the parcels. On the 21E question, David Houghton explained that it is a contingency of the purchase arrangement. Blazis said council and land bank committee were in agreement. Jones explained that the cost per acre stated by Lindsay Counsell was the cost per acre for all the purchases.

Councilor Clark asked how it was structured to keep the town from splitting out the southern portion. Have the Danforths restricted it for the town? Does the town have the option to do something with the southern portion? Houghton said the agreement is for all the purposes allowed under the land bank. The town requested that codicil, not the Danforths.

Councilor Milne said that from a legal standpoint despite the land bank covenants there are soccer fields, etc. on land bank property. The Danforths have sold it for less than they could get on the open market, because this will stay as it is today. Where are the solid guarantees and the language that will restrict any expansion? Attorney Smith said such language could be inserted into the deed. The current language is for satisfying the requirements of the land bank statute. The town could insert further language in the deeds. Milne would like to offer an amendment to guarantee the restrictions.

Attorney Smith said he can't speak for them (the Danforths). Right now there is a P & S. After the town owns it, the council could restrict it to a use. However, he recommended that they not alter the P&S at this time.

President Blazis suggested putting the other things on at a later date. Councilor Barry felt the council has a meeting of the minds with the Danforths. "Let's get this done." Perhaps land in southern portion could be put into residential sales.

Councilor Elrick would have bad taste if once property were purchased the uses later changed. He agrees with Milne to firm that up at a later date. Blazis again suggested doing it at a future time.

Councilor Loughnane explained that maintenance can be covered by the 3% of the land bank funds. It does not allow affordable housing but does allow for recreation. Can a golf course go in there under the recreation use? Could hangers be built or is there no other building? The deed needs some intent. She will be watching for the additional language.

David Houghton explained that golf courses can exist on land bank property. Some buildings are allowed, however, at a certain threshold they will detract from the open space quality. Hangers would contribute to additional profit. Houghton said the focus should not be on the profit, since the monies would have to go back into the land bank. Any building would have to fit with the recreational purpose. It is good that it is contiguous with other conservation areas. This purchase cannot be passed up.

Councilor Richardson was told it was one of the loveliest vistas on Cape Cod. The talk of the development was not part of previous conversations. He can't imagine the council would want to damage that. He commends the open space committee. He would not be opposed to outlining the purposes a little bit. If a council voted situations, would another council be able to change it, he asked. Smith said if you restrict a piece of land under the open space amendment, undoing it requires a 2/3 vote of both houses of legislature. The same is true if you put it under the control of any one department. Richardson supports this 100%.

Councilor Riedell said they have looked at many avenues such as the 23 acres in the south, etc. to get the towns money back. However, he felt the Danforths would do that themselves, if that were what the town was going to do with it. To change the use for anything other than conservation would have to go to the legislature. Hopes council will go forward. Maybe once we have it we can make it more stringent.

Councilor Jones felt it was a chance of a life time not to be passed up. He suggested it pass as presented and agreed upon with the Danforth family.

President Blazis said the Danforths have been extremely generous. Developers would come forward and offer them more. However, this vote is time sensitive and if it does not occur this evening, it may not happen. "Please do not change anything at this time. Do it after we own it."

**On the substitute motion 2004-004:
VOTE: 11 Yes (roll call)**

President Blazis thanked John Klimm for the negotiations and the council for making it happen. Blazis invited all the people of the town to a party next Saturday at 12 noon. People should bring a blanket and a picnic lunch. A flyover was scheduled for 12:30 PM in celebration.

The meeting recessed between 8:42 PM to 8:51 PM.

Vice President Jones announced that President Blazis, under doctor's orders, had left for the evening.

Upon a motion duly made and seconded it was voted to approve the minutes of August 21, 2003 with the following corrections: on pg. 17 correct spelling of Goudo to Gudell; on pg 33 add before Public Comment: "It was moved, seconded and passed to continue the meeting until 11:15 PM."

VOTE: Unanimous

(Clerk's Note: neither correction appeared as an error or omission in the minutes.)

