

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
October 1, 2009**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:00 PM, on Thursday, October 1, 2009, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

PRESENT: Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafo, Jr., Thomas Rugo, James M. Tinsley, Jr. and Harold Tobey.

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

PUBLIC COMMENT

John Julius was disgusted with the treatment of Mr. Bornstein and his hotel proposal at the last council meeting. The running of the town has been reprehensible, he stated, including alluding to the possibility of the town of taking the land by eminent domain. He suggested voters come out and vote “No” on October 13th as well as unseat all incumbent councilors.

Rob Anderson urged people to come out to vote in the upcoming election.

John Alden spoke about reconfiguring how the council is elected by including the option to elect members-at-large. He has served on the Charter Commission.

Kate Gulliver urged voters to vote ‘No’ on the special question on Oct 13th. The public should get information about it as it is a vote for the entire town. She suggested more publicity, especially on the town’s website.

Tina Carey asked Town Manager John Klimm about the \$165 M rumor that a new wastewater facility has been permitted, as of 7/1/09, and where it is being built. She suggested voters go to barnstablesewers.com to see what the election is all about. She discussed a “toilet tax” or a nitrogen reduction tax as is charged in several states. She is not in favor of putting in sewers.

Al Baker spoke about taking care of the pollution we make. He urges the passage of the October 13th ballot question.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Canedy believes the nitrogen reduction tax is on the table for discussion. She offered to send some balanced information on the subject matter of the election.

Councilor Crocker also has encouraged all to turn out for the election. It is about collecting 100% of the cost and assigning it. He suggested a stand-alone meeting to give the public an opportunity to understand this issue. There is no tax money involved. It is the right of people to pursue sewers in the future.

Councilor Joakim, referring to a flyer, said the impression is that all households will be taxed. This only affects the households that will be sewerred. On the hotel issue, once the project was withdrawn she felt the council did not have a chance for a continued discussion. It is an opportunity missed.

Councilor Farnham would like an unbiased presentation to educate the people on the ramification of the October 13th vote. Canedy would also like the public meeting and workshop televised.

Councilor Milne also agreed. Stimulus money is on the line. A presentation of facts will help residents make up their minds. He brought up the activity around the ballot question and wants to be on the record to have a full investigation done as to who are the individuals behind the Vote No movement.

Lucia Fulco, Assistant Town Clerk, stated that the state law requires transparency. The people who have been spending money for signs, leaflets and now a website, all of which are anonymous, must come forward and file with the Town Clerk's office as a Ballot Question Committee.

Manager Klimm explained how no one can use a public office to influence a ballot question. Doing an educational program is ok but cannot be done by staff. He does not want the town or staff compromised and there can be no use of Channel 8 or the town website.

Town Attorney Ruth Weil spoke of how the town staff cannot be advocates. Presenting 'just the facts' may be seen as advocacy.

Councilor Crocker asked for clarification of the \$165M facility. DPW Director Mark Ells said there are no plans for a \$165M facility in town. The source of that could be speculation around the discussion of various wastewater issues. The Hyannis wastewater facility has been upgraded to handle the flow from the proposed sewerage. The infrastructure at the current plant has already been upgraded.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to accept the minutes of September 17, 2009.

VOTE: Unanimous (Tinsley abstained)

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

Councilor Munafo requested additional information on the residential exemption process. Jeff Rudziak, Director of Assessing, explained the process for allowing or denying a taxpayer's request for residential exemptions and other exemptions. All that is needed is the cover page of the income tax form with most things blackened out. The final decision as to whether the taxpayer is qualified is made by the Board of Assessors. Councilor Joakim ask when the applications are due. They have to be submitted ASAP. Councilor Canedy asked how life estate/trust works. A taxpayer would qualify if named in the life estate or has ownership status in the trust. A second notice will go out to the procrastinators.

Councilor Milne announced the upcoming meeting of the Cape & Islands Selectmen and Council which will address wastewater.

ORDERS OF THE DAY

OLD BUSINESS

2010-013 APPROPRIATION & LOAN ORDER COMMUNITY PRESERVATION NEW TOWN HALL

Manager Klimm introduced the historic consultant, Michael Teller and his staff as well as DPW Director Mark Ells. Both the proposal and a less costly option will be reviewed. Ells added that Finance Director Mark Milne and Lindsey Counsell, CPC Chairman will discuss financing.

