

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
February 4, 2010**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:00 PM, on Thursday, February 4, 2010, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

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

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

President Chirigotis announced that the Barnstable Airport update, scheduled for this evening, would be continued to the March 4th meeting for public comment.

PUBLIC COMMENT

Louise DiCecca said when she speaks, as she did at the last meeting, she expects the same tolerance from the council as they would like. If there is no comment from the group, the (Stewart's Creek) situation will be trivialized. Residents are facing financial burdens and no one in their position would sit back and relax. She appreciated the newly created subcommittee.

Al Baker always learns something at meetings – whether he is for or against the issue. He pointed out that if the town is hoping to get funding from elsewhere, the projects have to be shovel-ready or another town will receive the money.

John Alden said that the charter will be voted on again. The charter changes in the makeup of the government need to be made. They (charter commissioners) are working hard to get it on the ballot again. A lot is being done right, but other things can be tweaked.

Robert Tucker said there was a rumor that a citizen taking a photo of a vehicle with the number plate (illegally) parking in a handicapped spot will get a \$50 bonus from the fine. The town will get \$50 and good citizen will get \$50. It is a good deal. Also, too many people are still occupying houses and exceeding the occupancy limits.

Dorothy Hughes does not think the government is of, for and by the people. She touched on various subjects including a moratorium on all spending; the financial burden on the residents at Stewart's Creek; the residential exemption funds going back to taxpayers, not the general fund; and the inability to find town financial information.

Tom Nelson spoke about his property and business taxes having gone up 40% to 60%, while town services have decreased. The town needs to welcome new residents and businesses. He mentioned the recent snow storm and the long time it takes to have a street patched as examples. "The town needs to get it under control."

Tina Carey spoke about overcharges on property taxes this year and about refunds. She would like to know how it happened. The town only collected (proof of residency) forms from about 10,000 of the estimated 15,000 residents causing overtaxing due to smaller exemptions. She suggested there were many suits against the town.

Gene Hill has been here over 30 years. He has a beef with property values and his has gone up \$400,000. Business taxes in Hyannis have doubled.

Kate Gulliver spoke about taxes. Right now the payment is by 100% betterment. Contracts have not been awarded yet so there is time to stop the project. This will be a 50% increase in houses in very poor economic times. People don't have the money. The town needs to have the money prior to other capital projects.

COUNCILOR RESPONSE

Councilor Munafo was sorry about the disagreement at the last meeting.

Councilor Barry explained to DiCecca that he did not mean he was not interested in the subject. But, right now, the proposal is moving away from 100% betterment. As for the residential exemption, he voted on it to save Barnstable residents some money on their taxes. People need to get the paperwork in on the residential exemption and he urged the public to send in the tax form. People who feel they have been treated unfairly should file for an abatement.

Councilor Milne said the turnout at the special election was nothing short of a miracle. If 65% came out in January, people should be able to see a comparable turnout for town elections. He is frustrated that there is so much inaccurate information still out there and suggested the finance director or director of assessing explain. The number of suits against the town should be clarified as well. The 100% betterment is not the policy. The rate went up slightly while the assessed value went down in areas.

Councilor Crocker also suggested the Assessor speak on the tax issues brought up. He gave several examples of taxes having increased \$1,000 and \$5,500. The market is taking care of the lower end but no one is taking care of the upper end. Because of the formula, people who are residents, with high home assessments, are penalized.

Jeff Rudziak, Director of Assessing, addressed property valuation. All higher valuations were based on a recent sale. 81.5% of all properties went down, at least \$1. He had to use 24 months of sales due to the decrease of sold properties. He encouraged people to file for abatement if there seems to be an error. It will be looked over and the board will be apprised. On the 10,000 vs. 15,000 residences, the former assessor had to give the DOR a starting number and selected 15,000. His administration has tried to obtain a clean number and this correction has caused a bump in the values.

Councilor Munafo asked about the relationship of the decrease in property value this year over last and the tax shift. Property values went down about \$7,000 and about 51% of the taxpayers saw a tax increase.

