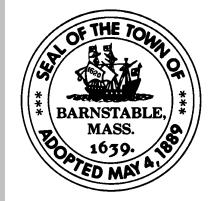


TOWN COUNCIL MEETING



October 16, 2008

A quorum being duly present, Council President Janet Joakim called the regular meeting of the Barnstable Town Council to order at 7:00 pm, on October 16, 2008, at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

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

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

PEACE WEEK PROCLAMATION

Councilor Barton read a Peace Week Proclamation that has become an annual event. Steve Brown from the No Place for Hate Committee was present and with Councilor Barton declared next week to be Peace Week in Barnstable. A variety of activities will celebrate peace, diversity, awareness and violence prevention issues. (See brochure attached).

PUBLIC COMMENT

- Albert Baker had concerns over notices and petitions. He stated that the way this election has been manipulated is an example of when you go to the limit you go to far.
- Jon Julius addressed the airport. Do you think the Governor is going to give us money for the airport now? Then you have to vote to support this airport. The Barnstable taxpayers will pay for it. Can we get a letter from the Governor that will guarantee that we get the money?
- Kathleen Eason stated that she was asking for justice for all individuals at 77 Winter St. She wants to find a list of racketeering – she feels there is RICO activity therein.
- Eugene Dundee explained that the Sec. of State sent the voters an informational booklet that says you have the right to vote if you cannot read or write English. The Massachusetts Constitution says the opposite. What are you going to do about it?
- Marcie Dugas announced that October is Domestic Violence Awareness Month – it is about the children who need to be protected. We have seen an increase in domestic violence. Massachusetts Protective Mothers for Custodial Justice is a new non-profit. She gave the mission of the group; www.massmoms.org will be their new website.

- John Alden said the Barnstable Charter Commission welcomes public comment regarding the charter. If you want to change it, you need to come forward.
- Roberta Mock wants to support the sewer expansion program. She hopes the town takes advantage of the 0% interest. She lives close to marshland and is hoping that this will happen swiftly. She hopes that those in the Wequaquet area are made aware of the progress.
- Robert Tucker feels that everyone should be available to see residents. A lot of money is leaving here and going overseas. We are losing revenue. There are still many homes with a lot of cars in the yard.
- Rob Anderson said the Environmental Affairs Com. has contacted him regarding an informational meeting. Why not use the airport's vacant property instead of taking other lands by eminent domain.

COUNCIL RESPONSE TO PUBLIC COMMENT

- Councilor Crocker stated that the airport financing is a huge issue and we owe Sen. O'Leary a big thank you. To think the Governor will sign a letter is misguided. The airport comes under Federal reimbursements. Tonight we refer the issue, there will be no discussion.
- Councilor Milne asked if we could ask the Town Clerk to write the Sec. of State and ask him to explain the issues of the language that is of concern regarding voters. There was a consensus that this be done and the Town Clerk will do it on behalf of the council.
- Pres. Joakim announced two workshops on Oct. 30th.
- Councilor Barton questioned the constitutional issue as well, especially with the diversity issue.
- Councilor Milne noted the agenda had been changed to include public comment to be in line with this evening's regular meeting of the Town Council. Milne also announced the upcoming charter commission meetings.
- Pres. Joakim noted that the exclusion of the comment period was basically to get through the agenda swiftly to allow time for the workshop presentation.

COMMUNICATIONS FROM ELECTED AND APPOINTED OFFICIALS:

Councilor Munafo made a motion, which was seconded to vote to have the council confirm the moving of Precinct 6 back to the Horace Mann Charter School (formerly Marstons Mills East) for the Oct. 30th Recall Election.

Town Clerk Linda Hutchenrider explained that there are no facilities that can house a polling place within the borders of Precinct 6, so facilities adjacent to the precinct must be used.

Town Attorney Ruth Weil stated that MGL does allow for polling locations to be in adjacent precincts.

Councilor Milne made an amendment, which was seconded to move Precinct 6 back to the Horace Mann Charter School for the NOV. 4th Recall Election.

Councilor Rugo said that it could not be done.

Attorney Weil said in order not to belabor the issue, just vote on it.

VOTE: 11 NO, 1 YES (Milne) on the amendment

On the Main Motion

VOTE: 10 Yes 1 abstain (one out of the room)

To confirm the polling locations on November 4th – Councilor Munafo moved that Pr. 6 be at its polling location of the gym at Christ Chapel, Oak St.; and Pr. 7 be at the Cotuit Elementary School on Old Oyster Road for just the November 4th election (for traffic and safety reasons).

VOTE: Unanimous in favor

Councilor Farnham made announcements about West Barnstable Civic Association activities that include a train ride, candidate nights, etc.

Councilor Barry announced a debate at Freedom Hall for next week. Matt Patrick and Carey Murphy will be at the Civic Association.

Councilor Milne said the Selectmen/Councilor Association is opposing Question 1.

Referral of Airport Item to Public Hearing

**2009-033 - APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$2,704,862.00
FOR THE PURPOSE OF ACQUIRING REAL PROPERTY CONSISTING OF 65,608
SQUARE FEET OF LAND, MORE OR LESS, IN BARNSTABLE SHOWN ON
ASSESSORS MAP 312 AS PARCEL 011 TO BE ASSOCIATED WITH THE
CONSTRUCTION OF A NEW ACCESS ROAD INTO THE AIRPORT**

Upon motion duly made and seconded it was voted to refer this item to a public hearing on November 6, 2008.

VOTE: 10 yes 1 no (one out of the room)

(It was noted that the sponsor is the Town Manager.)

WASTEWATER WORKSHOP

Town Manager John Klimm stated that many organizations are represented here. He thanked all present and the organizations they represent, who have helped to work on this.

The panel present to discuss wastewater issues was comprised of: Sen. Rob O'Leary, Dr. Wayne Miller, Andrew Gottlieb, and Mark Ells.

Manager Klimm stated that first Sen. O'Leary will speak. He thanked him for his statewide leadership on this issue. Klimm said O'Leary will explain the need for action and his legislation, which is now law.

Klimm said Andrew Gottlieb, who is with the Wasterwater Collaborative and has been instrumental in us moving forward, will speak after O'Leary, followed by Mark Ells. Ells and Dr. Miller will update us on our progress.

We are here to educate on this issue and seek policy guidance from the council.

Senator Rob O'Leary said that legislation like this involves a lot of people. He said that Senator Murray and others helped. It is a statewide bill and southeast Mass. communities will be the largest beneficiaries if they choose to participate. This bill will open a pathway for the town to follow, if it chooses. We are going around to various towns speaking to them on this issue. There is a qualifier – It takes 10 years to access the money. Take a hard look at it. You have to decide whether this works for you.

Andrew Gottlieb gave an overview of the state revolving fund. It is a 50 state program and each state gets a share. This replaces a grant program of the past. Massachusetts will have the 3rd largest revolving fund program. We use a leveraging model. It triples its money from the state by selling bonds. It is a strong source of funding. It provides a 2% loan for borrowing. The base program is a 2% program. The new program changes the program by providing a 0% piece for certain programs. The bill does not allocate funds solely to Cape Cod. It rewards communities who have taken steps to reduce nutrient standards – you can't be in violation.

Other criteria states you must be in line with the regional policy plans. You need to look at your land use. Flow neutrality is built into the legislation. This is a competitive process. You have to meet the 0% loan criteria, otherwise it is a 2% loan. You will have time to figure out what you can do to meet the criteria of the 0% loan.

If you adopt Chapter 83A, as local option, you will get additional authority and financial options. You would have to mandate connecting to the sewer – all homeowners would have to connect. You would have the opportunity to restrict connecting to the sewer as well.

You could borrow for longer periods of time. You could borrow for up to 50 years. You have two different options for the project in its entirety or in bits and pieces to make the best solution for your community. You would have to adopt 83A.

Mark Ells and Dr. Miller gave a local update. Ells said there are two concurrent efforts going on right now, that includes the Comprehensive Water Management Plan and other planning at the Hyannis facility.

Ells said they are looking at a comprehensive management plan for all the 5 town embayments. We need to get the nutrient levels down. We are looking at a 30 month timeframe to finish the plan. We are actively working on this and there will be a strong public component. We finished a plan for the Hyannis water pollution control facility. We are looking at the Wequaquet Lake and Stewart's Creek projects as well as some changes to our facility.

We currently have sewerage in Hyannis and part of Barnstable village, which is about 17% of the town. They are completing the Wequaquet Lake design. There will be about 13 months before final designs are ready.

He explained they will be coming forward for funding in 2010.

They are allocating 100% of the cost to the property receiving a sewer betterment. They are also looking to review an equitable allocation of treatment plant expansion to the customer base.

Dr. Miller said, as the chair of the Board of Health, the board has long supported this issue. As far as the Wequaquet plan, we have an issue of the density of the housing, the septic systems, and a fresh water body of water. We are supportive of this going forward. With each new revision of Title V it is more and more difficult to approve a Title V in these areas. We have had to go for innovative Title V facilities. Tight tanks are expensive to keep. Some other systems range between \$30,000 – 50,000. The cost for the sewer is less expensive.

Miller feels we will not see this type of funding opportunity any time in the future. We have to take good corrective action to be in compliance with the Federal regulations. The Wequaquet sewerage will help. Eighty percent of the nutrients in the bays come from the septic systems. The Board of Health looked at the estuary project. We adopted an interim regulation that imposes a septic flow rate for other areas in town. We hope to stop further damage to these areas. The board of health welcomes input. We need to start work on this as soon as possible.

Councilor Barry heard that it could cost \$12,000 – \$35,000 per betterment (household). Ells said the longer the timeframe, the greater the cost. We could, with the application we made, get a 2% 30-year program. Barry noted that something needs to be done since shellfishing is closed in many areas. Ells said we have a team in place and are working on this and we have multi levels of groups and individuals. We have 2/3's of the money in place. Barry asked what kind of solution will the western part of town have. Ells said there will be a number of alternatives.

Councilor Munafo asked what the difference would be in cost for a 30- year loan at 0%, and a 30- year loan at 2%. Mark Milne said he does not have the figures but will provide them. Munafo said we may get free money but will have land use regulations in place. We have to be sure of what we are doing. The Hyannis ratepayers are paying for expansion purposes that they will never use. They should not be. Somebody has to pay for it and it has to be a frugal decision.

Dr. Miller said that the water body should not be filled with algae. That needs to be achieved. Title V benefits the environment as well as water quality. We have to be in compliance with the clean water act and that is the biggest thing – we have to try to correct that.

Sen. O'Leary reminded the council about Bill Golden, who was running along the beach in Quincy, and took issue with the conditions of the beach. He filed a law suit and it resulted in

the creation of the NWRA. A Federal Court imposed the costs on the communities and the ratepayers. Somebody or something is going to say you are in violation and you will get a lot more expensive systems imposed.

Gottlieb said you are at minimum a Class B, in the condition of the waters for fish and shellfish. He feels that once the science is in they will show that most south facing embayments do not meet class B. The DEP and others could take enforcement action on the communities. You can petition to downgrade your water body to class C. You make a statement that any given water body can no longer meet a swimmable standard. This would have widespread negative economic impact.

Councilor Munafo said we either are or will be forced to do this. Gottlieb said you need to have compliance with these standards. We are being forced to maintain a Federal standard, Munafo affirmed.

Councilor Curtis asked if everyone around the lake will be sewered. Ells said Shallow, Bearses, Long Pond and Wequaquet will be in that area. We are not under a consent order right now.

Councilor Milne asked if all 15 towns could leverage collectively and try to ensure faster action. Gottlieb said it must be consistent with a regional plan. The collaborative or county can not be the applicant. We can help you.

Councilor Milne asked where are we now as far as possibly pulling Yarmouth into the discussion. Ells said we will try to keep all viable options in play. The Yarmouth administrator met with us months ago and we are evaluating whether Yarmouth connects in part to our facility and some discharge goes back to their community. We will keep you advised.

Councilor Canedy asked if there is a list of projects going beyond Wequaquet. She knows of tight tank areas in Barnstable. Ells said in 2002 when the estuary plans moved forward, we went to MEPA and told them what we are recommending to sewer in Hyannis and other areas. All of the outlying areas (24) were deferred to the comprehensive plan. Canedy asked if the proposal would have a list of projects that would be accomplished. Ells said that will be a smaller piece of a larger problem. The south side doesn't have the good flushing ability and the loads are not moving out. The northside has better flushing ability. He does not know what the end result will be. Ells said there is no less priority for Barnstable Harbor.

Councilor Rugo said water is a problem and he thanked Sen. O'Leary. He asked if there are any model ordinances that you could point out to us on neutral flow. Is there a recommendation on how the town should go forward? Gottlieb said they will talk with Communities and Development and will make sure communities have guidance. He would refer the council to the commission and the options of what has worked and what combinations of authority put you in the best position. Rugo asked if we are too late to put Wequaquet into the 0%. Ells said they won't fill in the interest rate until we are ready to go to bond. We need to find out where we are listed and where we are on the list.

Councilor Crocker directed his comment to Sen. O'Leary. Crocker said we need to build systems that work; we have built systems that are not good systems with Title V. Is it possible to produce legislation that would correct the design and straighten out flows in Title V? We have alternative systems but the flows are not accurate. Can we get the design flow correct? Sen. O'Leary said if you have concerns with DEP and the calculations, come see me and see if we can get something changed. We do want to do it right and don't want to overbuild either.

Councilor Crocker asked Dr. Miller about the public well supply. Dr. Miller said we do not have problems with the water supply. We have taken the steps necessary to protect the wells. We were not as aggressive protecting the estuaries, which is why we have some problems.

Crocker asked if dredging the estuaries would help. O'Leary said they are narrowing down the window of opportunity on dredging, and it crosses the purposes. Dredging would help. We are trying to move more dredging forward. Crocker said if there is another option that will cost our people less it is worth exploring. Gottlieb said the plans look at a lot of other alternatives.

Crocker asked if the revolving fund would be available for dredging. No, answered Gottlieb, because of the Federal regulations. Gottlieb explained the financing a bit more. Design is not an eligible cost, the planning is. Ells noted the costs for design of the Wequaquet Lake area and said the best estimates to build are around \$34 M.

President Joakim asked for public speakers.

Steve Brown, from the Red Lily Pond Project (since 1973), stated that one of the things to consider is what is the cost of not doing this. He had over a hundred letters from people asking for support on this. He would be happy to represent them on any committee..

Lindsay Counsell, Ex. Dir. Of Three Bays Preservation, noted that we are looking at how we are going to shape our town in the next 100 years. We have exceeded the capacity of our land and what goes into the ground comes out in the water. People are getting more frustrated and they want to know when something is going to be done. Many of the people can no longer swim in the waters. Residents, who live next to the water, are thinking about going for abatements. How are we going to share the cost? We have done some studies on dredging and other issues. We need to get to it.

Donald Schwinn lives in Cotuit Bay Shores. He shares a beach with about 100 other homeowners. We live on North Bay and have seen their beach turn from a beach to sea lettuce and weeds to our knees. We had a red tide in North Bay about 6 years ago. You many times cannot see 18 inches down in the water. We have residents who have lived here for 30 years. The decaying algae is settling and you can't get rid of the muck. The estuary study has been completed and we hope that you will support the plan. You don't want to be put under a consent order. You would not be eligible for the 100% funding. People and nitrogen go hand in hand. We need to figure out what are the solutions. How much does it cost? The plan will give you the idea of what is necessary. We don't know what it will cost. You need to phase it so that it will be affordable. There is a problem, we have the tools, now is the time to move ahead.

Pres. Joakim is ready to wrap it up.

Councilor Munafo asked about paying for it – he was thinking about finding a legislative solution that might possibly have the wastewater issues go under the jurisdiction of the fire districts. It would need special legislation. Sen. O’Leary noted that the districts do operate outside of Prop 2 ½, and said that it is interesting; and they do pass special legislation. Gottlieb noted there are a lot that do operate outside of the 2 ½.

Councilor Farnham said this has been helpful. He was concerned about the 83A and the various impacts. His biggest concern is the impact of the cost to the residents. The people are also concerned about the maintenance as well. Invite the residents and hear the issues from the people and the uncertainties that they have. Ells said it is required of us as we move forward. We had citizens meetings and partnered with the papers. We have face to face meetings to work through their understanding.

President Joakim announced that there is a committee that has been formed and will report back. .

ADJOURNMENT

Upon motion duly made and seconded it was voted to

ADJOURN.

Adjourned at 10:12 p.m.:

Respectfully submitted,

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