Councilor Canedy wanted to know the cost differences between the slate and other roofing.

Michael Teller gave a PowerPoint presentation (See Exhibit A – report also attached Exhibit A-2).

Synopsis of discussion:

- Windows: Vinyl windows are not an option for this size. Current windows date back to the 1970s with some replacements about 10 years ago. It is possible to update the windows at a future time. Recent expenditures from the CPC for windows were just for repairs of existing windows. There are several manufacturers: Tella, Marvin and Anderson. All windows will be custom made and can be ready in 4 weeks. Teller pointed out that the scaffolding alone cost \$100,000 so it would be more cost effective to do all the work once the scaffolding is up.

- **Roof & Gutters:** The Historic Commission agrees with the use of slate. The difference between slate and asphalt is about \$400,000. In order to reduce the burden on the historic funds, it was suggested that the cost of the basic asphalt roof come from other funding and the CPC funding be used to pay the amount of the difference between the slate and the asphalt. If the town were to add solar panels, the slate would not be visible. Solar panels could be put on the flat portion of the roof, not be visible and not hide the slate; however, the historic groups would need to be consulted. If in the back of the building, solar panels would probably not be a problem. Fifty percent of the wood behind the gutters would require replacement and has been included in the estimate. Hangers for gutters would be brass bars; they are currently steel and are rusting. The building has no snow guards and that has been included. Such projects generally leave the salvage value of materials replaced up to the contractor and this will affect the price. Asphalt shingles have a lifetime warrantee for residential applications, but for this use, they would be heavy weight to resist high wind. These will have a life span up to 40 years.
- **Funding:** The town manager explained that he has been looking for alternative funding, and did receive a \$200,000 grant for the project. The CPC wanted to spend funds for the exterior of the building, and did so by unanimous vote. No other funds are available without backing out of other commitments. The Finance Director, Mark Milne, explained that \$430,000 will come from the Historic Preservation Fund balance; \$1.3M from the Undesignated Fund balance and the balance of \$1.3M will be borrowed for 20 years. The energy efficiency of the new windows will payback the cost. The plan makes sense: it leaves some CPA funds and uses reasonable bonding. Councilor Canedy is especially concerned about the ability to stretch the CPA dollars to rehabilitate other historic buildings. Counsell added that the committee will allocate other CPC funds as they become available. Director Milne estimated that the match from the state will be about 30% of what was collected in taxes. He intends to pool several long term borrowing financings into a larger issue to obtain a better interest rate.

Councilor Barry doesn't like using CPC funds for an actively used building. He worries about the potential liability. He agrees that the CPC funds are being used to take care of needs that should be coming from general funds.

Councilor Barton supports this item saying the fact that it is a working and historic building makes it more meaningful to repair.

Councilor Rugo is also supportive. It is a valuable jewel, a worthy expenditure and a positive force for economic development.

Councilor Joakim supports this and said the committee wrestled with the funding options to come up with the options as presented.

Councilor Milne asked about the cost to bring the entire building back. Counsell said no number was available. The CPC wants to get the outside done and will consider the inside when it can. Milne would like an overall plan for the public buildings in the town. The best thing was to get rid of the rink and replace it with a state of the art facility. He would prefer to get rid of the town hall building with a rider to a new owner requiring that the building's historic nature remain intact.

A motion was made and seconded to move the question. The motion was withdrawn to allow the following motion.

Councilor Crocker made a motion which was seconded to use the text of Item 2010-013 as it appears in the agenda of October 1, 2009.

VOTE: Unanimous

A motion was made and seconded to move the question.