Councilor Dagwan had a question about assessed property in this market. In the current market some homes in the same neighborhood have had a wide range of sale prices which may have skewed the evaluation – some taking a loss and some getting market value. Rudziak said with enough sales of a foreclosure nature, that becomes the market. There have been areas that have had that happen. As the price goes up it becomes more difficult to determine what influenced the price.

Councilor Crocker said the consensus of attendees at a recent Board of Realtors meeting, of which he is a member, is that the freefall in the market is over. Rudziak agrees with that observation. Crocker said there will be some unhappy taxpayers who will file abatements. This is unavoidable.

Finance Director Mark Milne said 4,700 residential property owners had not sent in the paperwork in time. It was decided to put them back in the system giving them the benefit of the doubt. If the town

had not done so, they would have given refunds to all the others and this would have put the town in a negative spending place.

Councilor Crocker said the decision had to be made based on what was best for the town's cash flow. He applauded the effort.

Director Milne explained that the overall spending is controlled by Prop 2 1/2. If the 4,700 people, who failed to return the form, did not qualify as residents, the town would have to give refunds to those who did qualify. In addition he would have to boost funds in the account that would be used to pay abatements, since there might be more abatements filed by some of the 4,700. The levy would have been exceeded. Since that cannot happen, other areas of the budget would have to be cut by \$3M to issue the refunds.

Councilor Dagwan asked if the population of people who did not apply is identified. Milne does not have demographics. Milne said they will file the paperwork when they learn that they will be taxed another \$700. Milne could set up a database to see if they came from specific areas.

Councilor Munafo asked when the rebilling would occur. Subsequent bills for those who did not file will be sent 30 days before the tax bill is due. The paperwork must be in by May first or the person will lose out on the exemption.

Councilor Canedy felt some people did not want to send in their tax form. They need to know that everything could be blocked out except the name and address.

- **Guest: Senator Rob O'Leary**

Senator O'Leary thanked the councilors for their service to the town.

- The Governor intends to level fund Local Aid and Chapter 70. There is no appetite for the Governor's tax increases by the legislature. The Legislature will make some deeper cuts, possibly in school and local aid.
- This year's Education Reform Act is the biggest since 1993. It lifts the cap on charter schools in underperforming districts and makes them more accountable. Some issues have not been revisited since 1995. Barnstable has two of the seven Horace Mann schools in the state.
- Massachusetts has the best public schools in the country based on test scores and the state rates fourth or fifth worldwide. The bottom 20% of test scores, however, is at the bottom.
- The Commonwealth will be qualified for Race to the Top money from the Federal Government, in the amount of \$288M, if the state qualifies.
- He also worked on Wind Energy Siting Reform bill. The public agenda needs to get ahead of the private agenda. This final version is streamlined, more objective, and preserves local control.
- He would like Barnstable to be a part of the Cape Cod Bike Path. There is money to extend the trail from Dennis to Willow St. in Yarmouth. It will be Barnstable's turn to step up and be the next leg of this. He would like the Council to get about the business of figuring this out.

Councilor Canedy said she owes him a debt of gratitude regarding his support of the funding for repairs of Barnstable Harbor.

Councilor Crocker spoke about the funding for the new airport terminal. Disbursements of airport funds may be spread over three fiscal years instead of 2, causing the town an interest expense. Sen. O'Leary had not heard about it and will be available. Town Manager John Klimm added that the entire Cape legislative delegation is in support of the town day and night. He is deeply appreciative.

Councilor Barry asked him for his position on the Striped Bass bill. O'Leary is opposed to Rep. Matt Patrick's bill and spoke on it. It is unclear that there is a problem. The bill removes commercial fisherman from catching the Striped Bass and reserves the fish as a purely a recreational fish. This is a 100% burden on the commercial fisherman. The legislature should not be involved. The regulatory agencies should deal with it.

Councilor Munafo asked was there Federal and State money for the bike path. The Senator said there will be Federal money and also a State match. If the Cape does not access it, it will be spent elsewhere in the state. Yarmouth has been working at this for 5 to 6 years. Barnstable should begin the ground work.

Councilor Milne thanked him for leadership at a meeting relative to mosquito control. Milne brought up the issue of wastewater and thanked him for his assistance. He asked if there was any further progress on wastewater and he asked if he could help change the \$50 penalty levied on commercial landowners who do not file required personal property information to the assessors. With such a small penalty, there is no incentive to file and pay the tax. Milne favors the bike path. Sen. O'Leary has not heard of the \$50 fine issue but will look into it.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to accept the minutes of January 7, 2010 as written.