Discussion and Decision on Date of Override Vote

Vice President Jones said there would be an informal discussion with the school committee to decide a date for the override.

Gerald Dowling, School Committee, prefers to see the question on the Nov. ballot. Alternatively they would like to have it in the week of Feb. before school vacation. The November date is a consensus of the entire committee.

Councilor Clark moved to support the plan for an override on the November ballot. It was seconded.

Councilor Richardson asked what needed to be done to accomplish a successful override in 60 days. Dowling feels the information is in place between Mark Milne's figures and other data to the council. There are people in place to serve on an override committee. They may have enough time if the council decides to go forward this evening. Richardson would like the public comment at this time.

Karen McDonald pointed out that the override is beneficial to the entire town. Milne has gone out to explain the financial position of the entire town to various groups. It should be a joint project. They have people ready to work on it. The info is out there, now the job is to get it out there again. If not Nov. she reiterated that they would like a February date. April is too demoralizing.

Councilor Elrick asked what would be the likelihood of success of any override vote. There is very little enthusiasm for an override this Nov. New assessments, tax increases, an

economy that has seen better days, the council's decision regarding residential exemption all play into the town not looking positively at an override in November. He felt it was also not the case that Feb. would give more time to educate. The holidays are in the way and in Feb. people are down south. There is also the additional cost of an unscheduled election. If it fails, what is the next course? Blazis will not bring it back for a two year period. Do the voters believe it is needed? Have we tightened the belt as much as we need to? "The public is not convinced; an override will not pass in Nov." He cannot support an override in Nov.

Councilor Joakim said whether the vote is in Nov. or April, the money arrives at the same time. Fees etc. will not change if it is voted in Nov. We still don't know how much. It is in the town's best interest to wait until the spring. Jones said the figure is \$7 M.

Councilor Loughnane said the assessments were set for three years. This will not change whether it is Nov. or April. Nov. will be a high voting time. A February vote will be perceived to be on purpose. She is in favor of a Nov. vote.

Councilor Brown felt it was needed. Raises have been given to some in the hierarchy but the janitors are having a hard time. The combined salaries for two Phys. Ed. people is more than what was paid to the one person they replaced. Nov. is no time to put it out. He is in favor of other dates in the spring.

Councilor Richardson supports an override which he feels is needed. He wants to make an investment in children and teaching staff as well as the town. Without the revenue the quality of life will be different. The last two attempts were done in a short time period. Two towns that passed very large overrides took a period of months to prepare. He agrees that work has been done. He feels it is problematic to have it in Nov. but wants to support the school committee. Sixty days sounds too soon. February is problematical. They have a great educational job to do.

Councilor Riedell said, "No good date is a good date for an override." A good percentage of the community does not want to dig deeper into their pockets. We have to be very positive on this. All understand the need. Nov. will have a large turnout. We want a big turnout. People are prepared to vote in Nov. People have a job to do and he thinks they can do it. The school committee has said Nov. is their preferred date. If we can't make up our minds by Nov. we won't in February.

Ralph Cahoon said they discussed establishing an override committee with a critical mass of about 20 people. The override committee is well over 20 people and all are willing to do it in the next 60 days. The school budget is due before the town budget so it can be incorporated into the town budget. An April date will not allow time for a finalized budget. They will incorporate removal of fees into the override campaign. We would have to come up with quick fee decisions if the override held in April should fail. Also pink slips come up in June. There is an opportunity in Nov. with a big turnout. If people are not willing, town leaders will have to design a new community which people may not like.

Gerry Dowling reminded all that it is a town-wide override. The campaign will not be successful unless there are efforts from all parts of the town. Absent a joint effort, it will not work.

Councilor Milne will always side with giving the voters an opportunity. Assessments have gone up. People will be writing a very large tax check on Oct 31st and then being asked to raise their taxes. It will be an incredible mountain to climb. The town uses two different approaches for tax assessments between commercial and residential properties. There is too much power on the commercial side. The larger side of the override is the school push,

so he would be following their lead. He referred to a memo from the town clerk proposing possible election dates and asked how firm these were.