VOTE: Unanimous

As it appears on the October 1, 2009 agenda:

2010-013 APPROPRIATION & LOAN ORDER COMMUNITY PRESERVATION NEW 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 Three Million Ninety Four Thousand Eight Hundred and Eleven and No/100 (\$3,094,811) Dollars be appropriated for the repairs to the exterior of the New Town Hall facility; and to meet this appropriation that the sum of Four Hundred Twenty Nine Thousand Seven Hundred and Seventy One dollars (\$429,771) be transferred from the reserve set aside for Historic Preservation in the Community Preservation Fund; and that One Million Three Hundred and Thirty Two Thousand Five Hundred and Twenty dollars (\$1,332,520) be transferred from the undesignated fund balance of the Community Preservation Fund; and that the Town Treasurer, with the approval of the Town Manager, is authorized to issue bonds and notes amounting to One Million Three Hundred and Thirty Two Thousand Five Hundred and Twenty dollars (\$1,332,520) under CH44B or any other enabling authority; and that the Growth Management Department is authorized to contract for and expend the total amount appropriated with the prior approval of the Town Manager, subject to oversight of the project expenses by the Community Preservation Committee for roof, brick, window, exterior door and other exterior repairs and replacements for the preservation and rehabilitation of the historic resource consisting of the New Town Hall of the Town of Barnstable with an address of 367 Main Street, Hyannis, MA., located on Map/Parcel 326/021.

VOTE: 11 Yes, 1 No (Milne) (Roll call)

2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET-ASIDE FOR OPEN SPACE

Upon a motion duly made and seconded this item was postponed to the meeting of October 15, 2009.

VOTE: No objections

Recess 9:35 PM – 9:40 PM

Councilors Crocker and Farnham recused themselves from participating in the discussion or vote on this item.

2010-019 REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE & 46 NORTH STREET, LLC

David Lawler, Attorney for 46 North Street, LLC, gave the rationale. He spoke about the property and the nature of the relief needed for the medical and or dental use. He showed renderings of the proposed new structure. No neighbors were concerned about the proposed use. Neighbors were concerned that the building at the rear of the lot, which is nearest to neighbors, would be residential. It will not. The owner is enhancing the back of the smaller building so neighbors will have a pleasant view. It is a win for the economic development of the area since the employees of the medical offices will be spending money on Main Street. It is a worst to first scenario.

Councilor Barton asked if it will be all medical/dental. Probably 60% will be, but that might change. Councilor Barry feels it looks like a great project. Councilor Joakim has heard no opposition from the neighborhood. Councilor Tinsley, who lives in that neighborhood, is strongly in favor. It would be an amazing addition to North Street and has the full support of the neighborhood. Councilor Canedy supports this. They are only asking for a change of use; they have worked with the town and reached out to neighbors. Councilor Munafa "loves Chad Dow's work".

Councilor Milne asked why they did not go before the ZBA. Attorney Weil said the Special Permit Granting Authority in this case is the Planning Board not ZBA. The ZBA's use variance has a high threshold. The Planning Board was unanimously in favor. The project is a traffic generator.

Recess 10:01 PM to 10:05 PM

Councilor Barton made a motion to move the question which was seconded.

VOTE: 10 Yes

2010-019 REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE & 46 NORTH STREET, LLC

Upon a motion duly made and seconded it was

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and 46 North Street, LLC, Developer, for the property shown on Barnstable Assessor’s Map 309, Parcel 195 and located within the Office and Multifamily (OM) zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the redevelopment of the existing building known as the “Verizon Building” and the development of a new 5600 SF building at the rear of the property at 46 North Street, Hyannis; and hereby granting a waiver from the provisions of the Barnstable Ordinances Section 240-24.1.6 as follows: adding the principal use medical and dental offices in addition to the allowed by-right and conditional uses in the OM with the exception of packaging and delivery services for both buildings and, in the newly constructed building to the rear of the property, residential uses.

**46 North Street, LLC
46 North Street, Hyannis**

This regulatory agreement (“Agreement”) is entered by and between the applicant, 46 North Street, LLC, (“Applicant” and “Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___ day of ___, 2009 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Applicant under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both;

WHEREAS, this Agreement shall establish permitted uses, densities, traffic, parking and stormwater management and building and site design within the Development, duration of the agreement, and any other terms or conditions mutually agreed upon between the Applicant and the Town.

WHEREAS, this Agreement shall vest land use development rights in the property for the duration of the Agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare.

