

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
November 18, 2010**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7 PM, on Thursday, November 18, 2010 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., Debra Dagwan, Henry Farnham, Janet Joakim (7:15), J. Gregory Milne, James Munafo, Jr., John Norman, Thomas Rugo (7:15), and James M. Tinsley, Jr.

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

PUBLIC COMMENT

Milton Berglund read a statement regarding the recent failure of the debt override question to fund sewer expansion, and suggested the completion of a waste water management plan prior to another ballot question to the voters. (See Exhibit A)

Taryn Thoman suggested consideration be given to a special election and to “getting up to snuff” on the issues. Private roads have a funding formula so why is more money needed to take them?

Dorothy Hughes does not attach herself to a village; right now the town as a whole is not the sum of its parts and there are communications issues between town and residents. She thanked those who ran for elective office. She is one of the eleven signers asking the EPA to check out suspected pollution at the airport.

John Julius spoke about water quality in Hyannis. Silent Spring and airport officials state there are many carcinogens in the two ponds at the airport that seep into the groundwater. He asked the leadership to take action on a resolution to address the carcinogens. He asks the council to please help with an independent study on the two ponds.

John Alden, former Charter Commission member, said the commission recommended some changes, however the charter ultimately failed. But, changes need to be made. He hopes various problems are addressed.

Albert Baker feels signs should be more business oriented; he discussed his issue with some political signs on town property.

Robert Tucker wished all a Happy Thanksgiving. He said he comes forward when he sees something wrong like houses with too many inhabitants or town jobs not going to unemployed residents.

COUNCILOR RESPONSE

Councilor Canedy agreed that some recommendations to change the charter should be enacted. She suggested a subcommittee to put forth some of the issues. Since state funds can only be used on public roads and private roads are owned by the abutters, there is no private roads municipal funding source. The council has used public funds on occasion for emergency repairs but discretionary funds are short.

Councilor Farnham asked about the status of an informational piece for public’s review of waste water.

Councilor Dagwan said that the Airport Commission hopes to get a FY 2012 CIP request to fund a study of water quality in the ponds at the airport. Regarding airport construction vs. unemployed laborers, the work goes out to bid and the FAA has a lot to do with job allocation and who gets them. Dagwan received a list of names of companies working on the airport.

Councilor Canedy said seven towns have already signed on to have their wastewater condition reviewed. President Chirigotis added that the study would be based on new research, take several years and cost upwards of \$1M. The County is looking at the regional picture regarding water quality.

Councilor Milne would like some response from staff on the airport ponds. He appreciates the idea of a subcommittee on the Charter and he would volunteer. He questions the validity and expense of the Mass. Estuary Project. Their approach is not in concert with what is needed. Other entities such as the MBL can do the study at a lower cost and credible peer review. President Chirigotis added that a symposium by the League of Woman Voters pushed to have such a county-wide study done by a local agency at a lower cost.

Councilor Munafo asked about the lack of a Nov 4th meeting. President Chirigotis said the many of the people involved in the workshops were unavailable so he had to call the meeting and then adjourn.

Councilor Norman said the water is drawn by an area that has an airport in it. He suggested a study to get other water districts to supply a pipeline to the Hyannis water system or to tap into town owned land elsewhere for better water quality. President Chirigotis pointed out that the Hyannis water quite is excellent. Councilor Crocker explained that there is an ability to pump from one district to another in an emergency. There are daily pumping limits, required permissions from the DEP, etc.

- **Town Clerk Linda Hutchenrider – Possible Changes to Precincts**

Linda Hutchenrider, Town Clerk, reviewed the block-level estimate population figures based on the 2010 census prepared by the U. Mass. Donahue Institute Population Estimates Program. (See Exhibit B) The population in the town is down from the 2000 census figures. The Town Clerk explained the requirements for drawing precinct lines: boundaries cannot go through water and the boundary must be definable.

The 13 precinct scenario will require one of the Hyannis precincts to include Cummaquid to meet the population requirement. A 12 precinct scenario was also configured. That map appears to hold better to the village concept. In March the bloc and track figures will be available.

Every precinct established over 13 will cost about \$20,000 to outfit the polling location, plus the cost of Election Day staffing. The Council will have to vote on the precinct plan by the end of May and it will be submitted by June for approval from LEDRC. Once approved, the Commonwealth will determine the legislative and senatorial districts.

Councilor Milne pointed out that two councilors will be living in the same precinct with either scenario. Hutchenrider explained that the new map will be in effect for the 2012 state elections. However, the new map for councilors will not be effective until 2013. At that time, the entire legislative body will be on the ballot for either 2 or 4 year terms.

Recess 7:55 – 8:05 PM

- **Annual Joint Meeting – School Committee & Town Council**

School Committee Present: Patrick Murphy, chair; Tom McDonald, Fran McDonald, Mary Webber and Stephanie Ellis. Also present: Superintendent Patty Grenier and William Butler, School Committee Attorney.

Town Manager John Klimm made some introductory comments, thanking the School Committee for their effort and commitment to making the financial model work. He also complemented Superintendent Grenier on her anticipated retirement and for all her efforts on behalf of the schools. She is a true professional. Klimm then introduced Finance Director Mark Milne who echoed the Town Manager's comments on the School Committee's effort, commitment and cooperation to the consolidated operation. Director Milne also congratulated Gareth Markwell on his appointment as Assistant Finance Director. Milne then made a PowerPoint presentation. (See Exhibit C)

Councilor Crocker pointed out that state funding went from 70% to 40% which impacted the schools. The state has not kept its obligation.

Manager Klimm pointed out that Councilor Barton goes to every school committee meeting and has not been recognized for it. She received a round of applause.

Recess: 8:35 - 8:45

- **Workshop: Discussion – Green Communities Act (Stretch Code)**

Richard Elrick, Energy Coordinator for the town, explained that adoption of the Stretch Code is one of the requirements for becoming a green community. The Renewable Energy Commission is supportive. His goal is to educate the council and the public in anticipation of the Council's possible adoption of the Stretch Code in the near future. (See Exhibit D)

The following people spoke:

Seth Pickering, Regional coordinator, DOER Green Communities Program
Bruce Torrey, Principal, Building Diagnostics, Sandwich
Alison Alessi, LEED Accredited Professional Architect

Seth Pickering made the PowerPoint presentation explaining the process of how homes are rated and how the shortfalls are remediated; the commercial Stretch Code applies only to new buildings over 5,000 sq ft.. It is a cost-effective way to save money on energy bills. (See Exhibit E)

Bruce Torrey spoke about the Home Energy Rating System (HERS). He works with builders to help navigate the energy codes and to determine and document if they will meet the Stretch Code before beginning the project. Local homes built by Habitat and HAC as well as other properties have had scores that exceed the Stretch Code minimum. It is a slow ramp up process that will be all performance based by 2012, requiring builders to have building performance tested. Consumers will be assured that the home has met some energy standards.

Alison Alessi feels adopting the Stretch Code is a no brainer. Clients are happy to pay a little more up-front for the energy savings. Affordable housing has been built with cost savings in mind.

Councilor Canedy asked if it affects the sale of an existing home. The Code only applies to new construction or substantial renovation. Anything linked to a building permit would be subject to the Stretch Code. Canedy also asked how properties within the Old Kings Highway and other historic districts would be treated. Ms Alessi responded that they were currently exempt.

Councilor Farnham asked for input from Tom Perry Building Commissioner. Perry said it would add challenges to the department. His concerns involve the building community not having a uniform state-wide code. This is now making an energy code for 51 communities. His biggest objection is that it is not a uniform code. One of the presenters added that a new energy commercial code for the state is to be adopted in 2013.

Councilor Barry asked if the department would be ready to do the inspections if this is adopted. Perry said they would be, and there is a six month period to determine which code will be used.

Councilor Milne feels it would make the building inspection job easier because homes would be inspected with specialized equipment by the HERS architect and there would be additional oversight by the private sector. Perry pointed out that the Building Department of the town is always liable. Milne feels there is no choice not to do it. Mr. Torrey said they work with builders who use them as third party experts. In addition, they document the standard with a credible certification that the inspection department can rely upon. Property values are enhanced.

Councilor Dagwan asked about the difference between the HERS rating and other products. Alessi said the Energy Star rating indicates the home will use less energy; the HERS rating can impact home value. There are financial rebates for HERS ratings and other incentives.

Councilor Crocker asked about the expense and time investment to the town when this code is adopted. He gave an example of his own costs when he built with this code in mind. The Home Builders Association in Massachusetts and the Cape Cod chapter are not enthusiastic. Energy Star may not increase the value of real estate because the market determines that. Fast tracking now might then be replaced by the statewide code coming in 2013. He would like both sides presented at a future meeting.

Councilor Joakim asked if the town had accomplished any of the five steps. Mr. Elrick said, except for cruisers, right now the town buys only fuel efficient vehicles when replacing them, but they are moving through all the criteria. Elrick added that for all the energy improvements there is an immediate cost savings. Councilor Crocker said the trend suggests that if you do it there will be funding however as more communities participate the financial rewards are smaller. The Association of Realtors says energy is the 10th to 12th item considered when purchasing.

Councilor Barton pointed out that the recent MMA magazine had a good one pager on this subject.

Commissioner Perry added that when a new code comes in, a new Stretch Code will stretch that out; the green community towns will have to opt to choose that code. Pickering pointed out that it has not been determined whether green communities will have to adopt the next Stretch Code. Sooner or later the town will have to abide and doing it sooner will provide additional benefits.

Councilor Norman does not want to adopt a code that is unique to Barnstable. He is more comfortable with the uniformity of the state code. He would not support it now because if the town does not meet the fifth criterion, it will loose out. Elrick explained that the town doesn't have to achieve 20% energy efficiency; it only has to attempt it. Then the town has 5 years to achieve it.

President Chirigotis thanked all.

Taken out of order

2011-029 RESOLUTION – NO SPRAY, PESTICIDE-FREE POLICY

Upon a motion duly made and seconded it was voted:

RESOLUTION

The Town of Barnstable requests that NSTAR abandon its current plan to use herbicides along rights-of-way on Cape Cod and commit to a NO-SPRAY, PESTICIDE-FREE Policy of vegetation management on Cape Cod and the Islands.

Sue Phalen urged passage. (See Exhibit F for her complete comments) She also submitted a letter to NSTAR from Richard Clapp, DSc, MPH and Madeline Kangsen Scammell, DSc. (See Exhibit G)

Sandra Larsen spoke in favor of the resolution on behalf of Todd and Beth Marcus. They are concerned about the fragility of the drinking water. Seventeen other businesses joined in asking support.

Councilor Canedy pointed out that the resolution was non-binding and NSTAR could choose to ignore it. The Cape Cod Commission and the County are working with NSTAR on a policy to be worked out until 2011 which could include using an organic spray or some other alternative beyond spray or cut.

So far five other towns have passed this resolution. It helps to have a large town, where NSTAR has cut and mowed for decades, asking why change now if there is no special circumstance.

Councilor Munafo feels the resolve is too open-ended: no time or effective date. He would support just the first part, not the entirety. There is no requirement to test for the pesticides. Why wait until they show up in the water supply. President Chirigotis stated that none of the pesticides have been tested for impact to humans and other living things. NSTAR is not heeding that and is using pesticides elsewhere. Councilor Crocker said the people who administer it are licensed by the state. This practice has been happening in the town, not by NSTAR, and it would be selective banning.

Councilor Milne serves on a mosquito control group that does use some larvicides. The mosquito control project is very environmentally sensitive. The Cape Cod Commission has 18 people working on this issue and producing a white paper due out in January. NSTAR will not use anything before spring. Waiting for the white paper will insure a unanimous council vote. Objections will be answered by the report.

Councilor Farnham said there has been much discussion on spraying the railroad tracks that run through the West Barnstable Village. This is important to West Barnstable residents. Use wipes out vegetation for years – a massive kill. The village does not have town water or sewer. They are very vulnerable. He asked for a unanimous vote.

Councilor Munafo said NSTAR not planning to spray until the spring; therefore he cannot vote on it.

Councilor Milne made a motion which was seconded to postpone this item to the first meeting in January, 2011.

VOTE: 4 Yes, 9 No

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2011-029

VOTE: 11 Yes, 2 Abstentions (roll call) (Crocker, Munafo)

ACT ON MINUTES

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

VOTE: Unanimous (Canedy abstained)

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

Councilor Barton announced several upcoming activities. She also reported on a School Committee meeting dealing with hiring a new superintendent.

Councilor Dagwan also announced an upcoming event at the HY&CC.

Councilor Canedy announced that over 1,800 packages were sent to Afghanistan and Iraq through Cape Cod Cares for the Troops.

Councilor Crocker mentioned the new football “field of dreams.” President Chirigotis announced the Thanksgiving home game at the new field.

ORDERS OF THE DAY

OLD BUSINESS – No Old Business

NEW BUSINESS

2011-028 ACCEPTANCE OF MGL CHA 188 S 66 EARLY RETIREMENT INCENTIVE PROGRAM

Upon a motion duly made and seconded this item was referred to a second reading on December 2, 2010.

VOTE: Unanimous

2011-030 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded this item was referred to a second reading on December 2, 2010.

VOTE: Unanimous

2011-031 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded this item was referred to a second reading on December 2, 2010.

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS

Manager Klimm thanked the council who joined the 16th Barnstable Town Government Class semester graduation. The Annual Report is being finalized and the cover photo is a project in West Barnstable. He met with the Cobb Trustee, Steve Heslinga, who has put in an extraordinary amount of time and thanked him for the job he is doing. He attended the Silent Spring meeting yesterday and recommends all attend future meetings.

Assistant Manager Thomas Lynch attended an excellent luncheon sponsored by the Marine and Environmental Affairs Department as a thank you to their volunteers on the shellfish program. The Hyannis Youth and Community Center and the Barnstable Community Horace Mann Charter School are having a groundbreaking for a community garden. They will sell produce next summer.

Manager Klimm gave a brief overview of the Early Retirement Incentive Program timetable. He also said he would bring some closure to the Whistleberry subdivision issues.

Upon a motion duly made and seconded the meeting was adjourned at 10:40 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk

EXHIBITS:

- A. Comments by Milton Berglund under Public Comment**
- B. Population changes between 2000 and 2010 Federal Census and hypothetical precinct maps with 12 and 13 precinct scenarios**
- C. PowerPoint presentation FY 2010 Preliminary Budget Planning**
- D. Stretch Code Workshop: Agenda, Summary MA Building Code Appendix 120.AA, Stretch Appendix Q & A, MA Stretch Code Modeling and Cash Flow Analysis, Map of Current Communities with Stretch Code, Fidelity Bank Case Study**
- E. Power Point presentation Green Communities – Grant Program and Stretch Code**
- F. Comments by Sue Phelan on NSTAR No Spray Resolution**
- G. Letter to Thomas May, Chairman, President & CEO of NSTAR Electric & Gas Corp.**
- H. Bar Graph 78% of municipal well zones of contribution impacted by NSTAR**