Lucia Fulco Assistant Town Clerk explained that they were firm and explained the requirement to secure election materials after an election, prohibiting reuse for a period of time. She responded to a question about voting on the override on the date of the Presidential Primary saying that the primary is a partisan event and a simultaneous override election would require a second election staff at each polling location, a separate ballot, a separate voter list, etc. It would be extremely confusing.

On the motion to place the override question on the November Town Election ballot:
VOTE: 8 Yes, 2 No (roll call)

Attorney Smith presented the draft of the ballot question.

2004-029 PROPOSITION 2 ½ OVERRIDE BALLOT QUESTION

Upon a motion duly made and seconded it was

ORDERED, That the following question be placed upon the ballot for the regular election of the Town of Barnstable to be held on Tuesday, November 4, 2003: Ballot Question – Proposition 2 ½ Override for Education and General Government Purposes

‘Shall the Town of Barnstable be allowed to assess an additional seven million two hundred thousand (\$7,200,000.00) dollars in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, 2004?

YES _____

NO _____

Councilor Richardson asked if it were a multiyear amount. Smith said it is a permanent amount and must be dedicated to those purposes for three years. Richardson asked if it should cover enough for several years.

Mark Milne, Finance Director, said that it is the figure that will be needed to sustain level services for a three year period. Included is the elimination of transportation, music, and kindergarten fees. The monies will be put in a special account to spread it out over three years.

Councilor Barry asked how many employees would be decreased if it does not pass. Milne explained the budgetary ramifications of failure of the override to pass. The state will continue to require the town to spend more and more on education, and revenues over time will leave little for municipal services.

VOTE: 8 Yes, 2 No (roll call)

PUBLIC COMMENT

Eugenia Fortes (on the override) asked the council not to forget the assessment. Regarding the trees to be cut, she said there are a few crooked ones but not 40. It was not fair to people in Hyannis to have the trees cut for a walkway to the sea. She thanked them for naming the park for her friend. On Hathaway’s Pond, she feels you don’t need a camping

site there. For years it was the only place the black people could go. “Why do it for money? It is bad news for all the poor people who use Hathaway Pond.”

Carol Horgan had a question on the permanence of the override since it is collected every year. Smith said that was accurate. It is permanent. Horgan feels it is misleading to reference two or three years. That should be made very clear.

Robert Stahley said the council has done a disservice to the children. This was decided without asking for public comment. It would have been better for the public if the council had considered answering the impact and how would be spent.

Uta Quint who was concerned about assessments asked if it would be possible to have a meeting with the town manager to discuss and have an understanding of what is going on. She would support Felicia Penn for the Planning Board.

Ralph Cahoon said the council should place a question on the ballot that deals with a study of the fire and water districts. This is in keeping with the covenant. Everyone wants these services so the question should focus on the study – that it be thorough, complete and impartial.

Wolfgang Fattler, Pres of W. Barnstable Civic Assoc., read two votes taken by the association: one asking the council to exclude the VB-B District in West Barnstable from the zoning amendment on trailers (2004-019); the other opposing the resolve to seek consolidation of the fire districts due to the ambiguous wording of the question and lack of a specific consolidation plan.

Jim Crocker is looking at Osterville as another urban assault. The districts have put the issue on their ballots and they were defeated. He would support the study if it were impartial.

George Morrison now understands that purchases like the marina and the airport have come out of funds already raised for the land bank. He feels there have been expenditures that the town could have done without. Has the town taken some private roads? He implied there had been some favoritism in the choices.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Joakim thought the \$7.2 M was a ceiling. The full amount would have to be raised in the first year but not spent in the first year. It would go into a savings account. The amount is available for three years and will be spent in three years. After that we may have to go back for a general override.

Councilor Richardson said the override is raised in the first year. Would we have to raise the same amount the next year? Joellen Daley said that we would. The 2 ½ override increase would be raised every year. Mark Milne said the second year and third year the excess will lower the levy that the town could have raised.

Councilor Elrick regarding the district unification question said he would make a motion to take it off the table. The Committee of 150 felt for a cost savings we should look at the fire districts.

Councilor Milne responded to Mrs. Quint on assessments. People are calling upset about their assessments. He requested Daley to see that a meeting be held regarding the assessment process that Mrs. Quint brought to the table.

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS & STAFF

CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS

Councilor Barry announced the TAMS hearing Sept 16 is at Freedom Hall.

Councilor Milne announced that the first breakfast of the Barnstable County Selectmen and Councilors Assoc. will be Sept. 12th at Christine's. The next meeting of the park committee will be on Sept. 11th.

Councilor Loughnane announced that on Sunday at 3 pm the West Barnstable Historical Society will be having a presentation for the 100th birthday of the school building. She attended the EIR presentation for the new terminal. Since the council did not attend, she asked that they come before the council with the presentation. We can attend Yarmouth's meeting but should have our own.

Vice President Jones thanked people who have adopted parks. It shows a love of the community. Also Sept. 7th is the Marstons Mills Village Day.

TOWN MANAGER COMMUNICATIONS

Assistant Town Manager Joellen Daley informed the council that the supplemental tax assessment voted on at a previous meeting does not have to go on the ballot. It has become law. She presented updated information and timetables on the covenant between the town and the schools (see Exhibit E).

Vice President Jones informed the council that the Meeting on Oct 2nd will be an extensive executive session and the meeting on the 16th will be an extensive workshop.

Attorney Smith explained a bit more about the supplemental tax assessment becoming a law and suggested the council agree to not place it on the ballot, as they had previously voted.

Vice President Jones asked for a consensus that the item will not be on the ballot.

VOTE: Unanimous consensus.

Elrick asked what the implications of the increased assessment would be on the stock of affordable housing.

ORDERS OF THE DAY

A: OLD BUSINESS

2004-015 APPOINTMENTS

Upon a motion duly made and seconded it was

RESOLVED, that the Barnstable Town Council appoint the following individual to a multiple member board/committee:

Vice President Jones explained that the two people selected for the planning board would have to receive a majority of the votes. Each councilor would be asked to vote for two people and if two did not receive majorities, the candidate receiving the fewest votes would be eliminated and the council would vote again and again until two were elected.

PLANNING BOARD (Two (2) Seats To Be Filled)

Patrick M. Princi, 29 Wayside Lane, West Barnstable, MA 02668 to serve until 06/30/2006

Timothy C. Williams, 109 Angela Way, West Barnstable, MA 02668 to serve until 06/30/2006

Felicia R. Penn, 15 Daisy Bluff Lane, Hyannis, MA 02601 to serve until 06/30/2006
Luiz Gonzaga, Ph.D., 162 Spring Street, Hyannis, MA 02601 to serve until 06/30/2006
Wolfgang Fattler, 629 Cedar Street, West Barnstable, MA 02668 to serve until 06/30/2006

Councilor Loughnane mentioned Timothy Williams would be in conflict since he owns the selected building company and will be developing town housing.

Councilor Elrick urged all to think about these appointments. This is an opportunity to set the tenor of the Planning Board. Felicia Penn stands out as having articulated the council's points well. She is willing to express opinions. He urges supporting her.

Councilor Milne put her name into motion because he has worked with her. She has testified in front of the Cape Cod Commission numerous times. She is the most qualified. There is a minimum of an appearance of conflict with Mr. Williams and the simple appearance may hurt attempts at a covenant with the town. There are candidates who do not have conflict issues.

Councilor Richardson was involved with the interviewing of all these applicants. The appointments committee felt the ones they brought forward were the outstanding ones. Now with the conflict issue, he wonders if Attorney Smith has a comment. Smith would address it to the individual. He does not see a status conflict because a person is a developer. It would have to be determined on a case by case basis.

Councilor Riedell is pleased with the quality of people who have come forward. He can only pick two but would have liked to have picked five. All may have some conflict or point of view to sway the opinion of the town. The vote was unanimous among the appointments committee for the first two.

Councilor Barry said Penn was at every 132 Committee meeting and he will support her.

Councilor Brown feels members of the appointments committee can change their votes. He will.

On the first round (roll call):

VOTE: 9 Princi, 2 Williams, 8 Penn, 0 Gonzaga, 1 Fattler.

Selected by majority vote: Patrick Princi and Felicia Penn

HOUSING COMMITTEE

Pamela Burkley, 48 Pontiac Street, Hyannis, MA 02601 to serve until 06/30/2006

VOTE: Unanimous

Planning Board members: William Belden, Roy Fogelgren, Ray Lang, David Munsell, and Bob Stahley, joined the counsel for item 2004-019.

A motion was made and seconded to open a public hearing on Item 2004-019 at 10:30 PM.

VOTE: Unanimous

The Planning board also voted to open the public hearing by a unanimous vote.

Roy Fogelgren made some opening statements. They have spent much time on revisions. Tom Broadrick and the planning staff have been involved. They sent copies to various businesses, civic associations, etc. There was a concern with aesthetics; if you can't see them they are allowed. It was very difficult to develop a standard that would include all circumstances. They felt the visibility and site plan review would be sufficient. It also included enforcement code language.

Dan Creedon of the ZBA came to express concerns but said there was no real consensus from his board. He reviewed their constructive concerns: screening, kind of permit, who will be the permit granting authority, the ability to enforce time limits and where are they appropriate. Businesses need to have storage and it will have an impact if it is seen. The 'no see 'um' is a good principle but allowing temporary storage not to be screened is a concern. All trailers should be required to be screened if they are visible. The 90 day enforcement may be difficult. It is appropriate in the industrial district and industrial business districts. He suggested striking some of the language.

Councilor Riedell asked if it included temporary trailers for construction. Creedon said no it did not apply in that case.

Chairman Lang asked if the ZBA agrees that we are going to have trailers. Creedon said they were not united on that matter. There was tepid support with the changes. The only consensus was that they thought it was necessary. Lang felt the council would be concerned if the ZBA were opposed.

Councilor Loughnane suggested some additional language to strike. She asked if the trailers should be taxed since it is square footage that is not taxed. Joakim said there are trailers in use now that would have to be moved if they were not allowed. They have tried to work with the businesses that are willing to screen and then remove trailers of those that are not.

Councilor Clark does not hear a ground swell to erase the problem. The board should make a process that is not so difficult. Is site plan review the final determination? A permit process every 12 months could be a problem; there should be some automatic review if they comply. The number of trailers - 6 -could be too few or too many. It should allow some type of low voltage illumination. Stickers for the trailers may be too difficult since some trailers may change.

Vice President Jones said going to revision 11 or 12 on this ordinance would be good.

Gail Nightingale Chairman of the Osterville Business and Professional Assn. said they sent a letter to 190 members regarding this proposal. All responses were opposed. Trailers are unsightly and they take up parking spaces. A 90 day maximum equals a summer season. Changes should include deleting all Osterville zones. As a ZBA member she said there was no provision for the trailers taking up allocated parking places. Definitions should be contained with the other definitions in the ordinance. We should not satisfy a few to the detriment of the town

It was moved and seconded to keep the hearing open and continue it to a future date.

VOTE: Unanimous

Lang asked if the council wants them to go back to scratch. Jones said they should continue. A motion was made and seconded by the planning board to continue the hearing. It was approved by unanimous vote.

A motion was made and seconded to open a public hearing on Item 2004-021 at 10:58 PM.

VOTE: Unanimous

A motion was made and seconded to close the public hearing at 10:58 PM.

VOTE: Unanimous

2004-021 ACCEPTANCE OF A LOCAL LAW ENFORCEMENT BLOCK GRANT FROM THE UNITED STATES DEPARTMENT OF JUSTICE IN THE AMOUNT OF \$85,110 AND THE SUPPLEMENTAL APPROPRIATION OF \$9,457 AS MATCHING FUNDS

Upon a motion duly made and seconded it was

ORDERED, that the Barnstable Town Council does hereby accept a Local Law Enforcement Block Grant from the United States Department of Justice in the amount of \$85,110, and further, that the amount of \$9,457 is hereby transferred from available funds to an account to be determined by the Town Manager for the purpose of funding the towns share of the matching funds of the grant.

VOTE: Unanimous (roll call)

A motion was made and seconded to extend the meeting for 15 minutes.

VOTE: Unanimous

A motion was made and seconded to open a public hearing on Item 2004-023 at 11 PM.

VOTE: Unanimous

A motion was made and seconded to close the public hearing at 11 PM.

VOTE: Unanimous

2003-023 APPROPRIATION ORDER FOR REPLACEMENT OF FURNITURE AND EQUIPMENT LOST DURING PIPE BURST AT TOWN HALL JANUARY AND FINALIZATION OF THE SETTLEMENT FOR DAMAGES TO THE BUILDING

Upon a motion duly made and seconded it was

ORDERED that the Town Council hereby authorizes the Town Manager to appropriate the amount of \$72,763.22 from the Town's Insurance Recovery Fund for the purpose of finalization the repairs to the building and replacing furniture and equipment lost during the water damage to the Town Hall offices on January 27, 2003.

VOTE: Unanimous (roll call)

B. NEW BUSINESS

Councilor Elrick moved 2004-016 taken off the table.

VOTE: 3Yes, 7 No

2004-027 APPOINTMENT

Upon a motion duly made and seconded it was

RESOLVED, That the Town Council confirm the appointment of Rose Digregorio, as the Senior Services Director, by Town Manager, John C. Klimm.

Ass't. Manager Daley introduced Rose Digregorio who was Assistant Senior Services Director. Daley reviewed her qualifications (See Exhibit F).

VOTE: Unanimous

2004-028 BALLOT QUESTION: EMBARKATION FEE OF \$.50 PER PASSENDER PER DEPARTING FERRY TRIP

Upon a motion duly made and seconded it was

ORDERED, That the following question be placed on the ballot for the November, 2003 Town election:

“Shall the town accept the law that allows the town to impose an embarkation fee of \$.50 per passenger per departing ferry trip?

YES _____
NO _____”

VOTE: Unanimous

On a motion duly made and seconded it was voted to go into executive session for the purpose of discussing land acquisition and not return to open session at 11:08 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco
Assistant Town Clerk



BARNSTABLE TOWN COUNCIL MINUTES
September 18, 2003

There was no quorum present, Town Council President, Gary Blazis, called the meeting of the Barnstable Town Council to order at 7:00 pm, on September 18, 2003 at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Gary Blazis, Audrey Loughnane, J. Gregory Milne (7:04 pm), Richard Barry (7:04 pm), Town Attorney Robert Smith.

President Blazis led the Council in the Pledge of Allegiance and a moment of silence

PUBLIC COMMENT

Allen Goddard spoke on the town council and its lack of meetings. He stated that under previous presidents more meetings and workshops were held. He said at the last meeting people had to wait three hours for public comment, which he felt was one of the more important parts of the meeting. He said with the serious issues before the town, an upcoming override and other important issues, he thought canceling this meeting was a lame attempt to avoid any political issues.

Eugenia Fortes said that this was the first time that so few people were in attendance. She thought that the council was supposed to discuss Danforth and a few other things tonight. Maybe we do not need a council.

Leah Curtis was concerned about the cancellation of the meeting. We have important issues to discuss. We could have had public hearings on the override. We need to understand the assessment issues, such as the great increase on the dock assessments. I hoped that this evening we could have been enlightened, she said. Regarding the Davenport purchase a question was asked if town funds would be used to maintain the property, and she saw heads shake no, but never got a definitive answer.

ADJOURNMENT

The meeting was adjourned at: 7:07 p.m.

Respectfully submitted,

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

NEXT MEETING IS OCTOBER 2ND.