



## TOWN COUNCIL MEETING October 15, 2009

A quorum being duly present, Council President Frederick Chirigotis called the October 15, 2009 meeting to order at 7:00 p.m. in the 2<sup>nd</sup> Floor Hearing Room of Barnstable Town Hall, 367 Main Street, Hyannis, MA

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

The Pledge of Allegiance was led by President Chirigotis, followed by a Moment of Silence.

Councilor Janice Barton read a proclamation regarding Peace Week. She thanked students, individuals, newspapers etc. for all their efforts as well as various committees that have worked hard on the issues of diversity, awareness and violence prevention.

### **PUBLIC COMMENT:**

- Tina Carey from Centerville said that on behalf of the barnstablesewers.com people, she said that they appreciate the voters, and are humbled by the support.
- Rob Anderson said government belongs to those who show up. He hoped that the council will recognize the fact that the majority of voters did not agree with the council. He has an alternative to the existing program and would like an opportunity to share it.
- Oliver Cippollini said this season reminds him of Salem. You have to look at good things that are done by councilors throughout the years. Go to your calendar and mark Nov. 3<sup>rd</sup> as the Election.
- Eugene Dumdey asked if all councilors received a copy of the State Constitution. How can you write a law if you have never read the book. He read from various sections of the constitution. He said the council is accountable to the people.
- Al Baker will be voting absentee on the November ballot. He said there are good things in the proposed charter. If it does not pass take those items through the legislative process. He will miss Harold Tobey and feels the candidate for that seat will do a great job (Deborah Dagwan). Baker noted a recent handout was not good. As far as recall, no matter what you vote you won't please them all all the time. Recall should not be used.
- Robert Tucker talked about businesses going out of business. We need to love each other and help each other.

- Alan Heidenfelter came because of interest in the schools. He noted his mother is on a fixed income and the betterment she has to pay. As far as the vote on the 13<sup>th</sup> it appears that the Town Clerk recommended Nov. 3 as a date for the vote. \$30,000 would have been saved. He said schools were disrupted. It bothers him. If it were up to him he would assess the councilors. You were trying to take away a level playing field.

### **COUNCIL RESPONSE –**

- Councilor Munafo received a copy of the State Constitution – he has touched it and read it.
- Councilor Tobey explained the public comment timing.
- Councilor Farnham addressed the communication from John Julius to Robert Anderson – regarding Julius’ nasty comments. Farnham had nothing to do with a prior note referenced. Farnham said the language Julius used is not good and it is not easy to communicate with someone who speaks in that manner. He (Julius) regularly threatens litigation and therefore we do not wish to respond to him.
- Councilor Crocker said he copied the email on yellow paper. The man who wrote it should be embarrassed. We are all tired of this. We are trying to do the best we can to solve neighborhood problems. Mr. Heidenfelter is upset because of the elections – we all participated in many hours of discussion on the sewer. Money is money. We are trying to do the best. The clerk needed seven weeks to put the election together. The council would have preferred to have it in September.
- Councilor Joakim said we needed to get the vote done because we could have lost some stimulus funds. She is not comfortable with assessing betterments. We put a lot of ourselves into these votes. We are told if we don’t vote a certain way we will be recalled. She went through it and it was not good. This is running government by intimidation.
- Councilor Milne said with rights come responsibility. This country is not built on a foundation of vitriolic attack and threatening dangerous behavior. He has been threatened. He took his hat off to Councilor Joakim who has been through it. If people are upset on 100% betterment, he explained there is betterment but not 100%. Nothing I have voted was for me. This entire body is being assaulted.
- Councilor Barton said interestingly we started out with No Place for Hate and Peace Week. She sees people who volunteer and give their time to make this town a better place.

Brief recess taken prior to workshop.

- **Joint workshop with the School Committee**
  - Town Manager John C. Klimm said that this has been a difficult year on the budget. We are starting the budget process earlier. We asked the Chair of the School Committee and Council President to begin the budget process

discussion. We are going to get a financial update and will need to keep the dialogue open and ongoing.

- Klimm asked to have budgetary and financial issues at the forefront with time given at each meeting for discussion. He thanked the department heads and Superintendent and others for the open communication.
- Financial Director Mark Milne gave a Powerpoint overview of “The Great Recession” and the effect of State shortfalls on the local budget. He noted declining evaluations, job shortages, tourism down and other issues regarding the status of our community.
- Milne illustrated the revenue components, and property taxes. New growth has consistently declined. Excise taxes have increased over the years, but in 2009 it has dropped. More information on the excise bills will be forthcoming the beginning of 2010. Local Aid has dropped (\$1.2M deficit) from the State and we are assuming that 2010 and 2011 will also drop. His overview included investments, fixed costs, and compared revenue vs costs. He reviewed the savings accounts and potential draws. He also reviewed the reserves and the prudent management of these reserves.
- Manager Klimm said we will be watching the State and the taxes for possible further adjustments.
- Councilor Barry asked why we can give raises in this time. Klimm said he can’t discuss contract negotiations in open session.
- Councilor Crocker asked about the pension trust reserves – is the state looking at these.
- Milne said there might be a higher assessment, but the amortization period would have to be stretched out. Milne said town meeting created it and it was good. The county system transferred their monies to the State.
- Councilor Rugo asked about possible layoffs – Milne said it would be about 60. It is hopefully a high number.
- Debra Dagwan asked about uncollectible receivables. Finance Director Milne said they are like personal property taxes, if they go out of business, many times they can’t be collected.
- Klimm said meetings were held with all of the unions. Employees understand the problems.
- He publicly thanked all.
- President Chirigotis does want financial updates on a regular basis.

Brief recess taken.

**A. OLD BUSINESS**

**2010-16 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET ASIDE FOR OPEN SPACE**

President Chirigotis announced that 2010-016 would be postponed until one of the meetings in November.

**2010-035 EXTENDING THE TIME THAT THE TEMPORARY RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT SHALL REMAIN IN EFFECT UNTIL MAY 3, 2010**

Upon motion duly made and seconded it was voted by the Town Council to go in to a joint public hearing with the Planning Board.

**VOTE: Unanimous in favor**

Upon motion duly made and seconded it was voted by the Planning Board to go in to a joint public hearing with the Town Council.

**VOTE: Unanimous in favor**

Joanne Buntich said the town proposed the moratorium – they want to extend the time to allow for more work on this by the Coastal Resources Management Committee. Robert Jones, Chair of the committee, said they have no problem recommending the extension. He would like to have a workshop on this in the future to go over the whole document.

Upon motion duly made and seconded, it was voted by both the Town Council and the Planning Board to close the public hearing.

**VOTE: BY TOWN COUNCIL**

**VOTE: BY PLANNING BOARD**

**Unanimous vote to close by both Council and Board.**

On motion duly made and seconded the Planning Board recommended approval of the extension.

**VOTE: Unanimous in favor**

A motion was made and seconded to move the question

**VOTE: 11 Yes 1 No (Munafa)**

Upon motion duly made and seconded it was

**ORDERED that:**

The period of time that the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District established under Section 240-37.1 of the Code of the Town of Barnstable shall remain in effect is hereby extended until May 3, 2010.

**VOTE: Roll Call – 2/3'rd required – 11 Yes 1 No (Munafa)**

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

Councilor Crocker worked on the committee to replace the Trustee for Enoch Cobb Trust. He thanked all involved. They feel the loss of Trustee, David Cole, and looked at his qualities to set a course. There is a late file to appoint a replacement. He thanked Debra Blanchette for her service as trustee.

**2010-043 – APPOINTMENT OF SUCCESSOR TRUSTEE & AGENT UNDER WILL OF ENOCH COBB**

Upon motion duly made and seconded that

**RESOLVED:** That the Town Council does hereby appoint Steven G. Heslinga to serve as Trustee and Agent under the will of Enoch T. Cobb thereby replacing the Town Treasurer, Debra Blanchette, who had graciously volunteered to serve in that role until a successor Trustee and Agent was chosen.

**VOTE: Unanimous in favor**

Councilor Munafo also thanked Ms. Blanchette for her help and service. President Chirigotis concurred.

**ACT ON MINUTES**

Upon motion duly made and seconded it was voted to accept the minutes of October 1, 2009 with the following corrections: Page 2 should read Channel 18 (not 8) and still on page two the name in the middle of the page should be the Cape Cod Selectmen and Councilors Association.

**VOTE: Unanimous in favor**

**B. NEW BUSINESS**

**2010-038 GRANT ACCEPTANCE - \$2,600 FOR PHASE II SEEDING OF CONSERVATION LAND**

Town Manager Klimm gave the rationale as written in the agenda.

A motion was made and seconded to move the question.

**VOTE: Unanimous in favor**

Upon motion duly made and seconded it was

**RESOLVED,** that the Town Council hereby accepts a Barnstable County Land Management Grant in the amount of \$2,600 to seed two acres of Conservation property, known as Bridge Creek Conservation Area, located behind the West Barnstable Fire Station.

**VOTE: Unanimous in favor**

**2010-039 ORDER TO REDUCE THE FY10 OPERATING BUDGET**

Finance Director Mark Milne gave the rationale and explained that the final cherry sheets had not been prepared when we approved our budget.

Upon motion duly made and seconded it was

**ORDERED:** That the Town's FY 2010 Other Requirements budget approved under council order 2009-124 be reduced by \$290,328 for a new total of \$27,606,386.

**VOTE: Unanimous in favor**

#### **2010-040 SUBSTITUTE RESOLVE TO APPROVE CONTRACT FOR POLICE CHIEF**

Councilor Canedy said the substitute resolve just clarified the language and did not change anything. Manager Klimm said on Thanksgiving of 2006, Chief MacDonald took over and in August 2007 became permanent. He received regular evaluations, and has exercised great leadership and direction. Klimm explained how Chief MacDonald is not in civil service.

A motion was made and seconded to move the question.

**VOTE: Unanimous in favor.**

Upon motion duly made and seconded it was

**RESOLVED,** that the Town Council approves the contract with Police Chief Paul MacDonald from October 1, 2009 until October 1, 2012, at the request of the Town Manager.

**VOTE: Unanimous in favor**

They congratulated and thanked the Chief.

Chief MacDonald thanked the council and Manager for their confidence and is honored to be the Chief.

#### **2010-041 TRANSFER ORDER FOR THE BARNSTABLE HIGH SCHOOL FIELD HOUSE**

President Chirigotis suggested that this be continued. Councilor Milne asked if it was an emergency if it should be put off or passed.

Finance Director Milne explained arbitrage and how it works. Councilor Canedy would like a running account of projects that come in under budget and where the leftover money is spent or transferred to. Councilor Farnham concurred.

President Chirigotis opened a public hearing and closed it with no comments. Councilor Canedy asked if it is legal to vote on this without a public hearing and Attorney Weil said there is no legal reason to not vote the item tonight. It is a transfer.

School Supt. Patti Grenier gave the rationale. She explained that there were unexpended funds from a roof repair to the Horace Mann Charter School in Marstons Mills and they were looking to transfer those funds to help repair the High School field house roof. She said they found there were additional needs. This is a roof to roof project.

Councilor Canedy asked the Town Manager and Finance Director if she could see a detailed accounting of expenditures of projects as they are completed and indication if the project went over or under appropriated amount. If over, an accounting of where the money was

appropriated from and if under, where the nonused appropriated funds were allocated to or in what account they are housed..

Councilor Crocker asked what kind of roof is going on. They assumed that it is rubber. Crocker feels it needs to be done and should be voted soon.

Councilor Milne said you can't continue to have a leaky roof. We have had a number of roof issues – why isn't there preventative maintenance. Grenier said if you have all the money to maintain everything she can do it. She would need at least \$10M to maintain. We were ahead of the curve, but when we opened it up, we found it was a bigger problem. Lack of revenue is the problem.

Councilor Barry said taking the lowest bid you don't get the quality of work.

A motion was made and seconded to move the question.

**VOTE: Unanimous in favor.**

Upon motion duly made and seconded it was

**ORDERED:** That the balance remaining in the appropriation for the repairs to the Barnstable Horace Mann Charter School roof project of \$132,510 under council order 2005-085 be transferred to the appropriation for the repairs to the Barnstable High School field house under council order 2009-095.

**VOTE: Unanimous in favor**

<b>2010-042 AUTHORIZING STATEMENT OF INTEREST – HORACE MANN PUBLIC CHARTER SCHOOL FACILITY</b>
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Supt. Grenier gave the rationale as written. She explained that this is for the school on Bearses Way. Grenier said this is the third time she has come forward.

Councilor Canedy asked about the additional steps on this project. Grenier said all steps will go forward with proper notification and approval by the Town Council. This is the oldest boiler in the system.

Councilor Munafo said we do need to be persistent. He thanked her.

A motion was made and seconded to move the question.

**VOTE: Unanimous in favor**

Upon motion duly made and seconded, it was

**RESOLVED,** that having convened in an open meeting on October 15, 2009 the Town Council of the Town of Barnstable, in accordance with its charter, by-laws, and ordinances authorizes the Superintendent of Schools to submit to the Massachusetts School Building Authority the Statement of Interest dated October 13, 2009 for the Barnstable Community Horace Mann Charter Public School, formerly known as the Hyannis East Elementary School, 165 Bearses Way, Hyannis, MA which describes and explains the following deficiencies and the priority category(s) for which the Town of Barnstable may be invited to apply to the Massachusetts School Building Authority in the future:

**Priority 5:** Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility.

And hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Town to filing an application for funding with the Massachusetts School Building Authority.

**VOTE: Unanimous in favor**

**ADJOURNMENT**

Upon motion duly made and seconded it was voted to adjourn.

**VOTE: Unanimous in favor**

**ADJOURNED: at approximately 9:25 p.m.**

Respectfully submitted,

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