



Town Council Meeting

February 26, 2015



A quorum being duly present, Council President Jessica Rapp Grasseti called the February 26, 2015, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Rapp Grasseti 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.

PRESENT: Ann Canedy, Frederick Chirigotis, Jennifer Cullum, Sara Cushing, Debra Dagwan Jessica Rapp Grasseti, Paul Hebert, John Norman, James Tinsley, Jr. **Absent:** James Crocker, Jr., William Crocker, Jr., Eric Steinhilber, Philip Wallace

The Pledge of Allegiance was led by President Rapp Grasseti, followed by a Moment of Silence for the families of Joseph Cotellessa and George Coughlin.

PUBLIC COMMENT:

Hillary Sandler spoke about the land swap and the report prepared by MT2 regarding the levels of lead contaminated soil within and beyond the boundaries of the shooting range. Please postpone tonight's vote until we have all the information.

Wolfgang Fattler stated he is not against guns, every responsible citizen should be allowed to carry a gun. The shooting range is in the wrong place. If it is so easy to use conservation property we should have had a dog park a long time ago.

Lisa Hendrickson referred to the report prepared by MT2 regarding the levels of lead contaminated soil on the 20 acres of land used by the shooting range and about the removal of vegetation that would be needed for the shooting range. The report left us with more questions than answers.

Heidi Moss read a letter from a resident of Marstons Mills resident regarding the MT2 report.
Close public comment

COUNCILOR RESPONSE TO PUBLIC COMMENT:

None

TOWN MANAGER COMMUNICATIONS:

- Chapter 70 Hearing
- Utility contract negotiations
 - Dave Anthony, Chief Procurement Officer, reported to the Council the results of negotiating three long term utility contracts that have been secured with fixed pricing.

Councilor questions and comments What are the savings from our solar arrays? Are we applying the savings to the increased cost for electricity? [At this time there is no measurable amount of savings as yet-probably by the next quarter] Will we be applying the money to offset the spike? [Town Manager- we have

not obligated any of our solar monies yet] [A presentation regarding the options will be brought before the Council and we will entertain your suggestions.]

- Theater on Ice
- Hockey East Tournament (fourth year)
- Cape Cod Symphony letter
- Community Impact Unit
- Erosion problems with Sandy Neck
 - Nina Coleman, Sandy Neck Park Manager gave an overview of erosion problems from the recent storms with pictures of the devastation. Nina offered a quick fix solution for Sandy Neck.

Councilor questions and comments: How long is temporary? [5 to 7 years] Can you speak to new technologies? [Difficult to obtain permits for Sandy Neck] Regional Beach Access Group is reaching out to legislators, to look at Sandy Neck, to help with a solution. Are there state and/or federal reimbursements (FEMA); [we are always looking for grant funding]

Councilor questions and comments: True cost of enterprise accounts we need to know what we are gaining from the solar arrays; HYCC is a big draw for the town; Osterville Village Association to have a fairly aggressive program; can we have an update of plowing and sanding of the roads; [4 to 1 sand to salt mix, over the past weekend plowed up more of the ice; going out again with a 2 to 1 mixture; scrape down on some roads] sidewalks are beginning to be cleared; Grant for the Police department is March 5th [a meeting has been scheduled to clarify insurance claims that are coming in to the town; Richard Peddicord was unable to fly in for tonight's meeting to explain the MT2 report].

ACT ON MINUTES:

Upon a motion duly made and seconded it was voted to accept as written the minutes of the February 6, 2015 meeting.

VOTE: PASSES UNANIMOUS

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

BRENDAN CLARK, YOUTH COMMISSION, VICE CHAIRMAN; presented a slide presentation of the 7th Grade Youth Summit (Exhibit A) Brendan gave an overview of the upcoming summit. They currently we have two pending sponsors will keep the Councilors apprised of the sponsorship of the event.

Councilor questions and comments: When should we attend the Youth Summit [Thursday night] If you should have any trouble securing sponsorship, let us know; encourage everyone to come to the event; very proud of the work put together by the youth Commission;

REBECCA LAWRENCE, CHAIRMAN; CULTURAL COUNCIL: gave a background of what the Cultural Council; 10 members on the Council (6) from Barnstable and (4) members from the Town of Yarmouth. Members have a background in Art, Humanities or Interpretive Sciences. Awarding of grants is our primary responsibility by prioritizing projects that address youth first; such as Rise and Shine program. We come before the Council every three years for feedback, are we on track?

COUNCILOR JENNIFER CULLUM, CHAIRMAN; TOWN MANAGER REVIEW COMMITTEE:

The other members of the committee; Councilors Chirigotis, (J) Crocker, Dagwan, and Steinhilber worked with all the Councilors reviews. Our findings were that the Town Manager exceeds expectations; this information is on file with the Town Clerk. We are committed to working together and resolving any misunderstandings.

President Rapp Grassetto announced she will be forming a new committee - Committee to Analyze o Management Practices and Policies

2015-005 APPROVAL OF THE CHANGE IN CARE, CUSTODY, MANAGEMENT CONTROL AND PURPOSE OF TWO PARCELS OF LAND, NAMELY A ±16.3 ACRE PORTION OF TRACT I OF THE WEST BARNSTABLE CONSERVATION AREA SHOWN ON ASSESSORS MAP 86 AS PARCEL 1 AND A ±17 ACRE PARCEL SHOWN ON ASSESSORS MAP 314 AS PARCEL 027001 INTRO: 08/07/14, 09/18/14, 10/16/14, 01/22/15, 02/26/15

Upon a motion that was duly made and seconded it was:

ORDERED: SECTION 1: That, having received notice that the conservation commission determined that the following parcel of land is no longer needed for the purposes set forth in section 8C of chapter 40 of the General Laws of Massachusetts, the care, custody, management and control of said parcel be transferred to the Town Manager to be held for general municipal purposes, namely a 16.3 acre, more or less, portion of Tract I of the West Barnstable Conservation Area having a street address of 875 Service Road shown on Assessors Map 86 as Parcel 1 taken by eminent domain pursuant to chapter 79 for purposes of said section 8C by order dated December 21, 1978 and recorded in the Barnstable County Registry of Deeds Book 2846, Page 129, which said 16.3 acres are further described on plan entitled "Plan of Land in Barnstable (West Barnstable) MA Prepared for the town of Barnstable Prepared By: the Town of Barnstable - D. P. W. Survey Division Date: July 28, 2014 Scale: 1" = 80'" on file with the Town Clerk; and

SECTION 2: That, having received notice that the Town Manager determined that the following parcel of land containing 17 acres, more or less, is no longer needed for general municipal purposes, the care, custody, management and control of said parcel be transferred to the conservation commission to be held for the purposes set forth in section 8C of chapter 40 of the General Laws of Massachusetts, namely the land having a street address of 145 Breed's Hill Road shown on Assessors Map 314 as Parcel 027001 acquired by deed dated May 15, 1986 and recorded in said Registry in Book 5077 Page 300; and

SECTION 3: That the aforesaid transfers take effect upon recording of an instrument or instruments by the Town Manager in the Barnstable County Registry of Deeds following the effective date of legislation enacted by the General Court approving the transfer under section 1 of this order.

VOTE: POSTPONE UNTIL MAY 21ST OR SOONER WITH THE PROPER AND APPROPRIATE NOTICE- 11 YES, 2 NO (CANEDY AND NORMAN)

2015-006 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION APPROVING THE CHANGE IN CARE, CUSTODY, MANAGEMENT CONTROL AND PURPOSE OF TWO PARCELS OF LAND, NAMELY A ±16.3 ACRE PORTION OF TRACT I OF THE WEST BARNSTABLE CONSERVATION AREA SHOWN ON ASSESSORS MAP 86 AS PARCEL 1 AND A ±17 ACRE PARCEL SHOWN ON ASSESSORS MAP 314 AS PARCEL 027001 INTRO: 08/07/14, 09/18/14, 10/16/14, 01/22/15, 02/26/15

Upon a motion that was duly made and seconded it was:

ORDERED: That the Town Manager submits a petition to the General Court of the Commonwealth for a special act approving the change in care, custody, management, control and purpose of two parcels of land in the Town as follows.

"AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO TRANSFER TWO PARCELS OF LAND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1: The conservation commission of the town of Barnstable shall transfer the care, custody, management and control to the Town Manager for general municipal purposes of a certain 16.3 acre portion, more or less, of a larger parcel of land identified on assessors' map 5 as parcel 4, which was acquired by the town and held by the conservation commission for conservation purposes pursuant to section eight "C" of chapter forty of the General Laws and has been declared by the conservation commission to no longer be appropriate to be held by the conservation commission for such purposes. Upon the transfer as provided in Section 3 the Town of Barnstable shall be authorized to use the 16.3 acres, more or less, for general municipal purposes. The 16.3 acres more or less declared surplus in order to be transferred as provided in this section 1 are also shown on a plan entitled "Plan of Land in Barnstable (West Barnstable) MA Prepared for the town of Barnstable Prepared By: the Town of Barnstable -D. P. W. Survey Division Date: July 28, 2014 Scale: 1" = 80'" on file in the office of the town clerk.

SECTION 2: To ensure a no net loss of lands protected for conservation purposes under section 1, the Town Manager of the town of Barnstable shall transfer the care, custody, management and control to the conservation commission for conservation purposes pursuant to section eight "C" of chapter forty of the General Laws of a certain 17 acre, more or less, parcel of land identified on assessors' map 314 as parcel 027001, which was acquired by the town and held for general municipal purposes and has been declared by the Town Manager to no longer be appropriate to be held by the Town Manager for such purposes. The parcel contains wetland, upland and other significant natural features as well as potential for passive recreational use and is bounded on the Southeast by public water supply land. Upon the transfer as provided in Section 3 the parcel described herein shall be preserved as conservation land in accordance with said section eight "C". The 17 acres more or less declared surplus in order to be transferred as provided in this section 2 are further described as Lot 1 on plan of land recorded in the Barnstable County Registry of Deeds in Plan Book 417, Page 18 and was acquired by the Town by deed dated May 15, 1986 and recorded in said Registry in Book 5077 Page 300.

SECTION 3: The Town Manager may execute and record any instruments necessary on behalf of the Town to effectuate the transfers under sections 1 and 2 following passage of this act.

SECTION 4: This act shall take effect upon its passage.

VOTE: POSTPONE UNTIL MAY 21ST OR SOONER WITH THE PROPER AND APPROPRIATE NOTICE - 10 YES, 3 NO (CANEDY, NORMAN, AND HEBERT)

2015-064 APPROPRIATION OF \$225,000 IN COMMUNITY PRESERVATION FUNDS FOR THE ACQUISITION OF TOWN'S SHARE OF PERPETUAL CONSERVATION RESTRICTION WITH COTUIT FIRE DISTRICT ON PORTION OF ASSESSORS MAP 36 PARCEL 39 (0 PUTNAM AVENUE) AND ACCEPTANCE OF GIFT OF EASEMENT INTRO: 02/05/15, 02/26/15

Lindsey Counsel gave the background for this item.

Open public hearing seeing no one close public hearing

Upon a motion that was duly made and seconded it was

ORDERED: That pursuant to the provisions of G. L. c. 44B, the sum of Two hundred twenty-five thousand and No/100 (\$225,000.00) Dollars be appropriated for the acquisition of an interest in land in Cotuit consisting of a conservation restriction held by the Town acting by and through its Conservation Commission by authority of MGL c.40 § 8C and the Cotuit Fire District on 16.045 acres, more or less described as "Area Remaining" on a plan of land entitled "Plan Showing Conservation Restriction in Barnstable (Cotuit MA) prepared for Barnstable Land Trust" prepared by the Town of Barnstable D.P.W. Survey Division, dated January 8, 2015, on file with the Town Clerk, being a portion of Assessors Map 36,

Parcel 39 (0 Putnam Avenue); that to meet this appropriation Two hundred twenty-five thousand and No/100 (\$225,000.00) Dollars be transferred from the amount set aside in the Community Preservation Fund for open space and recreation; that the Town Manager is authorized to contract for and expend the amount appropriated for this acquisition as recommended by the Community Preservation Committee in accordance with its terms and conditions, subject, however, to the participation by the Cotuit Fire District as a holder for the same consideration; and further ordered that the gift of an unencumbered easement for passive recreation on existing trails and for daytime parking as shown on said plan be accepted and recorded.

VOTE: PASSES 13 YES

2015-065 APPROPRIATION OF \$300,000 FROM THE GENERAL FUND RESERVES FOR THE ACQUISITION OF 3 ACRES MORE OR LESS IN COTUIT, PORTION OF ASSESSORS MAP 36 PARCEL 39 (0 PUTNAM AVENUE), FOR MUNICIPAL PURPOSES INTRO: 02/05/15, 02/26/15

Jaci Barton gave the rationale

Open Public hearing

- o Henry Ramage in support of this item, Lowell Park is an historic park.

Close Public hearing

Councilor questions and comments

Is this a need or a want? Many needs in this town; look at the amount of money we have spent for snow removal; will not support this item; well said, but we have seen what the HYCC has brought to this town, this just adds to that; money well spent; totally in favor; agree we need to be considerate of all the facts; will support this; work together to come up with a plan; this is sustaining the heritage and history of the town; will support it;

Upon a motion that was duly made and seconded it was

ORDERED: That the sum of Three hundred thousand and No/100 (\$300,000.00) Dollars be appropriated and transferred from the General Fund Reserves for the purchase by the Town of the fee simple interest for municipal purposes in 3.021 acres more or less of the land in Cotuit described as "Parcels 1 and 2" on a plan of land entitled "Plan of Land in Barnstable (Cotuit MA) prepared for Barnstable Land Trust" by the Town of Barnstable D.P.W. Survey Division" on file with the Town Clerk, being a portion of Assessors Map 36 Parcel 39 0 Putnam Avenue; and that the Town Manager is authorized to contract for and expend the appropriation for the stated purpose subject to a restriction prohibiting , installation, maintenance and use of lighting fixtures and infrastructure on the premises for the adjacent Lowell Field, and execute and record any written instruments on behalf of the Town.

VOTE: PASSES 12 YES, 1 NO (NORMAN)

2015-068 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 02/05/15, 02/26/15

Upon a motion that was duly made and seconded it was

RESOLVED: that the Town Council appoint the following individuals to a multiple-member board/committee/commission in accordance with Massachusetts General Law, Chapter 220 § Section 1 of the 2007 Acts,

OLD KINGS HIGHWAY HISTORIC DISTRICT COMMITTEE:

David Munsell Jr. 3074 Main Street, Barnstable, MA 02630 as an alternate member to a term expiring 6/30/16

VOTE: PASSES UNANIMOUS

2015-070 APPROPRIATION OF \$50,000 FROM THE SANDY NECK ENTERPRISE ACCOUNT SURPLUS FOR THE SANDY NECK DUNE NOURISHMENT PROGRAM INTRO 02/05/15, 02/26/15

Rationale given by Lynne Poyant, Director of Community Services
Public hearing seeing no one close public hearing

Councilor questions and comments

What other solutions besides sacrificial sand are other towns using [many other towns dealing with this issue, Sandwich is looking at increasing their beach width; this is a band aid for Sandy Neck] Sandy Neck has special challenges it is a sensitive area ecologically; we are burning money, why not use a bulldozer to scrape it three inches, generate 25,000 yards of sand; instead of buying sand; needs to be looked at by the State or the DEP; Beach Access Committee meeting discussing this topic, a change may be coming; this is a need right now; we have to find new solutions, this method is not successful; time for a change; keep looking at those new technologies; are you working with an engineer; [yes there is a consultant working on design and permitting] these storms do not happen all that often; is there a different approach; [regulatory agencies are just considering the sand bag solution] storm that hit the Jersey shore was devastating; can we have a presentation from the Engineer to understand what other things we can do; we are hear to provide amenities, but also saving tax payer money; this is a golden goose; one of the jewels we have; maintain and preserve what we have; we have a group that includes the state; come and participate in the Beach Access Committee meeting; beat your shoes on that table; these things are being addressed right now; if we lose these beaches we lose an enormous asset; presentation of the pros and cons and our taxpayers deserve more information; [frustrated by what is allowed, these are legitimate questions; regulations are inflexible; would love the consultant to come here] helpful for us to talk with the consultant; we recognize the frustrations; once the parking lot is lost, its gone.