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, the Applicant is the legal owner of the property (“Property”) at 46 North Street, Hyannis, consisting of approximately 101,733 +/- SF, shown on Barnstable Assessor’s Map 309 as Parcel 195, title to which is recorded in Barnstable County Registry of Deeds Certificate 50140, Book 1493, Page 614, Plan reference: LC 14306-B, Book 72/143 and desires to develop the Property pursuant to a Regulatory Agreement;

WHEREAS, the Applicant is willing to commit to development of the project in substantial accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS, the Town and Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS, the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS, the Applicant has made application to the Town pursuant to Section 168 of the Barnstable Code;

WHEREAS, the Development is located in the Hyannis Growth Incentive Zone (“Hyannis GIZ”) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and the Applicant has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, the Applicant has undergone informal site plan review on June 9, 2008;

WHEREAS, the Development is serviced by municipal sewer and does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS, the Development is serviced by the Hyannis Water Department and does not adversely affect water delivery infrastructure;

WHEREAS, the Development has sufficient fire flows to service the intended use without adversely affecting the Hyannis Fire District ISO rating;

WHEREAS, the Development has access to sewage capacity to service the intended use without adversely affecting the Water Pollution Control Facility and associated infrastructure;

WHEREAS, Hyannis Fire Department records indicate that an underground oil tank was filled in near the Washington Street access to the east of the property. These records also indicate that an important 8 trunk fiber optic conduit is supported by this filled structure.

WHEREAS, the existing building is only partially sprinkled;

WHEREAS, existing parking requirements, yard setbacks, lot area and lot coverage are lawfully established by/through this agreement and the Zoning Ordinance that existing number of parking spaces satisfy requirements for the proposed development;

WHEREAS, the Development currently has sufficient parking and access to accommodate proposed uses and structures;

WHEREAS, existing conditions -utilities, vegetation and a pole – may obstruct driveway access from North Street;

WHEREAS, streetscape conditions on North Street abutting this property are in need of landscaping and lighting improvements;

WHEREAS, the dumpster location as shown on the plan will serve the proposed development and will not impact abutting residential properties;

WHEREAS, a vegetative buffer and fence is shown on the plans lying northerly of the “Proposed Building” separating the property owned by 46 North Street, LLC and the properties shown on Louis Street;

WHEREAS, the Applicant will require zoning relief from the use regulation schedule in the OM zoning district, more specifically referred to in Paragraph 20, below;

WHEREAS, the Applicant has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board recommending that the application be forwarded to Town Council for their action on July 27, 2009;

WHEREAS, the Applicant has undergone a public meeting on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____, 2009;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Applicant and the Town do enter into this Agreement, and hereby agree and covenant as follows;

1. The Developer agrees to construct and maintain the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
2. Plans entitled
 - a) "Commercial Redevelopment, 46 North Street in Barnstable, MA, Site Plan Sheet 1 of 1 dated June 19, 2009 as revised through August 8, 2009";
 - b) "Commercial Redevelopment, 46 North Street in Barnstable, MA, Landscape Plan Sheet 1 of 1 dated June 19, 2009";
 - c) "Commercial Redevelopment, 46 North Street in Barnstable, MA, Lighting Plan" Elevation drawings entitled "46 North Street, North Street Elevation and Parking Lot Elevation" and "46 North Street New Building Front Elevation and Back Elevation" both dated June 18, 2009 by Jefferson Group Architects and Judd Brown Designs.and attached to this agreement and such other plans and plan revisions as may be required by the terms and conditions of this Agreement.
3. The Developer agrees to renovate the existing +/- 26,000 SF building and add a second +/- 5600 SF structure and develop the Property as medical and dental offices or other use as allowed in the OM district with the exception of packaging and delivery services and, in the newly constructed building to the rear of the property, residential uses;
4. The Developer agrees to fully sprinkle the existing building.
5. The Developer agrees to renovate existing parking area in accordance with the Design and Infrastructure Plan as shown on the plan entitled "Commercial Redevelopment, 46 North Street in Barnstable, MA, Site Plan Sheet 1 of 1 dated June 19, 2009 as revised through August 8, 2009"
6. The Developer agrees to provide a status report to the Building Commissioner, prior to the commencement of any site work, of the aforementioned conduit and take any actions deemed appropriate or necessary by the Building Commissioner.
7. The Developer agrees to construct driveway access on Washington Street and install signage to prevent left turning movements into and out of the site as shown on the plan entitled "Commercial Redevelopment, 46 North Street in Barnstable, MA, Site Plan Sheet 1 of 1 dated June 19, 2009 as revised through August 8, 2009".
8. The Developer shall construct a Passive Stormwater Maintenance and Infiltration System to service the Development stormwater.
9. The Developer will provide a bicycle rack at the Property.
10. The Developer shall construct architectural improvements as shown on the elevation drawings entitled "46 North Street, North Street Elevation and Parking Lot Elevation" and "46 North Street New Building Front Elevation and Back Elevation" both dated June 18, 2009 by Jefferson Group Architects and Judd Brown Designs.
11. The Developer shall install lighting and landscaping improvements along the Property frontage and on North Street as shown on the plan entitled "Commercial Redevelopment, 46 North Street in Barnstable, MA, Landscape Plan Sheet 1 of 1 dated June 19, 2009". Any and all lighting for the development including site and structure lighting shall not cast glare off site, shall be down cast, shall use fully cut off fixtures and shall not contribute to light pollution of the area.
12. The Developer shall install street lighting on North Street. Spacing, photometric, location and construction details to be finally approved by the Growth Management Department during the shop