VOTE: Unanimous (Canedy abstained)

Upon a motion duly made and seconded it was voted to accept the minutes of January 21, 2010 as written.

VOTE: Unanimous (Canedy abstained)

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

- Councilor Munafo said the Council needs to review their administrator and also asked about the status of the Town Manager Review Committee. President Chirigotis said he, the Vice President and the past president comprise the Review Committee. It, as well as the Appointments Committee, will be meeting shortly.
- Councilor Dagwan announced Black History Month events at the Zion Union Heritage Museum. The Youth Center United Cultures Room is also sponsoring various activities involving people of all ages.
- Councilor Milne asked the Town Manager to clarify some items mentioned in public comment. Also he announced the upcoming Selectmen and Councilor meeting which will be reviewing the County Charter. Input from the council on restructuring and improving the charter is needed.

ORDERS OF THE DAY

OLD BUSINESS

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

President Chirigotis announced that this item will be continued to Feb. 25, 2010.

Councilor Munafa suggested removing it *in lieu* of postponing it yet again. Town Attorney David Houghton said it was before the Housing Appeals Committee and partnering with Cotuit Fire. Councilor Canedy suggested taking it off the agenda and refileing it when the other groups are ready. President Chirigotis pointed out that it will require a first reading if it is taken off. Councilor Barry explained that the town did not want to go thru the DEP with a conservation restriction. The Cotuit Fire District voted for the conservation restriction. There may be a resolution later this month after a vote of the fire district.

2010-071 AMEND GENERAL CODE, CHAPTER 76 – SCHEDULE OF FEES

Upon a motion duly made and seconded this time will be continued on March 4, 2010.

VOTE: No objection

2010-077 APPROPRIATE & TRANSFER \$80,000 FOR DESIGN SERVICES FOR REPLACEMENT OF HIGH SCHOOL TRACK & ATHLETIC FIELD

Upon a motion duly made and seconded the public hearing was opened at 8:45 PM.

VOTE: No objection

Patrick Murphy, School Committee Member, introduced Superintendent Patricia Grenier who said she had a PowerPoint presentation which combined a discussion of both Item 2010-077 and Item 2010-078.

David Lawler and Tom McDonald were also present.

2010-080 APPROPRIATE & TRANSFER \$1,300,000 TO REPLACE HEATING SYSTEM AT BARNSTABLE COMMUNITY HORACE MANN CHARTER PUBLIC SCHOOL

A motion was duly made and seconded to open a public hearing on Item 2010-080 at 8:47 PM.

VOTE: No objection

Superintendent Grenier made the presentation. (See Exhibit A)

Councilor Crocker revisited the success of converting this to a Horace Mann Charter School and just heard Kindergarten registrations number over 90 enrollees across all villages. As for the track and field, he feels it is an accident waiting to happen. He applauds the effort.

Councilor Munafa has no doubt that it is needed but does not like the source of the money for the Horace Mann repairs. Supt. Grenier said she could have made it a capital improvement project but it would have exceeded the range of funding available to them, thus endangering funding for window repairs, etc. The Grade 5 School sale proceeds was money for facilities and this appeared to be a perfect use. Grenier said this was an optimal time for going out for bids. If they are low, the projects will be completed with just the sale funds – no override. The council may receive up to \$650,000 from the SAB. There is about \$2.6M - \$2.7M left in the sale fund.

Councilor Canedy suggested many energy grants and opportunities and hopes the School Committee pursues some of these options. There is also money in the CPA for recreation funding. Grenier is looking to pursue other funding sources and hopes this is considered a shovel-ready project. Maybe the town can access some energy funds for this purpose. Manager Klimm will make the grants person aware.

Melissa Connolly, whose son is in the first grade, supports the release of the funding to replace the heating system. The heating system has failed two times and is over 50 years old. The new greener system will provide a safer environment.

Janelle D'Aprix also supports the appropriation for a heating system. Classrooms both overheat and are too cold. She pointed out that the school has a family from every precinct.