Upon a motion that was duly made and seconded it was

ORDERED: That the sum of fifty thousand dollars and no/100 (\$50,000.00) be appropriated from the Sandy Neck Enterprise Account Surplus funds for the purpose of funding protective sand placement for additional dune nourishment in front of the Sandy Neck parking lot after major erosion from winter storm Juno.

VOTE: PASSES 13 YES

2015-071 AMEND ZONING ORDINANCE, ARTCILE III. DISTRICT REGULATIONS, § 240-39 SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT (SCROD) AND AMEND THE ZONING MAP AS SHOWN ON THE MAP ENTITLED SHOPPING CENTER OVERLAY DISTRICT AMENDMENT FEBRUARY 20, 2015 INTRO: 02/26/2015

Upon a motion that was duly made and seconded it was

ORDERED: Section 1. That the Zoning Ordinance, Article III. District Regulations, Sec.240-39. Shopping Center Redevelopment Overlay District, Section F. Permitted and prohibited uses, is hereby amended as follows:

By adding the following language to the end of Section 240-39.F (2) (f):

“and a drive-through restaurant may be permitted only on that area within the SCROD identified as “Drive-through Restaurant Sub Zone” as shown on the Map entitled Shopping Center Redevelopment Overlay District Amendment dated February 20, 2015 subject to the special permit provisions of sec. 240-39M”

So that as revised subsection (f) shall now read:

“(f) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the Highway Business District, subject to the special permit provisions of Sec. 240-39M, and a drive-through restaurant may be permitted only on that area within the SCROD identified as “Drive-through Restaurant Sub Zone” as shown

on the Map entitled Shopping Center Redevelopment Overlay District Amendment dated February 20, 2015 , subject to the special permit provisions of sec. 240-39M.”

Section 2. That the Zoning Ordinance, Article III District Regulations, Sec. 240-39, Shopping Center Redevelopment Overlay District, Section M Special permit provisions, is hereby amended as follows:

By adding the following phrase to the last sentence in Section 240-39.M(1)(a) after the words “drive through-bank”:

“or drive-through restaurant”

So that as revised subsection (a) shall now read in its entirety:

“(a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39M. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this sec. 240-39M.”

Section 3. That the Zoning Ordinance, Article III District Regulations, Sec. 240-39. Shopping Center Redevelopment Overlay District is hereby amending Section 240-39.G (1) (e) as follows:

By adding the following phrase at the end of subsection (e) [1]:

“except fifty (50) feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as “Drive-through Restaurant Sub Zone”

So that as revised subsection (e) [1] shall now read:

“[1] One hundred feet along Iyannough Road/Route 132 Road except fifty(50) feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as “Drive-through Restaurant Sub Zone”

Section 4. That the Zoning Ordinance, Article III. District Regulations, Sec. 240-39 Shopping Center Redevelopment Overlay District, Section K. Signs in Shopping Center Redevelopment Overlay District, is hereby amended as follows.

Inserting a new subsection (12) to read as follows:

“(12) In addition to the signs permitted under Section 240-39.K (1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as “Drive-through Restaurant Sub Zone” provided the Maximum height of freestanding signs does not exceed 12 feet above grade and the Maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign.”

And further Under Section K by renumbering existing subsection (12) to “(13)”.

Section 5

That Chapter 240, Article II, Section 6, The Zoning Map of the Town of Barnstable Massachusetts, the Shopping Center Redevelopment Overlay District (SCRDO) is hereby amended to identified that area

within the Overlay District as “Drive-through Restaurant Sub Zone” as shown on the Map entitled: “Proposed Shopping Center Redevelopment Overlay District Amendment dated February 20, 2015”

VOTE: TO REFER TO THE PLANNING BOARD FOR A PUBLIC MEETING-UNANIMOUS

A motion was duly made and seconded to go into Executive Session and not to reconvene as follows: That the Town Council go into Executive session under M.G.L. c. 30A § 21 (a) (1) to discuss the dismissal of an employee by reason of physical condition and not to reconvene in open session

VOTE: ROLL CALL 13 YES

Respectfully submitted,

Ann M. Quirk, CMC
Town Clerk – Town of Barnstable

NEXT REGULAR MEETING: March 5, 2015

Exhibits:

A. Seventh Grade Youth Summit