drawing submittal phase but shall generally be as follows; a minimum of one (1) free standing 30 foot tall Pulse Start Metal Halide Renaissance Style Lighting Assemblies along the front of the property on North Street.

13. The Developer shall install and maintain the aforementioned vegetative buffer and fence separating the property owned by 46 North Street and the Louis Street properties as shown on the plan.
14. Developer and its successor(s) shall maintain all landscaping and drainage facilities for the period for which the development rights granted hereunder continue to be exercised.
15. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Barnstable Code Section 240-104(G)). This document shall be submitted before the issuance of the final certificate of occupancy.
16. Developer shall permit or cause its approved operator to permit the inspection of the premises by town staff, including but not limited to health, building and fire safety personnel.
17. All landscaping within the Development shall be low water use and shall minimize the use of fertilizers and pesticides in keeping with the Design and Infrastructure Plan.
18. All plumbing fixtures shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project.
19. The utility pole at the North Street entrance shall be removed and those utilities shall be placed underground.
20. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible.
21. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces) sewer permits and water permits.
22. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays. No exterior construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration.
23. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained.
24. Town hereby grants a waiver from the following zoning restrictions: principal use medical and dental offices in addition to the allowed by-right and conditional uses in the OM with the exception of packaging and delivery services and residential uses in the newly constructed building to the rear of the property, Section 240-24.XXX of the Barnstable Code
25. The Developer shall submit revised plans which address the comments submitted by the June 9, 2009 staff Site Plan Review, to the extent applicable, which plans shall be reviewed and approved administratively by the Building Commissioner.
26. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of two (2) years from the effective date of the Agreement, provided, however, that prior to the expiration of said one year period the Applicant may request one six month extension to obtain development permits. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. The Applicant estimates that construction will commence on or about _____ and will be completed on or about _____.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this _____ day of _____, 2009.

Town of Barnstable
By:

Developer
By:

VOTE: 10 Yes (Roll Call) (Crocker, Farnham recused)

2010-022 CONTINGENT APPROPRIATION ORDER - REPLACEMENT OF THE BARNSTABLE MARINA BULKHEAD

Upon a motion duly made and seconded this item was withdrawn by Councilor Canedy.

VOTE: No objection

Councilor Tobey recused himself from participating in the discussion or vote on the following item.

2010-023 APPROPRIATION AND TRANSFER ORDER \$25,000.00 CAPITAL TRUST FUND 296 NORTH STREET HYANNIS (ZION MUSEUM)

Councilor Crocker gave the rationale. (See Exhibit B for views of deterioration.) The town owns the building and it has received several hundred thousand dollars of renovations.

Upon a motion duly made and seconded a public hearing was opened at 10:10 PM

VOTE: Unanimous

John Reed, Vice President of the Zion Museum, said they have been putting every dime earned back into the building. They have no endowment fund and it is imperative that something be done to help out. He asked for this support.

Mark Ells said his staff received quotes to support these repairs. The roof is at the end of its life and is leaking. All repairs are included in the cost.

Deborah Converse, President and CEO of the Hyannis Area Chamber of Commerce, said bus tours to the site are increasing in number. It provides a heritage and brings an asset to the town along with the other museums.