Ken Keenan, Principal Barnstable Community Horace Mann Charter School, said Kindergarten enrollment has increased from 53 to 97. He urges support.

Beth Ann Allan, a third grade teacher and member of the board of trustees, said her students have been keenly aware of the temperature, which was pegged at 100 degrees by some students. She turned this into a learning experience on daily temperature and its variability. This culminated in a class notebook (which she showed) entitled "What's Up With The Temperature?" She encourages support.

Steve Francis, BHS Athletic Director, wants to feel the same pride from the new turf field that he feels at the school.

Doug Crook, football coach, wants the kids to use the field for all its uses and asks the council for support.

Robert Tucker pointed out that if someone falls on the track, someone will be sued. He supports the item.

Traci Wyse spoke in support. Her family is from the south and her first grade son calls his classroom "the Arkansas Room" because it gets so hot.

Jen Sawyer has two at the charter school. The heating system is wasteful and not efficient.

Cheryl Quast, a member of the PTO, asks for support. She has one child is in the "hot zone" and the other is in the "fluctuating zone."

Upon a motion duly made and seconded the public hearings on these items was closed at 9:24 PM.

VOTE: No objection

Councilor Norman said the funds support the upgrade of the heating system but feels the field repair will use resources that could be used to upgrade a facility at a later date. The athletic facility is under the purview and control of manager. He feels the funds must be used for the school facility and questions if they can be used on the athletic facility since it is also used by Recreation Department. Attorney David Houghton said the answer may depend on how the town acquired it – for school purposes.

A discussion ensued regarding who oversees the field when the school is closed 25% of the time – the School Committee or the Recreation Department.

- Councilor Norman feels the oversight is addressed in the Charter while Councilor Milne suggested it might be in the Administrative Code. Norman is not in favor of the athletic field funding because he feels part of it is under the control of the Recreation Department.
- Supt. Grenier said the schools use it all but one month in the summer. The Rec. Dept. has done nothing to any fields; the high school field has no Rec. activities on it. The DOR has determined it is an appropriate use of the funds.
- Finance Director Milne said the funds are from the sale of schools and have been put in a special revolving account for any purpose that one would borrow to fund.
- David Lawler, former School Committee member, added that the sale of the fifth grade school included fields, supporting that this is a legal transfer of the funds within the letter and the spirit. An additional revenue source may be available down the road as other closed schools

are sold. The town closed the four oldest schools with the most facility needs. Now there is money to repair the existing schools.

- Councilor Barton suggested moving on since this appears to be appropriate use of the money.
- Councilor Barry asked Lawler what the estimated figure was for the track and field; it is about \$1.2 M. This fund and possible other sources will provide enough funding for the expenditure - \$1.4 M based on the economy. Barry listed some school facility repairs at West Barnstable that were pinpointed in the 2006 SBA recommendations and have still not been done. He understands the need to repair the track, but feels the expenditure for the football field is unnecessary. You can still play football on grass.
- Mr. Murphy explained that the closure of schools has provided revenue for facilities repairs and the director of facilities has itemized facility issues. Sixty percent of the children are in one facility and 100% of children will be using this field. This facility will serve more children than the new youth center.
- Councilor Canedy pointed out that this money is for the design.

A motion was duly made and seconded to close the public hearing on Item 2010-080 at 9:48 PM.

VOTE: 11 YES

A motion was duly made and seconded to close the public hearing on Item 2010-077 at 9:50 PM.

VOTE: 9 YES, 2 NO (Norman, Barry)

2010-077 APPROPRIATE & TRANSFER \$80,000 FOR DESIGN SERVICES FOR REPLACEMENT OF HIGH SCHOOL TRACK & ATHLETIC FIELD

Upon a motion duly made and seconded it was

ORDERED: That the Barnstable Town Council hereby appropriates \$80,000 for the design of a replacement of the Barnstable High School track and athletic field and to meet the appropriation that the town transfers a sum of money from the proceeds of the sale of the Grade 5 School.

