



TOWN COUNCIL MEETING November 7, 2013

quorum being duly present, Council President Debra Dagwan called the November 7, 2013, Town Council meeting to order at 7:05 PM in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

PRESENT: Janice Barton, Ann Canedy, James Cote, Jennifer Cullum, Frederick Chirigotis, Debra Dagwan, June Daley, Jessica Rapp Grassetti, Michael Hersey, Janet Joakim, John Norman, Thomas Rugo (7:41 PM), James Tinsley, Jr. (7:40 PM)

The Pledge of Allegiance was led by President Dagwan, followed by a Moment of Silence for Christina Lane Tobey and Bob Murray, please keep them and their families in your prayers.

Council President, Debra Dagwan and Council Vice-President, Jessica Rapp Grassetti recognized each of the Town Councilors that will be leaving us due to term limits and retirements. President Dagwan gave highlights of each of the outgoing Councilors.

Town Manager, Thomas K. Lynch, thanked all the leaving Councilors for their dedication to the town and the people of the town. Lynch, gave highlights of each of the Councilor's terms; an impressive list.

An announcement was made by President Dagwan 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.

PUBLIC COMMENT:

Kris Clark announced a land conservation workshop at the Cape Wildlife Center, on Saturday November 16th.

Matt Contrino of Cub Scout Pack 56 came to the meeting with Webelo's Tom Miller, Donovan Lavalley, Mark Beal and Ronan Contrino. The Webelo Scouts came to the meeting to learn about our local government and to earn a badge.

John Julius congratulated all the new faces coming on to the council and thanked all those leaving tonight. Julius said Mr. Lynch has done a very respectful job. A search for a manager, is supposed to be done. Why are we giving an amended contract now?

Nancy Ayotte thanked the Councilors, and said she came to support the action for Tom Lynch. This board knows him, have served with him, don't let him slip away.

Tayrn Thoman said she prefers to watch these meetings from home. Thoman thanked the Councilors, looking forward to credibility; response to the needs of the community, and read the Mission Statement of the Council. Thoman stated hiring of the Town Manager is the most important job you have.

Close public comment

COUNCIL RESPONSE TO PUBLIC COMMENT:

Council President Dagwan stated the Councilors evaluated the Town Manager; it is up to us to look at his contract. Dagwan asked the committee to come together to decide on whether or not to extend his contract.

Councilor Daley thanked all the voters, who came out to vote on the Pilgrim Nuclear Power Plant.

Councilor Canedy thanked her fellow Councilors that are leaving; and the Webelos of Barnstable for the attempt at public speaking. Canedy stated she did not have a problem with Mr. Lynch, his service and abilities; however these decisions should not be made alone. The full Council should have charged the sub committee to fine tune those terms; she objects to the process.

Vice President Rapp Grassetti suggested that the Matt Contrino and the Webelos might attend the leadership academy to learn more about the town.

ACT ON MINUTES (Includes Executive Session): Upon a motion duly made and seconded it was to accept the minutes of the October 17, 2013 meeting as written.

VOTE: Passed Unanimous

Council President Dagwan stated on October 30, 2013 ten (10) sets of Executive Session minutes were reviewed with the Town Clerk and the Town Attorney's office. Based on the review, the following was decided:

- The 9/12/2013, 9/19/2013 and 10/17/2013 minutes were approved and the case of Marty v. Town of Barnstable continued non-disclosure is warranted.
- The 9/12/2013 minutes involving Cape Wind litigation was approved with continued non-disclosure warranted.

The previously approved Executive Session minutes were again reviewed and determined as follows:

- Continued non-disclosure is warranted for the minutes of 6/19/2008 and 10/4/2012 Marty v. Town of Barnstable, and for 5/6/2010 and 9/2/2010 minutes involving the Cape Wind litigation.
- Continued non-disclosure is warranted based upon attorney-client privilege for the 1/7/2010 minutes involving Stewart's Creek
- In the case involving Limoncelli v. Town of Barnstable, the minutes dated 2/16/2012

are released with the redaction of the portions of the minutes protected by attorneyclient privilege and continued non-disclosure is warranted.

COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements:

Vice President Councilor Rapp Grassetti explained

the Barnstable 375th committee is selling a picnic blanket that has the new 375 logo, for \$40.00 and is available on the third floor of Town Hall, soon to be available on the website.

Councilor Canedy reported the Councilors that the County Charter Review Committee is hard at work and voted to submit to the Assembly of Delegates a recommendation to eliminate the Executive Branch, add an elected Chief Executive, and reconfigure the Assembly to eleven districts to eliminate the weighted vote.

Councilor Daley asked Barbara Bell, Rich French, Chairman of Sandy Neck governing Board, Nina Coleman, Chief Ranger at Sandy Neck, to the podium to honor Barbara Bell who gave more than 32 years on the Sandy Neck Board. Rich French gave some highlights about Barbara Bell's contributions to the Sandy Neck area.

Staff Communications:

Finance Director, Mark Milne reported to the board that Standard and Poor has changed the bond rating system and they are affirming our triple A bond rating. That is a team effort.

Councilor Cullum spoke of the bravery it takes to run for office, whether you win or lose, she applauds the tenacity. Thank you to all who ran.

Councilor Dagwan stated the Cape Cod Selectmen and Councilors meeting is scheduled for the 8th of November. All Councilors will be sworn in on November 18th. Governor Patrick was here on October 28th, focusing on tourism, public schools, education, improving the infra structure, and innovation.

2014-030 APPROPRIATION ORDER OF \$500,000 COMMUNITY PRESERVATION FUNDS FOR OPEN SPACE AND RECREATION AND AUTHORIZING ACQUISITION OF INTERESTS IN LAND OFF LONG BEACH ROAD IDENTIFIED AS MAP 185, PARCEL 29, LOT A IN CENTERVILLE INTRO: 10/17/13, 11/07/13

Lindsey Counsell, Chairman of Community Preservation Act, gave the rationale for this item. Dave Houghton went over the specifics of the process with a slide presentation. Cross Street has been used for decades as pedestrian access to long beach. Showing a plan from the 1950's the forty foot wide section that runs to the high water mark.

Open to public hearing

- Anastasia Marty read a letter to the Town Council from the Long Beach Association (Exhibit A).
- George Gingold fell in love with Long Beach, and uses the town way to the beach. Gingold stated this is really plan b; hopefully we will win on appeal. The topography

of Long Beach is flat and straight, it has a sandbar and the access is easier for those of us who have physical restrictions. Gingold urged the Councilors to authorize this expenditure. Gingold further stated that the citizen's have found Mr. Lynch very responsive and are very supportive of Mr. Lynch.

- Dick Rougeau stated that the signage on the property indicates the area is to be used for fishing and fowling not as a beach. The sea grass has been ripped out. The amount of money will be more like a million and a half dollars. I don't want to be paying additional taxes for that piece of property.
- Nancy Ayotte stated as a long time resident of Centerville, she finds this access to the water needs to be preserved; this precious commodity. Urged the Council to vote for this as it is for the public good.
- Steve Brown thanked President Dagwan for meeting with the visitors from Russia. Brown also stated the Community Preservation Committee is charged with preserving community; this street does benefit the whole community.
- Meg Loughran advocated for public access to the water. The parking area for the Cross St access is probably a total of 20 parking spots. Loughran said what we have to do is correct a wrong. We are talking about using money that is specifically designated this type of thing. Loughran begged the Council to do the right thing; and further thanked this council "a breath of fresh air"
- Molly Sproul encouraged the Council to approve this item. Sproul mentioned the special little spot of land that we have utilized for over twenty years with family and friends. We are the people that ask the newcomers to respect that piece of land.
- Gail Hesse of Centerville said a lifeguard at Long Beach would be a lovely addition.
 The sand at Long Beach is wonderful, the water is cleaner, it is a jewel in the crown of beaches; a favorite spot.
- Shirley Fisher strongly supports the \$500,000 to protect this beach; and does not
 want to lose the access to this beach. Fisher stated this is a constantly used parcel,
 not just by a few folks and continues to be popular with all ages. Fisher stated this
 would be a win-win for the town to preserve this beachfront access for years to
 come.
- Herbert Bodansiek asked how many people in the hearing room use this access to Long Beach; at the show of hands, he stated there are more than 16 people in this room that use this beach.
- Sue Rohrbach spoke about her first glimpse of Long Beach and her use of the beach over many, many years. Rohrbach stated retaining our ways to water, every little piece is precious. People enjoy and respect the beach. She urged the Council to vote for this item.

- Nan Gingold, said at this beach, no areas were blocked off for piping plovers, because we have been educated and we are respectful of the property and the plovers. Gingold stated this is a beautiful place; the owner in question is hardly there. She hopes the Council will vote to keep the access to the beach.
- Steve Luciani asked the Council why should the people of Barnstable be denied access when we can clearly see the street on that property map.
- David Sandell a Centerville resident uses the public access and stated it is a way to share that little piece of beach.
- Jim Crocker said he is very upset with the loss of Cross St. Crocker stated it is a lengthy process with the Land Court and they are not known for overturning their decisions. There will be a large devaluation of the property when you take away that piece of property for access to the beach. He supports putting money to work on the end of the street.
- Diane Brooke asked has this resident been paying the taxes on this strip of property.

Close public comment

Council Discussion:

Councilor Norman stated he was hoping that in an appeal that the land court might change their mind. He would not like to hold this money for an unknown period of time awaiting an appeal. We could use it for other properties. Norman raised a Charter objection to postpone this item to November 21st

Councilor Canedy stated as a point of procedure she is joining Councilor Norman on that Charter objection.

Councilor Chirigotis stated a point of order, that the Charter objection is out of order and must be stated at the time of the vote.

Vice President Rapp Grassetti asked for procedural input from the Town Attorney, Ruth Weil to clarify the Charter objection.

Town Attorney, Ruth Weil, thanked each of the Councilors for their years of service. Charter objections has come up before the Council on many occasions, Bob Smith's ruling regarding the timing of the objections falls under 2-8C. When the matter has not been put to a vote yet, it is considered premature to ask for a Charter objection. The Charter objection has to be called out after the question is moved and seconded and then just prior to the roll call vote.

Upon clarification on the Charter objection procedure and based on past rulings, Council President Dagwan ruled the Charter objection invalid.

Discussion continued with Councilors Chirigotis, Rugo, Canedy, Joakim, Cullum, Tinsley, Norman, and Dagwan.

Cross St is a unique jewel in the town of Barnstable, since 1913. The deeds list the boundaries on both sides of Cross St to the edge of the public access and no one has paid taxes on Cross St. This is an access to water used by the public. No anticipation of extra taxes for this purchase. Ed Lambert called to express his strong support of this beach access. This is a special spot. Hopes that the Town of Barnstable wins this appeal. Land Court has made a decision; we don't like it, exhaust all legal administrative processes before we start talking about eminent domain. Access to the water and public property has been an issue for years. The decision for using this money has been in the process for several months, not just the last week. For six years I have had a problem with eminent domain taking, but this is not private property, this is town property. I support everything in this, the only thing I have a problem with this may be a two or three year appeal. There seems to be a rush to appropriate this money. This is an opportunity that we allow us to move forward. CPC funds is a renewing fund, this does not deplete the fund we have right now. We deserve this, sometimes we have to pay through the nose...really feel it is something we need to do. Supporting this item; What was the vote of the CPC committee? The vote was 8 to 1.

Upon a motion duly made and seconded it was

ORDERED: That the Town Manager be authorized to acquire by gift, purchase or eminent domain on behalf of the Town interests in real property pursuant to the Community Preservation Act, G. L. c 44B, for open space, recreation, public access and bathing beach purposes in and over all or any portion of the real estate beginning on the South side of Long Beach Road to Nantucket Sound known in part as Cross Street bounded on the East by land having a street address of 249 Long Beach Road shown on Assessors Map 185 as Parcel 29 and as Lot A on plan of land recorded in the Barnstable County Registry of Deeds in Plan Book 139 Page 2 and bounded on the West by land having a street address of 259 Long Beach Road shown on Assessors Map 185 as Parcel 30 and as Lot C-2 on plan of land recorded in the Land Registration District of the Barnstable County Registry of Deeds as plan number 16409-B; that pursuant to said G. L. c. 44B the sum of \$500,000.00 be appropriated and transferred from the Community Preservation Fund for the purchase or taking of said interests for said purposes; and that the Town Manager is authorized to contract for and to expend the appropriation made available for this purpose, execute and record any written instruments, grant restrictions if required and accept any gifts or grants in relation thereto.

VOTE: 10 YES, 3 NO (Canedy, Cote, Norman) (9:30 PM) Recess

2014-031 ALLOCATION OF TAX LEVY FY14 – TAX FACTOR INTRO: 10/17/13, 11/07/13

Rationale given by Director of Assessors, Jeff Rudziak, and thanked the Council for their service.

Open public hearing

Jessica Silva, Director of Hyannis Area Chamber of Commerce, spoke in favor of the small business. We strongly encourage the town to stimulate growth by keeping the 1% factor.

Elizabeth Wurfbain of the Main Street Bid District, a split tax would put an unfair burden on the businesses, urge you to vote for a factor of one.

Bill Putnam said his Bed and Breakfast property taxes is about three times what it would be if it were just a residential home.

Chris Keller appreciates the service of the Councilors, leave the levy where it is at a factor of one. If it goes to a split tax rate, it would be a burden that we pass on to the consumer.

Judy Crocker, Chair of the Hyannis Chamber Board, keep the factor of one so we can continue to support the businesses

Philip Wallace, business is difficult right now, costs have gone up margins are tight please keep the factor at one.

Close public hearing

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the fiscal year 2014.

VOTE:13 Yes

2014-032 ALLOCATION OF TAX LEVY FY14 – RESIDENTIAL EXEMPTION INTRO: 10/17/13, 11/07/13

Rationale given by Director of Assessors, Jeff Rudziak Open to public hearing seeing no one close public hearing

COUNCILOR DISCUSSION - abstaining from this vote; voting to keep as is because it would raise the taxes to most of the resident owners; continue to support this as it balances things out. This came up as a tool that works for those of us who are here year round.

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to adopt a Residential Exemption percentage of 20% for fiscal year 2014.

VOTE: 12 Yes, 1 Abstention (Canedy)

2014-033 ALLOCATION OF TAX LEVY FY14 – SMALL COMMERICAL EXEMPTION INTRO: 10/17/13, 11/07/13

Rationale given by Director of Assessors, Jeff Rudziak Open to a public hearing seeing no one, close public hearing

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to adopt a Small Commercial Exemption of 10% for fiscal year 2014.

VOTE: 12 No, 1 Yes (Tinsley)

2013-034 ORDINANCE AMENDMENT- SETTING THE SCHEDULE OF FEES TO BE IN EFFECT IN THE TOWN OF BARNSTABLE INTRO: 10/17/13, 11/07/13

Rationale given by Richard Scali, Director of Regulatory Services.

Open public hearing seeing no one, close public hearing

Upon a motion duly made and seconded it was

ORDERED: That Article II, Chapter §76-4 of the General Code of the Town of Barnstable is hereby amended by adding the omitted fees in the schedule.

SCHEDULE OF FEES

Article II, § 76-4. Licenses. [Amended 3-4-2010 by Order No. 2010-071; 1-5-2012 by Order No. 2012-034; 1-17-2013 by Order No. 2013-064]

The following Schedule of fees shall be in effect in the Town of Barnstable:

§76-4 Miscellaneous Licenses and Permits

MGL c/Section	<u>Description</u>	<u>_</u>	Fee
138-12	.Club All Alcohol	\$2.	,225.00
138-12	.Common Victualer, All Alcohol	\$3	,050.00
	.Common Victualer, Beer & Wine		
138-12	Innholder, All Alcohol	\$3	,550.00
	Farmer-Brewery Pouring		
	One-Day, All Alcohol		
	One-Day, Beer &Wine		
138-14	One-Day, Beer Only/Wine Only	\$	35.00
	.Package Store, All Alcohol		
138-15	.Package Store, Beer & Wine	\$1.	,950.00
101-33	.Temporary License to sell for charitable purposes	\$	10.00
	.Pharmacist to sell alcoholic beverages		
140-2	Inns and restaurants (Common Victuallers)	\$	100.00
140-21B	Non alcoholic beverages	\$	100.00
140-32B	.Mobile home parks	\$	50.00
	Motels		50.00
140-34	Lodging Houses 10 or more Lodgers	\$	125.00
140-34	Lodging Houses - less than 10 Lodgers	\$	75.00
	.Vehicle for sale of food		
140-56A	.Shooting gallery	\$	100.00
	. Auto dealer		150.00
140-177A	. Automatic amusement devices	\$	100.00 ea
140-2	Live Theatre	\$	100.00
	.Junk Dealer		
100-2	. Auctioneer Annual (Town Manager)	\$	15.00
	. Auctioneer temporary (Town Manager)		
	. Storage of hazardous materials (Town Manager)		100.00
140-177	Pool Table	\$	75.00/table

140-186	Carousel	\$	75.00
140-56	Private Parking Lot	\$	8.00/space
	Daily live entertainment (includes Sundays)		275.00
140-183A	Daily non-live entertainment (includes Sundays)	\$	75.00
140-183A	Karaoke	\$	100.00
140-183A	One day entertainment for profit (including Sundays).\$	50.00
140-183A	One day entertainment for non-profits (including Sur	nday	/s)\$ 25.00
140-185I	Fortune tellers	\$	250.00
140-192	Rental boats (freshwater)	\$	100.00
40-22	Taxicabs/Limos (Town Manager)	\$	50.00
	Septic system inspection fee (Health)	\$	25.00
	Board of Health request for variance	\$	95.00
	Application fee licenses and permits	\$	100.00
	Bad Check Fee	\$	25.00
	Late Fee	\$	100.00

VOTE: 13 YES

2014-035 APPROVAL OF AN AMENDED CONTRACT FOR THOMAS K. LYNCH AS THE BARNSTABLE TOWN MANAGER AND ITS EXECUTION INTRO: 11/07/13

Councilor Rugo gave the rationale, regarding the committee meeting to amend the Town Manager's contract to extend it for another two years. At the subcommittee meeting a unanimous vote was taken (Councilors in attendance were Cullum, Hersey, Tinsley, and Rugo). Councilor Cote was on the committee but was absent from the meeting on Monday October 28th at 9 AM.

COUNCILOR DISCUSSION - Town Attorney. Ruth Weil explained how this all came about and the roll of the Council President. The Council President asked the sub-committee to reconvene for this purpose. Are we going to be given time to go over this contract? If we can do it in about 10 minutes...the changes were as follows: two years to the term; a 3 % raise in salary; and an additional week of vacation; with a carry over changed from two to three weeks.

(Short recess to go over the contract.)

We have been working with Town Manager, Thomas Lynch, we should vote on this; I did not know this was being done, as an elected representative of the people I should have known this was going on; I disagree with who should be voting on this contract. New Council should vote on this new contract; responsive, good for this town; managed the town well; feels very rushed to me; important to get feedback from Councilors that had evaluated and worked with this Town Manager; 95% score by this Council; pure commonsense; it takes a while to get used to what you are doing on the Council; we are looking at another transition time; we are the ones who should be doing this; continuity of leadership; we have been here before; we met several times as a body at executive session; we fought and went back and forth; this is not open and transparent government; no one up here would have objected to Mr. Lynch's contract; gives the appearance of something going on; understand the concerns; Council sub-committees get together all the

time; we like the guy and we would give him the contract;

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council approves an amended contract for Thomas K. Lynch and authorizes the Council President to sign on behalf of the Council and the Town of Barnstable.

VOTE: 10 YES, 3 NO (Canedy, Cote, Norman)

2014-036 ACCEPTANCE OF \$9,964 GRANT FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY, HIGHWAY SAFETY DIVISION INTRO: 11/07/13

Rationale given by Chief Mac Donald

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts an Underage Alcohol Enforcement Grant in the amount of \$9,964 from the Executive Office of Public Safety and Security, Highway Safety Division.

VOTE: Passes Unanimous

2014-037 ACCEPTANCE OF A \$5,000 PEDESTRIAN, BICYCLE AND/OR MOPED-TYPE ENFORCEMENT AND EQUIPMENT GRANT FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY INTRO: 11/07/13

Rationale given by Chief MacDonald

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept the FFY 2014 Pedestrian, Bicycle and/or Moped-type Enforcement and Equipment Grant from the Executive Office of Public Safety and Security, Office of Grants and Research, Highway Safety Division in the amount of \$5,000.

VOTE: Passes Unanimous

2014-038 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 11/07/201

Upon motion duly made and seconded it was voted to suspend the rules for a second reading

VOTE: Unanimous.

LIBRARY COMMITTEE

Karen Rezendes, 121 Great Marsh Road, Centerville, as a member with a term expiring 12/31/2014

Lili Seely, 33 Candlewick Lane, Hyannis, as a member with a term expiring 12/31/2014 Sheila Place, 583 Whistleberry Drive, Marstons Mills, as a member with a term expiring 12/31/2014

Upon motion duly made and seconded it was voted to refer this item to a second reading. **RESOLVED**, that the Town Council appoint the following individuals to a multiple-member

VOTE: Passes Unanimous

2014-039 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 11/07/2013

Upon motion duly made and seconded it was voted to suspend the rules for a second reading

VOTE: Unanimous.

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

ZONING BOARD OF APPEALS

William Newton, 101 Curlew Way, Cotuit, as a regular member with a term expiring 6/30/2016

LIBRARY COMMITTEE

Theodore Housman, 69 Captain Loring Lane, Barnstable, as a member with a term expiring 12/31/2014

Cyndy Shulman, Barnstable, 1529 Race Lane, Marstons Mills as a member with a term expiring 12/31/2014

Robert Anthony, 104 Old Stage Road, Centerville, as a member with a term expiring 12/31/2014

Gloria Rudman, 50 Waterman Farm Road, Centerville, as a member with a term expiring 12/31/2014

Justin Grimes, 75 Grove Street, Cotuit, as a member with a term expiring 12/31/2014

Stanley Goldstein, 12 Trudy Lane, Cotuit, as a member with a term expiring 12/31/2014

Genevieve Hill, 49 Indian Hill Road, Cummaquid, as a member with a term expiring 12/31/2014

Kenneth Jenkins, 184 Flume Avenue, Marstons Mills, as a member with a term expiring 12/31/2014

Gail Nighingale, 32 Sunset Lane, Osterville, as a member with a term expiring 12/31/2014 Elaine Grace, 11 Apollo Drive, West Barnstable, as a member with a term expiring

John Jenkins, 361 Parker Road, West Barnstable, as a member with a term expiring 12/31/2014

VOTE: Passes Unanimous

12/31/2014

Vice President Jessica Rapp Grassetti made a presentation to Councilor Thomas Rugo for his years of service to the Town of Barnstable. The proclamation gave some of the highlights of his time on the Council.

TOWN MANAGER COMMUNICATIONS - Town Manager Thomas Lynch

Veterans Day Parade
Maureen Neimi helped a veteran who was over in Afghanastan
Solar array ground breaking ceremony coming soon
JFK Memorial Trust will be having a 50 year anniversary more information will be coming out

ADJOURNMENT

Upon motion duly made and seconded it was **VOTED: Unanimous to adjourn at 11 PM**

ADJOURNED:

Respectfully submitted,

Ann M. Quirk, CMC Town Clerk

NEXT REGULAR MEETING: November 17, 2013

Attachments:

A Letter from Long Beach Association