John Norman suggested that an inspection should have been done prior to the town purchasing it.

Upon a motion duly made and seconded the public hearing was closed at 10:15 PM.

VOTE: Unanimous

Councilor Joakim made the following amendments: add “up to” before “twenty-five thousand”; and delete “the lessee Zion Union Heritage Museums, Inc.” and replace it with “the Town Manager.”

VOTE: Unanimous

Councilor Canedy asked if there was a survey done and did it address the roof. Also, was there a \$250,000 endowment from the Lorusso Foundation and what happened to it? John Reed said the money was used for internal construction: modernization, a lift, etc. The roof is important to protecting the artifacts inside which need to be preserved. With respect to a structural survey, Counsell said the structure was reviewed by the Building Department and deemed viable and sound.

Councilor Crocker feels this is something important to the town. The town owns it and will have to suck it up and spend the money.

Councilor Farnham feels the town could get an annual report on the happenings at the museum. He suggested Mr. Tobey, who is retiring, could be given the task of making that report.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

As amended

2010-023 APPROPRIATION AND TRANSFER ORDER \$25,000.00 CAPITAL TRUST FUND 296 NORTH STREET HYANNIS (ZION MUSEUM)

Upon a motion duly made and seconded it was

ORDERED: That the sum of Twenty-five thousand and NO/100 (\$25,000.00) Dollars be appropriated for roof repairs and replacements on the buildings having a street address of 296 North Street, Hyannis shown on Assessors Map 308 as Parcel 029 and leased by the Town to the Zion Heritage Museum, Inc. for the Zion Museum; that to meet this appropriation the sum of up to Twenty-five thousand and NO/100 (\$25,000.00) Dollars be transferred from available funds within the Town's Capital Trust Fund; that the Town Manager be authorized to contract for and expend the total amount appropriated and that Town Manager, after compliance with all applicable laws; is authorized to accept any gifts or grants in relation thereto, subject to the approval of the Town Council.

VOTE: 11 Yes (Roll Call) (Tobey recused)

2010-030 APPROPRIATION & TRANSFER ORDER OF PROCEEDS FROM SALE OF SURPLUS EQUIPMENT TOWARDS CONSTRUCTION OF HYANNIS YOUTH & COMMUNITY CENTER

Lynne Poyant gave the rationale.

Upon a motion duly made and seconded a public hearing was opened at 10:37 PM

VOTE: Unanimous

Upon a motion duly made and seconded the public hearing was closed at 10:37 PM.

VOTE: no objection

A motion was duly made and seconded to move the question.

VOTE: Unanimous

2010-030 APPROPRIATION & TRANSFER ORDER OF PROCEEDS FROM SALE OF SURPLUS EQUIPMENT TOWARDS CONSTRUCTION OF HYANNIS YOUTH & COMMUNITY CENTER

ORDERED: That the Barnstable Town Council hereby appropriate \$31,831 for the purpose of the construction of the Hyannis Youth and Community Center and to meet this appropriation that the sum of \$31,831 be transferred from the General Fund municipal savings account.

VOTE: 12 Yes (Roll Call)

NEW BUSINESS

2010-033 ACCEPTANCE OF A BARNSTABLE COUNTY LAND MANAGEMENT GRANT

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council does hereby accept the Barnstable County Land Management Grant Program Award in the amount of \$2,000.00.

Manager Klimm gave the rationale.

A motion was duly made and seconded to move the question.

VOTE: Unanimous

On Item 2010-033

VOTE: 11 Yes, 1 No (Farnham)

Councilor Joakim left the hall.

2010-034 CHANGE PRECINCT POLLING LOCATIONS

A motion was duly made and seconded to suspend the first reading and vote on this item this evening.

VOTE: Unanimous

Councilor Milne asked about the impact of three precincts in the Community Center gymnasium. Fulco said that she and the town clerk visited the location with Recreation Director, David Curley, and the three precincts will be accommodated very nicely. Lynne Poyant concurred. Milne also asked why the town would incur additional expense for renting private space – church halls and private schools – instead of using town schools. Fulco said the Clerk’s office has not paid any rental fees; to date the office has only reimbursed any additional cost to the facility for extra custodial help on Election Day. Councilor Barton pointed out that the elections were moved out of most schools for child safety and security reasons.

A motion was made and seconded to move the question.

VOTE: Unanimous

2010-034 CHANGE PRECINCT POLLING LOCATIONS

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council confirm the polling location changes for the October 13, November 3 and December 8, 2009 elections to be as follows:

- Precinct 1 Barnstable-West Barnstable Elementary School, Route 6A, Barnstable
- Precinct 2: Community Center at St. George’s Greek Orthodox Church, Route 28, Centerville
- Precinct 3: Senior Center, 825 Falmouth Rd., Hyannis
- **Precinct 4: TEMPORARILY at the Community Center at St. George’s Greek Orthodox Church, Route 28, Centerville
- Precinct 5: Cape Cod Academy, 50 Osterville-West Barnstable Rd., Osterville
- Precinct 6: Gym of Christ Chapel, 2C Oak St., Centerville
- Precinct 7: Freedom Hall, Main Street, Cotuit
- Precinct 8: Hyannis Youth & Community Center/Rink, Bassett Lane, Hyannis
- Precinct 9: Town Hall, 367 Main St., 2nd Fl. hearing room, Hyannis
- Precinct 10: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 11: West Barnstable Community Building, Meetinghouse Way, West Barnstable
- Precinct 12: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 13: Town Hall, 367 Main St., 2nd Fl. hearing room, Hyannis

AND, the Town Council confirms the polling location changes for the January 19, 2010 elections and thereafter to be:

- Precinct 1 Barnstable-West Barnstable Elementary School, Route 6A, Barnstable
- Precinct 2: Community Center at St. George’s Greek Orthodox Church, Route 28, Centerville
- Precinct 3: Senior Center, 825 Falmouth Rd., Hyannis
- Precinct 4: Our Lady of Victory Church Hall, South Main St., Centerville
- Precinct 5: Cape Cod Academy, 50 Osterville-West Barnstable Rd., Osterville
- Precinct 6: Gym of Christ Chapel, 2C Oak St., Centerville
- Precinct 7: Freedom Hall, Main Street, Cotuit
- Precinct 8: Hyannis Youth and Community Center/Rink, Bassett Lane, Hyannis
- Precinct 9: Hyannis Youth and Community Center/Rink, Bassett Lane, Hyannis
- Precinct 10: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 11: West Barnstable Community Building, Meetinghouse Way, West Barnstable
- Precinct 12: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 13: Hyannis Youth and Community Center/Rink, Bassett Lane, Hyannis

VOTE: Unanimous

2010-035 EXTEND THE EXPIRATION OF THE RECREATIONAL SHELLFISH AREA & SHELLFISH RELAY OVERLAY DISTRICT

Upon a motion duly made and seconded this item was referred to a joint public hearing with the Planning Board on October 15, 2009.

VOTE: Unanimous

Councilor Munafo was not present for discussion and votes on Items 2010-036 and 2010-037.

2010-036 ACCEPTANCE OF \$7,000 GRANT FROM U.S. DEPT. OF JUSTICE

Upon a motion duly made and seconded it was

RESOLVED, that the Barnstable Town Council does hereby accept fiscal year 2009 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs in the amount of \$7,300.00.

Chief McDonald gave the rationale

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-036

VOTE: Unanimous

2010-037 ACCEPTANCE OF \$98,919 GRANT FROM THE U.S. DEPT. OF JUSTICE

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept fiscal year 2009 Edward Byrne Memorial Justice Assistance Grant: Local Solicitation from the United States Department of Justice in the amount of \$98,919.00.

Chief McDonald gave the rationale

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-037

VOTE: Unanimous

Councilor Munafo returned.

TOWN MANAGER COMMUNICATIONS

Manager Klimm distributed the final report summarizing activities of the Pioneer Institute Public Policy Research. (See Exhibit C) The report discussed the evolution of Barnstable's successful school-based management approach to education.

President Chirigotis congratulated the Police Department and School Department for participating in the 16 solid hours of training by the Department of Mental Health.

A motion was made and seconded to enter into executive session at 10:52 PM for the purpose of discussing contract negotiations with non-union personnel and not to return to public session thereafter.

VOTE: 11 Yes (Roll Call)

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk