



## TOWN COUNCIL MEETING

July 11, 2013

**A** quorum being duly present, Council Vice President Jessica Rapp Grassetto called the July 11, 2013, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

**PRESENT:** Janice Barton, Ann Canedy, Frederick Chirigotis, James Cote, Jennifer Cullum, June Daley, Jessica Rapp Grassetto, Michael Hersey, Janet Joakim, John Norman, Thomas Rugo, James Tinsley, Jr. **Absent:** Debra Dagwan,

The Pledge of Allegiance was led by Vice President Rapp Grassetto. During the moment Councilor Barton remembered the family and friends of young Edward Flanagan.

An announcement was made by Vice President Grassetto regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

- **Barnstable Areas Recreation and Shellfish Association (BARS) grant award to the Marine and Environmental Affairs Department**-Chairman Ralph Krau introduced President of BARS, Ron Glantz. Glantz gave an overview of the BARS mission and many of their programs as a non-profit corporation assists the Marine and Environmental Affairs Department. Glantz announced two grants for to two unpaid interns on a yearly basis.

### **PUBLIC COMMENT:**

- John Julius read a statement of taxation laws in regards to the Fire Districts. The law has been broken. (Exhibit A, B)

### **COUNCIL RESPONSE TO PUBLIC COMMENT:**

Councilor Canedy thanked BARS for the Grant.

### **ACT ON MINUTES: (Includes Executive Session)**

Upon motion duly made and seconded it was voted to approve the minutes of the June 20, 2013 as written

**VOTE: Unanimous, 1 Abstain, (Norman)**

**COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS:** None

**2013-008-A            AUTHORIZING THE TOWN MANAGER TO FURTHER  
NEGOTIATE AND EXECUTE PROJECT DEVELOPMENT AGREEMENTS  
WITH CAPE AND VINEYARD ELECTRIC COOPERATIVE, INC. INTRO:  
07/12/12, 08/02/12, 07/11/13**

Town Attorney, Charles McLaughlin gave the rationale, stating some of the major components such as preserving the water quality, the visual impact and the significant financial impact in the Town's favor. McLaughlin thanked Rick Elrick and David Anthony for their assistance.

Upon a motion duly made and seconded it was  
**RESOLVED**, That the Town Council authorize the Town Manager to further negotiate and execute a Project Development Agreement, Net-metered Power Sales Agreement, and associated documents with respect to a proposed solar photo voltaic array at Independence Park.

**VOTE: Unanimous**

**2013-032    AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES  
BY INSERTING, "CHAPTER 54. BUILDING AND PROPERTY  
MAINTENANCE" INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13,  
04/25/13, 05/02/13, 05/16/13, 07/11/13 (amended)**

Open public hearing

- Milton Berglund thanked the Councilors and asked for their support going forward.
- Laura Cronin echoed her thanks for the Councilor and staff efforts, and asked for support

Close public hearing

Summary of Councilor discussion: Concern the ordinance is going too far; this is a significant compromise; has a sunset clause in place; can be revisited; give it a chance.

Upon a motion duly made and seconded it was

**ORDERED:** That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter 54.

**"Chapter 54 BUILDING AND PREMISES MAINTENANCE**

**§54-1 Purpose and intent.**

The purpose and intent of this chapter is to eliminate nuisances in the town. Nuisances such as trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas and impair the health, safety and general welfare of the inhabitants of the town.

**§54-2. Building and Premises Maintenance.**

Every owner shall maintain premises in compliance with this chapter and with applicable provisions of sanitary and building codes (hereinafter "code") and regulations. Every occupant shall comply with the provisions of subsection 54-5(B).

### **§54-3. Outdoor Storage.**

Indoor items such as furniture, appliances, plumbing fixtures and bedding shall be kept within enclosed structures after fifteen (15) days. All other personal property shall be kept within enclosed structures or screened from public view after six (6) months. Functional outdoor items such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, construction materials, boats and inventory shall not be subject to the requirements of this section. Motor vehicles and trailers shall be kept in compliance with chapter 228, vehicle storage.

### **§54-4 Stagnant Water.**

Water shall not be permitted to continuously stagnate outside of any building or structure for more than ten (10) days except under natural conditions. Nothing in this chapter shall operate as a waiver or exception to any other law, rule or regulation for the storage or handling of water.

### **§54-5. Storage and Removal of Rubbish, Garbage and Refuse.**

**A. Owner's responsibilities.** The owner of any building, structure or premises shall be responsible for receptacles with tight-fitting lids to be used for the proper storage of rubbish, garbage and other refuse and for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

**B. Occupant's responsibilities.** The occupants of any building, structure or premises shall be responsible for the proper storage of rubbish, garbage and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse, which is stored outside a building or structure is properly covered. Said occupant(s) shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and ultimate disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

C. Receptacles shall be located in such manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street, provided that receptacles may be placed in the open near a street within twenty-four hours of scheduled collection and disposal by a contractor as provided in this chapter and returned to a screened location within twenty-four hours thereafter.

#### **§54-6. Owners and Occupants of Premises.**

For purposes of this chapter: “owner” shall mean any person(s) who alone or severally with others has legal title to buildings, structures, vacant land or to land with buildings or structures thereon, or to any dwelling or rooming unit, mortgagee in possession, or agent, trustee or person appointed by a court; and “occupant” shall mean any person(s) who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

#### **§ 54-7. Enforcement**

A. The Director of the Health Department or her or his designee, is hereby designated as the enforcing authority for this chapter.

B. The enforcing authority shall notify the owner or occupant in writing of any alleged violation or violations of this chapter and order the owner or occupant to remove or abate the nuisance by a date certain not more than ten (10) days after service of notice of the violation(s): provided, however, that if the violation is determined to be such that the public health and safety will be jeopardized by that delay, the enforcing authority may order the abatement or removal of the nuisance in a shorter time as public health and safety may in her or his judgment require. The order shall be in writing and may be served personally on the owner, occupant or his authorized agent. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through non-criminal, criminal or civil proceedings and no action shall preclude any other enforcement action or actions.

C. In addition to any penalties or enforcement action(s) hereunder, after final determination of three (3) or more violations within a twelve-month period an enforcing authority may notify a violator in writing that the enforcing authority may elect to bill the violator for the costs incurred by the Town for response to each subsequent violation not abated or ordered without abatement as provided herein. Such bill(s) shall be due and payable in full by the violator within thirty (30) days of submission and if unpaid thereafter shall be subject to a municipal charges lien as provided in G. L. c. 40 § 58.

#### **§ 54-8. Applicability and Severability.**

A. The provisions of this chapter are in addition to and not in lieu of any other chapter, rule or regulation of the Town of Barnstable and any board, commission or officer. Compliance with this chapter shall not thereby constitute

compliance with any other chapter, rule or regulation, and violation of this chapter does not thereby preclude violation of any other chapter, rule or regulation.

B. If any provision of this chapter is declared invalid, it shall not thereby invalidate any other provision.

C. This chapter shall be in effect until June 16, 2015 and shall be void and of no effect thereafter unless extended by ordinance enacted and effective on or before said date.

**VOTE: Passed 8 Yes, 4 No (Canedy, Chirigotis, Joakim, Norman)**

**2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES  
CHAPTER 170, RENTAL PROPERTIES INTRO: 10/18/12, 11/15/12, 12/06/12,  
01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13, 05/16/13, 07/11/13**

Continue public hearing seeing no one close public hearing. Dave Houghton gave the rationale and explained the amendment to this item.

*Attorney Houghton asked to make an amendment to this Item by striking out the references to 170-12 and replace those with # 170-11 and retain what appears as Section 170-12 "Inspections" and re-number as "170-11."*

*The previous Item (2013-032) which was just enacted the provisions for "inspections" was removed. Under the rental registration ordinance, the inspections are important to the Board of Health.*

*What is now 170-11 has been moved to Chapter 54, so it should be stricken because it is redundant. To continue, what is now 170-12 should become 170-11 and retained, then further amend section 2 to 170-12 A, add the following subsection 170-11 A.*

A motion was duly made and seconded to move this amendment as proposed. Discussion: the wording is duplicative; purpose of amendment is to correct this; no reason to delay it again; substantial amendment; adding back inspections; straightforward, inspections is staying and being renumbered.

**VOTE on amendment: 10 Yes, 2 No (Hersey, Norman)**

A motion was duly made and seconded to reopen this item to a public hearing due to significant changes, have the item re-written by the staff to give the public and the Councilors time to review it, and bring it up again (the amended version) at the continued public hearing on August 1, 2013 meeting.

**VOTE on second amendment: 11 Yes, 1 No (Tinsley)**

**2013-043 AMENDING THE GENERAL ORDINANCES, ARTICLE  
1, §1-3, CHAPTER 170, RENTAL REGISTRATION INTRO:  
10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13,  
05/02/13, 05/16/13, 07/11/13**

Open public hearing

Upon a motion duly made and seconded it was to continue to a public hearing on August 1, 2013

**VOTE:** Continue to a public hearing on August 1st, **10 Yes, 1 No** (Tinsley), Joakim out of the room

**2013-126 AMEND THE ZONING ORDINANCE CH. 240, ARTICLE X PERSONAL WIRELESS COMMUNICATION INTRO: 04/25/13, 07/11/13**

Upon a motion duly made and seconded it was to refer to a public hearing on August 1, 2013

**VOTE: Refer to a public hearing on August 1, Unanimous**

**2013-166 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES- INSERTING CHAPTER 224 VACANT OR FORECLOSING PROPERTIES INTRO: 05/16/13, 07/11/13**

Open public hearing

Upon a motion duly made and seconded it was to continue the open hearing until August 1st

**VOTE: Continue to a public hearing on August 1, Unanimous**

**2013-171 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 06/20/13, 07/11/13**

Upon a motion duly made and seconded it was

**RESOLVED**, that the Town Council reappoint the following individuals to a multiple-member board/committee/commission:

**COUNCIL ON AGING**

Eleanor Letterie, 14 Janes Way, Osterville, as a member to a term expiring 6/30/2016

Thomas Pelish, 73 Brant Way, Hyannis, as a member to a term expiring 6/30/2016

Paul Curley, 27 Lancaster Way, West Barnstable, as member to a term expiring 06/30/16

**HUMAN SERVICES COMMITTEE**

Heidi Nelson, c/o Duffy Health Center, 94 Main Street, Hyannis, as a representative member to a term expiring 6/30/2016

**RENEWABLE ENERGY COMMISSION**

Stephen Thomas, 535 South Street, Hyannis, as a member to a term expiring 6/30/2016

**VOTE: Unanimous**

**2013-172 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION  
INTRO: 06/20/13, 07/11/13**

Upon a motion duly made and seconded it was **RESOLVED**, that the Town Council appoint the following individuals to a multiple-member board/committee/commission:

**COUNCIL ON AGING**

Taylor Cobb, 1135 Santuit-Newtown Road, Cotuit, as a member to a term expiring 6/30/2014

**RECREATION COMMISSION**

William Dado, 200 Camelback Road, Marstons Mills, as a member to a term expiring 6/30/2014

**VOTE: Unanimous**

**2014-001 APPROVING A CONSERVATION RESTRICTION ON A PORTION OF LAND LOCATED AT 1540 MAIN STREET, WEST BARNSTABLE, MAP 197, PARCEL 015 INTRO 07/11/13**

Open public hearing, Jaci Barton, gave the rationale about the portion of land known as the Crystal Pineapple Land which has sensitive resource area, being donated to the Town of Barnstable.

Upon a motion duly made and seconded it was **RESOLVED**, that the Town Council approve a Conservation Restriction from 1540 Main Street LLC (grantor) to the Barnstable Land Trust, Inc. (grantee), over approximately 4.5 acres of land located at 1540 Main Street/Route 6A in West Barnstable, Map 197 Parcel 015 (portion), for conservation purposes.

**VOTE: Unanimous**

**2014-002 ACCEPTANCE OF A GIFT OF THREE BEACH WHEELCHAIRS FROM THE SMILE MASS ORGANIZATION FOR DOWSES BEACH, LOOP BEACH AND MILLWAY BEACH INTRO: 07/11/13**

Lynne Poyant, Director of Community Services gave the rationale regarding the advantages of the beach wheelchairs which actually allow the person in the chair to go into the water. Community Services are very grateful for the support of SMILE.

Upon a motion duly made and seconded it was **RESOLVED**: That the Town Council does hereby accept a gift of three beach wheelchairs to be used by the Barnstable Recreation Division for Dowses Beach, Loop Beach, and Millway Beach

**VOTE: Unanimous**

**2014-003 APPROVING A CONTRACT EXTENSION FOR THE FINANCE DIRECTOR, MARK A. MILNE INTRO: 07/11/13**

Town Manager, Thomas Lynch gave the rationale, and a few items covered in

the evaluation of Finance Director, Mark A Milne.

Upon a motion duly made and seconded it was

**RESOLVED:** that the Town Council authorizes Town Manager, Thomas K. Lynch, to extend the contract of the Director of Finance Director, Mark A. Milne until June 30, 2018

**VOTE: Unanimous**

**TOWN MANAGER COMMUNICATIONS:**

- Great Fourth celebrations, thank you to public employees
- Happy birthday to Ann Canedy
- Accepted by the Collins School of Public Management to participate in their Performance Management for Municipalities
- Abandoned housing initiative
- Hyannis Dredge project
- Ocean Ave and Great Marsh Road projects are complete
- Water storage grand opening
- Noted several employee retirements
  
- **Assistant Town Manager, Mark Ells** gave an update of the shooting range.
- New operating procedures need to be put into place
- Modernization and safety key
- Working with the Conservation Commission, the Police Department, and the Department of Natural Resources
- Ells will give another update at the August 1<sup>st</sup> meeting

**ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED to adjourn.**

**Unanimous**

**Adjourned at 8:40 PM**

Respectfully submitted,

Ann M. Quirk, CMC

Town Clerk – Town of Barnstable

**NEXT REGULAR MEETING: August 1, 2013**

**Exhibits**

- A Email from Lopez to Julius
- B Highlighted document from Julius
- C Map regarding 2013-008A
- D Proposed savings re: 2013-008A