VOTE: 9 Yes 2 No (Roll Call) (Barry, Norman)

2010-080 APPROPRIATE & TRANSFER \$1,300,000 TO REPLACE HEATING SYSTEM AT BARNSTABLE COMMUNITY HORACE MANN CHARTER PUBLIC SCHOOL

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$1,300,000 be appropriated for the purpose of funding to replace the existing main heating system utilizing oil-fired steam boilers and the existing classroom unit ventilators at Barnstable Community Horace Mann Charter Public School with gas-fired hot-water-condensing boilers and energy recovery ventilators; and that to meet this appropriation, the sum of \$1,300,000 be transferred from the sale of real estate account where the proceeds from the sale of the Grade 5 School building are held in accordance with state law.

VOTE: 11 Yes (Roll Call)

Recess 9:50 PM – 10 PM

NEW BUSINESS

2010-079 AMMEND CHAPTER 241 OF THE CODE, SECTION 241 ATTACHMENT 1

Upon a motion duly made and seconded this item was referred to a public hearing on February 25, 2010.

VOTE: Unanimous

2010-081 RESOLVE TO OPPOSED HOUSE BILL 796 RELATIVE TO THE TAKING OF STRIPED BASS

Upon a motion duly made and seconded it was

RESOLVED: that the Barnstable Town Council hereby states its opposition to House Bill #796 sponsored by Representative Matthew Patrick titled “An Act Relative To The Conservation of Atlantic Striped Bass”.

Councilor Barry gave the rationale. This bill makes it illegal to catch the striped bass and sell them. The striped bass resource is very healthy. A minimum length of 28” for the striped bass allows them an opportunity to reproduce. They do not breed if they are smaller.

President Chirigotis opened a public hearing for input.

Dave Henderson has been following this for several years. He and his uncle are commercial fishermen. There are tons of bass offshore. He supports leaving any decision to the fishery management people.

Peter Jasin, is also a commercial fisherman, although he does not striper fish. Stripers had a decline due to water quality and they have made a marvelous recovery. He appreciates Councilor Barry bringing this issue to the forefront.

Seeing no one else who wished to comment, the public hearing was closed at 10:09 PM.

Councilor Munafo encourages all to make sure this does not pass in the legislature.

Councilor Barry said Rep. Demetrius Atsalis is on the same committee. Both he and Sen. O’Leary are opposed to the legislation.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-081

VOTE: Unanimous.

2010-082 GIFT ACCEPTANCE \$1,000 FROM WEQUAQUET LAKE PROTECTIVE ASSOCIATION, INC.

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council does hereby accepts a gift in the amount of \$1,000.00 from the Wequaquet Lake Protective Association, Inc. to be used by the Marine and Environmental Affairs Division for the purchase, maintenance and placement of regulatory buoys and signs in Wequaquet Lake

Manager Klimm gave the rationale.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-082

VOTE: Unanimous

2010-083 GIFT ACCEPTANCE \$5,727.50 FROM THREE BAYS PRESERVATION, INC.

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council does hereby accepts a gift in the amount of \$5,727.50 from the Three Bays Preservation, Inc. to be used by the Marine and Environmental Affairs Division for the cooperative 2009-2010 Oyster Propagation Project.

Manager Klimm gave the rationale.

Lindsey Counsell said the gift will allow the purchase of last year's oysters. This follows an effort in the Chesapeake to introduce locals stocks.

Councilor Munafo asked if there were any results on whether oysters affect the nitrogen. Counsell said they do decrease the pollution as evidenced by a 1-3 % reduction in the nitrogen.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-082

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS

Manager Klimm reported that he had attended workshops at the recent MMA conference and would like an opportunity for an informal discussion to share information learned at the conference.

Assistant Town Manager Tom Lynch, President Chirgiotis and the town manager attended the 15th session of the Citizen's Leadership Academy. Initially there was skepticism of whether the citizens would be interested – to date 450 have graduated from the academy. It shows that people do love and care about the community.

Numerous questions about stimulus money will be addressed shortly via a new section on the town's website regarding Stewart's Creek.

Barnstable has been recognized by a national organization for the superior attempts at communication and outreach to the public for the past 10 years.

Klimm said he has been criticized for bringing things to the council that some do not know about – late files, etc. He asked any councilor with a question about something on the agenda to call or send an email. He can be more responsive if the concerns are know beforehand.

Upon a motion duly made and seconded the meeting was adjourned at 10:25 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk