

SPECIAL TOWN COUNCIL MEETING
May 26, 2005

A quorum being duly present, Town Council President, Gary Brown, called the special meeting of the Barnstable Town Council to order at 7:00 pm, on May 26, 2005 at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Janice Barton, Gary Brown, Ann Canedy, James Crocker, Jr., Leah Curtis, Henry Farnham, Janet Joakim, (7:10), J. Gregory Milne, James Munafo, Jr., Royden Richardson, (7:13), Tom Rugo and Harold Tobey.

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

President Brown reviewed the rules for the meeting involving public comment and the disposition of several of the articles on the agenda. He introduced Paul Niedzwiecki, Assistant Town Manager, who made the Hyannis Downtown Zoning presentation.

PRESENTATION – DOWNTOWN ZONING

Niedzwiecki thanked Planning Director, Tom Broadrick, Assistant Town Attorney Ruth Weil and Attorney Patty Daley from Daley & Whitten for their expertise. He also thanked the planning board and their zoning subcommittee for their efforts. He made a power point presentation, which he has been showing to other local organizations. (See Exhibit A) His sense has been that initially the community felt the process was going too slowly and now feels it is moving too quickly. He anticipates that the ordinance will be ‘tweaked’ as it continues to be reviewed. He suggested continuing the public hearing beyond this evening, keeping it open for at least thirty days to allow the maximum opportunity for public input and consensus. He is confident the plan can be finalized by a late summer date. This plan will be much more comprehensive than village zoning plans put forth to the Cape Cod Commission from other towns.

Building height cannot be waived by a special permit so height regulations have been put into the plan. The plan should provide an incentive for ‘workforce’ housing that fills the gap between affordable and market priced. Some business and property owners objected to calling one of the districts the ‘gateway district.’ There was also concern about the removal of retail from this district. This will be changed. The Transportation District is the only one that doesn’t allow residential development. All who worked on this ordinance tried to come up with a comprehensive plan that will create a rising tide to lift all boats.

President Brown suspended the rules to take Item 2005-100 out of order. There was no objection.

2005-100 HYANNIS VILLAGE ZONING DISTRICTS

Upon a motion duly made and seconded it was voted to open a public hearing at 7:38 PM.

VOTE: Unanimous

The Planning Board joined the council. Present: Roy Fogelgren, Raymond Lang, Felicia Penn, Steven Shuman and Patrick Princi.

The planning board moved & seconded a motion to continue their public hearing.

VOTE: Unanimous

Pat Butler spoke as a citizen practitioner in land use, not as a representative of any particular land owner. He provided the council with a detailed review of the ordinance from him and Eliza B. Cox, which he summarized. (See exhibit B).

Mark Thompson from Hyannis has asked various members of the council if they understood the changes. Their responses indicated they also had questions. He wants to see the area revitalized,

going back, in a sense, to as it was years ago. He is also concerned about his ability to live in the area on a retirement income. He stated that the council should be protecting the property and constitutional rights of the land owners.

Paul Drouin reviewed the changes in the number of zoning districts in Hyannis since 1989. Back then there were two less districts than suggested in this proposal. Neighborhoods have hung together well. He feels the new zoning will not work and gave several examples. He suggests returning to the 1989 zoning map.

Dick Corsini owns 145 Barnstable Road, which was upgraded over the last year and a half. He was offended that there were no discussions prior to that upgrading. He has invested money in the gateway area, but the changes to Barnstable Road has decreased traffic. He has worked hard to invest in his property and is concerned that his property rights are in jeopardy. He cites the restriction of use for retail or medical purposes as a detriment. He implores all to reconsider and not take away property rights.

Marcel Poyant is glad it will be postponed for 30 days to give the public more opportunity for input into the zoning changes. He would like the opportunity to be present at some of these upcoming meetings.

Stuart Bornstein asked why the downtown should cater to worker zones. Why not high-end condos? He feels the ordinance has everything that is not good for downtown. For example, housing does not belong opposite the airport and the number of stories that can be created within the 32 feet needs to be rethought out. Real estate businesses have not been approached for their input.

Al Baker said the planning board subcommittee has a lot to offer and is a good place to get some information. He would like to know when comment is allowed relative to an item so people can plan to speak on it. He feels there is a lot of stuff to digest and the council has to watch out for the little guy when it is a matter of big bucks.

Cynthia Cole, BID director, said they have not taken a position on the changes yet. Their mission is to promote community. This zoning has a spirit and intent to encourage mixed use, by simplifying districts from 14 to 7 and sending special permits to the planning board. She supports the spirit and intent of the ordinance in the other areas and suggests the flaws be addressed now rather than later. Hyannis is very vital now.

Alan Goddard pointed out that the proposed minimum lot size is 30,000 sq ft in the harbor area. He suggests changing it to 20,000 sq. ft. to give property owners more flexibility. Most of the lots there right now are less than 30,000 sq. ft.

Dan Creedon said there is a problem with selecting the planning board as the special permit granting board. There might be an impediment to the planning board hearing a special permit case if the case had come before them in their role as planning board. The ordinance should propose two boards: one to negotiate and one to grant the exceptions.

A motion was duly made and seconded to continue the public hearing to July 14, 2005.

VOTE: Unanimous

The planning board made a motion which was seconded to continue their public hearing Tuesday, May 31, 2005

VOTE: Unanimous

PUBLIC COMMENT

Paul Revere, an attorney assisting Mr. Julius with his concerns regarding the recent purchase of the water company, reviewed municipal financial law issues. He feels the town has violated state finance laws in making this purchase. He referred to an Informational Guideline Release (IGR) issued by the director of the Department of Revenue outlining where the funds can come from and what % is allowed. He feels the advance of \$10 M is in violation of the law because it is \$2.3 M over what was allowed (See Exhibit C).

John Julius believes the town should not have purchased the water company without a town-wide vote; it is the bottom line. However, he adds, Palmer & Dodge, the town's bond counsel, has disagreed. He stated that he would file a lawsuit and go to the Attorney General's office. No one has been listening to him. He delivered 16 copies of a document to a variety of officials and received not one response from anyone. He said that Treasurer, Jeffrey Cannon, said he did not have written authorization before he committed the \$10 M.

Town Attorney Robert Smith responded to some of the comments. Smith has tried to respond to Mr. Julius, but the problem has become a moving target. The written authorization is a ministerial requirement, and both the treasurer and finance director have been in contact with DOR. There is no problem. He would like it brought to an end. The purchase was thoroughly vetted. It was done properly and with great care. The town knows what it is doing, yet they keep coming back. He feels it has to come to an end and if Mr. Julius feels he must sue, the town will deal with it.

Alan Burt reported on the progress of the Bridgeport Program that takes eight disabled men and women, finding them apartments all over the Cape once they have completed the program. It is the result of a wonderful partnership. It has taken a county problem to the county level. He feels the Pilot House and the Duffy Center appear to be dead in the water. Funding has not been achieved. The Wellness Center concept seems dead as well. He announced a Leadership Council meeting on June 6th at HAC.

Jaci Barton thanked the council for creating the CPA committee. It places open space on a par with affordable housing and historic properties. She would be happy to send conservation trust materials to the newly proposed Land Acquisition & Preservation Committee, but she believes to make it a requirement is not in keeping with the notion of 'one-stop shopping'. It adds another time consuming level of bureaucracy and would be a hardship for them.

Susan Rohrbach thanked the appointments committee for nominating her to the CPA Committee. The Land Acquisition and Preservation Committee could be an important resource. She feels there may be overlap, but it is important to have it. Some towns have both an open space and a CPA committee.

Councilor Milne described the new practice to allow comments when the item comes up. They can speak during the public comment on agenda items unless there is a public hearing. So anyone with comments on non-hearing items should speak now. Brown offered that some items had already had public hearings.

Pat Butler thanked the council for holding to its promise to allow revenue from the sale of the Grade Five School to go to capital expenses of the school department. Also as a parent of a senior he attended the awards presentation. He is proud as a taxpayer, a parent and a citizen of what the schools have done to encourage excellence in the student body.

Duncan Gibson thanked the councilors for proposing an open space committee. He feels it will be important for a lot of the background work to be done on land preservation to feed to the CPA committee.

Marcel Poyant thanked those responsible for Item 2005-124. He is an abutter and is grateful for a resolution.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Milne asked for an update from the town manager on the Sullivan property on Rte. 132. He asked why there had been no follow-through on this solution to the homeless-wellness center. He thought it was an appropriate location. He pointed out that he has received no minutes of the agenda meetings, suggesting that one of the council's two full-time staff provide them. There were serious comments made against the input given by the public under public comment. He wants public comment protected, enhanced and not diminished.

Councilor Richardson attended a meeting at the CAC. Financial concerns regarding the Pilot House were not gloom and doom. Efforts are being made to support that program because it fulfills a need. He feels there is a need to work as equal partners in order to come to a resolution. The tools are in place. The goal is to focus in on working together more than has been done to date.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to approve the minutes of May 19, 2005 with the following corrections: 1. Correct the spelling of Ann Canedy's name. 2. On Item 2005-099, just after the close of the public hearing, under Councilor Canedy add after "objections," "to Sandy Neck operations and water supply enterprise funds". 3. Under Item 2005-119 first sentence, Councilor Canedy felt that the use of the word "individuals" was a mischaracterization. 4. Under Item 2005-094, second paragraph, delete the word "could" from the last sentence.

VOTE: Unanimous

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

Councilor Barton announced the Marstons Mills Village Association meeting on June 1st. She commended the men and women of the Barnstable Police Department. They are truly Barnstable's finest.

Councilor Canedy congratulated Lou Cataldo who was bestowed with the highest honor given by the Shire of Barnstable – Burgess of Barnstable. It was delivered by a former president of the Barnstable Rotary Club. The Mercy Otis Warren Award is given to a woman living on the Cape who has demonstrated leadership. Nominations for the award are due in June. She also read a statement placed in a realtor's advertisement of a property for sale. It said purchasers should subdivide now before two acre zoning.

Councilor Milne said the town would not see a repaving of the road torn up by Nantucket Electric until the fall. He asked whether they would receive a penalty for not completing the road in time. In addition, a local donut shop has had their curb cuts blocked by the Nantucket Electric project. Their business died for a few days. How can we punish Nantucket Electric?

Councilor Curtis announced that the renewal of the Barnstable County Home Consortium was coming up. She requests the council join other Cape towns in support of this. Accessory apartments have brought Barnstable to 6.25% affordable housing. The town has added 32 units but needs to add a total of 152 units to keep the current certification; various proposals are still coming before the housing committee and they are working to move them along. There is a real need in Barnstable for family and workforce housing. The housing committee is looking at these proposals more favorably than 55 and over developments. The property in litigation on Gallagher Landing has been resolved.

Councilor Munafo said it was important to obtain bond counsel's approval before moving forward with the water company deal. They don't mess around. We did dot our I's and cross our T's.

Councilor Joakim announced that the Boston Post Cane award is coming up. She gave a brief history of it. The town will be awarding a replica of the cane on June 7th. The Spirit of Ruth Rusher Award, to a senior citizen who embodies that spirit and the Legacy Award to a business that has positively impacted the lives of seniors will also be given at that time. She thanked Town Clerk Linda Hutchenrider for her efforts to reinvigorate the Boston Post Cane tradition. An RSVP to the senior center is required to attend. She echoes Pat Butler's thoughts on the high school senior awards presentation.

Councilor Crocker echoes Councilor Curtis's discussion about the housing. He updated the council on the airport committee. The firm, Earth Tech, has been chosen. They had positive feedback.

Councilor Tobey's great grandfather was a recipient of the cane. He is proud of that and encourages people to attend.

Vice President Farnham announced the annual car show coming up on June 19th which is almost sold out.

President Brown made a few announcements regarding Memorial Day activities. Ashley McGuire won the \$1,200 scholarship which is funded from the coins thrown into the JFK fountain. Centerville will celebrate Flag Day on June 14th and the flag provided by the JFK Memorial Trust Fund that was flown over the Capitol, will be donated to the Centerville school. There will be a barbecue contest, sponsored by the Kansas City and New England Barbecue Societies, on the green on June 4th and 5th. There are over 12 teams competing and sponsors will have tables. Admission is \$2.

Councilor Richardson announced the Centerville Civic Association pancake breakfast.

ORDERS OF THE DAY

OLD BUSINESS

2005-086 APPROPRIATION AND LOAN ORDER AIRPORT ENTERPRISE FUND CAPITAL IMPROVEMENT PLAN

Upon a motion duly made and seconded it was voted to open a public hearing at 9:07 PM

VOTE: Unanimous

Upon a motion duly made and seconded it was voted to close the public hearing at 9:07 PM.

VOTE: Unanimous

2005-086 APPROPRIATION AND LOAN ORDER AIRPORT ENTERPRISE FUND CAPITAL IMPROVEMENT PLAN

Upon a motion duly made and seconded it was

ORDERED That the sum of **\$7,500,000.00** be appropriated for the purpose of funding two projects as outlined in the FY 2006-FY 2010 Capital Improvement Plan as recommended by the Town Manager as follows:

Aircraft Terminal & Access Road Design & Permitting	\$3,500,000.00
Airport Access Road Land Acquisition	\$4,000,000.00

And that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$7,500,000.00**, and that the Town Manager is authorized to

contract for and expend the Appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

Councilor Crocker asked Airport Commission chairman Michael Dunning to come forward and explain the reimbursement numbers. Ninety-five percent is covered by the FAA, 2.5% comes from the state and 2.5% comes from the airport funds.

Vice President Farnham asked him how close he lives to the airport. He replied 1.7 miles.

Councilor Rugo has concerns about the Federal reimbursement fund being split between Barnstable and Nantucket airports. It does not affect this item. Rugo also suggested that planning for the building might be putting the cart before the horse. Dunning said this is the second step in the process and how the FAA wants it done. Once passed, the airport will seek the funding from state and Federal sources. Rugo asked if there were no money to build, why buy the land. Dunning replied that the road acquisition would serve the old terminal and/or the new one. Rugo also asked what percentage of funds does the airport reimburse to the town. Dunning said the money generated stays with the airport, but to the extent that the airport uses town services they can purchase those services from the town.

Councilor Milne asked if the \$4 M includes the property. It does although they have not negotiated the final figure yet. He also asked about the Blackburn property and what percentage of the airport budget is being subsidized by land they own 'outside the fence' e.g. Kmart. Is ownership of these properties mandatory for safety? Probably not, Dunning answered.

President Brown said the airport pays over \$600,000 to the town for services.

Councilor Crocker explained that this is a standard format for acquisition. If the airport does not prevail for the funding this year, they can try again. The more pieces in place the better the chances on the funding.

Councilor Rugo asked about the progress of the Mildred's lease. Brown suggested he call Mr. Dunning later.

A motion was made and seconded to move the question.

VOTE: Unanimous

On item 2005-086

VOTE: Unanimous (roll call)

**2005-095 RESOLVE TO PREPARE ADMINISTRATIVE CODE AMENDMENT
ADDING A VOTING MEMBER FROM YARMOUTH AND A NEIGHBORHOOD
MEMBER TO THE AIRPORT COMMISSION**

Upon a motion duly made and seconded it was

RESOLVED, That the Town Attorney prepare an administrative code amendment to include a Town of Yarmouth resident as a voting member of the Airport Commission to be nominated by the Yarmouth Board of Selectmen, submitted to the Barnstable Town Council Appointments committee, and ratified by the Barnstable Town Council. In addition, a ninth member of the Airport Commission would be added, such member to be a neighborhood resident of the Airport.

Councilor Milne gave the rationale. It has been sixteen years that the commission has had a non-voting Yarmouth member. He compared this quest with the fight to get Robert O'Brien a vote on the SSA, for which the town paid a price. On this question, all the impacts are shared. We

should reach out and they are ready to accept liability. He feels this is the perfect time to move forward and be positive. He asked for full consideration of this item.

Gerry Sullivan, Chairman of the Yarmouth Board of Selectmen, talked about some of the shared issues since the late 1980's. The majority of airport incidents whether on the land or in the water have occurred in Yarmouth. Noise has been a problem and was the first issue that began their involvement. Zoning will have a crucial effect. He felt it would be better for the commission if Barnstable had the full appointing and removal authority.

Suzanne McCauliffe, vice chairman of the Yarmouth selectmen, read a letter from Rep. Demetrius Atsalis supporting this item (see exhibit D). It will be more symbolic than substantive and it is as it should be. She requested that this be supported.

Christine Greeley, VP of the Hyannis Civic Association, was very involved with the airport commission in 1989. She served as a representative for five years. She would like to see a formalization of this process which has been ongoing for a number of years.

Dunning said the relationship has not been better. The purpose of the 1989 settlement was for Yarmouth to have access and it has been good. He thought going from 7 to 9 members, however, was a little unwieldy.

Councilor Crocker has watched the interaction as a liaison. He complimented the commission and the chairman for taking the time to speak to the neighborhoods. The system is not broken and he is concerned about introducing two more members.

He made a motion which was seconded to table item 2005-095 to a future date.

VOTE: 7 Yes, No votes were not polled.

2005-098 APPROPRIATION ORDER FOR THE FY2005 TOWN COLLECTOR OPERATING BUDGET

Upon a motion duly made and seconded it was voted to open a public hearing at 9:37 PM.

VOTE: Unanimous

Upon a motion duly made and seconded it was voted to close the public hearing at 9:38 PM.

VOTE: Unanimous

Councilor Curtis asked if this is a one-time cost.

Maureen McPhee, Town Collector explained that this is to allow the first quarterly tax bills to go out by July one. The money for the quarterly billing program for the upcoming year is in a priority package.

Klimm complemented Collector McPhee for all her efforts to implement this new program.

2005-098 APPROPRIATION ORDER FOR THE FY2005 TOWN COLLECTOR OPERATING BUDGET

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$12,100 be appropriated for the Town Collector's FY 2005 operating expense budget, and to meet such appropriation, that \$12,100 be transferred from the Town's savings account.

VOTE: Unanimous

2005-099 GENERAL ORDINANCE AMENDMENT ESTABLISHING ENTERPRISE FUNDS FOR WATER SUPPLY, MARINA AND SANDY NECK OPERATIONS

Upon a motion duly made and seconded it was **ORDERED**, that §86-6 of the General Ordinances is hereby amended by inserting at the end thereof the following new paragraphs:

“E. The Public Works Department Water Supply Division facilities, including wells and well fields, storage tanks, mains and pumping stations and their operation, as an enterprise thereunder.

F. The Department of Community Services Marine and Environmental Affairs Division Marina facilities, as an enterprise thereunder.

G. The Department of Community Services Marine and Environmental Affairs Division Sandy Neck area and facilities, as an enterprise thereunder.”

Councilor Barry asked Harbormaster Dan Horn what would be included besides the marinas. There will be no boat docks or ramps included, just the marinas.

Councilor Munafo asked about the impact of postponing this for further study. Horn said they will do the best they can with what the council provides and go on with business as usual, however, the enterprise account will allow for future planning.

Vice President Farnham pointed out that the long-range natural resources plan, completed in 2003, recommends that an enterprise account should be established to insure the viability of the resource.

Councilor Munafo asked Attorney Smith how would the town remove an enterprise accounting system and what would happen to the funds. Smith replied that it can be reversed and the funds would most likely revert to the general fund, but he would have to research how to reverse the decision.

Councilor Crocker explained that he is committed to finding money to correct the ramps, etc. He sees the issue in three segments: first the docks on the shoreline, then the moorings, then the waterways, which everyone can enjoy. He would like to look at these issues in smaller packages to define them better.

Councilor Canedy moved considering each part of the item separately. The motion was seconded.

VOTE: Majority in favor

On Section E:

VOTE: Unanimous (roll call)

Section F:

Councilor Rugo asked about the status of auditing moorings. Will this fund the person needed to do the audit? Horn says it would not. The staff for auditing moorings would come from outside this enterprise account, maybe through a service priority request. Rugo pointed out that a small percentage of the population will have access to these marinas, so why did we buy it? Rugo feels the marina needs to generate money for the town, therefore, why put it into an enterprise account? In addition, he asked how flexible would the council be to ‘bleeding money’ out of it and were the fees ‘market rate.’ Horn pointed out that the town owns four marinas with about 180 slips. People cannot pass their mooring on to relatives. Horn said the issue of fees was brought up several years ago.

Councilor Barry reminded all that the argument to purchase Prince Cove was that it would not cost the town money. It is expensive to operate a marina. Money earned by the marina should

go back into the marina account. Once the debt is retired and the marinas become cash cows then the enterprise fund can be revisited.

Klimm said the town does receive administrative money in the \$40,000 to \$50,000 range. He explained some history showing that years ago town meeting supported spending town money to keep a small portion of the Gateway Marina area in public hands, when it appeared the corner would be blocked from the public by development. While there are not a large number of people who have slips, many have asked the town to preserve things that make Barnstable special. Lots of people enjoy this. CFAC, the Waterways Committee and the Sandy Neck Board are all in agreement. This is a first step and it may not go far enough.

Councilor Munafo feels enterprise accounts lead to a loss of governance by removing one more tier from the people who have elected responsibilities. The council loses control of what is done. The water department should be an enterprise account but not the rest of these. Dollar amounts can be allocated to do these other projects.

Councilor Canedy is not comfortable in setting up any amount for this. The scope has not been ambitious enough or comprehensive enough. Issues involving waterways like the dredging plan should be addressed in this proposal.

Councilor Richardson said it is not his understanding that responsibilities are given up. Even the airport comes before the council for approval before they spend money. Enterprise accounts have been successful and have to come before the council with a budget for approval. And, they still operate under town manager; the administration and employees are still town employees. Vice President Farnham said the enterprise account is strictly an accounting feature and is not about loss of governance. It establishes a set cash flow to preserve the long-term stability of the assets. He hopes the council does not get too concerned. The division has done a good job.

Councilor Milne asked how the Prince Cove business plan would be impacted if this does not occur. The town is a little ahead of the game at Prince Cove. The projection to run the four marinas is \$600,000. If it costs less, there will be profits, which, down the road, could be used to subsidize other aspects of the town. Horn said he will not be sitting on a pot of gold. Marinas need constant attention. With planning, marinas could make the town proud. When asked if the Sandwich marina was an enterprise account, Horn said the Corps of Engineers has some control of it.

Attorney Smith also pointed out that the enterprise fund is an accounting tool. If there were not one, the town would still be following the business plan. It is a matter of relatedness. There are projects that are more closely related, like dredging. He feels the town should start with the enterprise fund then expand to the relatedness of other projects.

Councilor Joakim said the marina was purchased because there were not many slips available. Enterprise funding is a protection from costs; it will not cost the rest of the town and offers the town protection.

Councilor Barton pointed out that the council has the power to veto any budget items.

On Section F

VOTE: 11 Yes, 2 No (roll call)

On Section G

VOTE: 12 Yes, 1 No (roll call)

President Brown separated the vote on item 2005-119 Appointments into three parts.

2005-119 APPOINTMENTS

Upon a motion duly made and seconded it was

ORDERED That the Barnstable Town Council appoint the following individuals to a multiple member board/committee/commission:

COMMUNITY PRESERVATION ACT COMMITTEE:

Prescribed:

Tom Lynch, 95 Phinneys Lane, Centerville 02632; term expires 6/30/06

John Abodeely, 476 Baxters Neck Road, Marstons Mills 02648; term expires 6/30/06

Marilyn Fifield, 49 Old Colonial Way, West Barnstable 02668; term expires 6/30/07

Joseph O'Brien, 65 Trinity Place, Centerville 02632; term expires 6/30/07

Pat Princi, 29 Wayside Lane, West Barnstable, MA 02668; term expires 6/30/08

Councilor Milne pointed out that Tom Lynch is a paid staff person of the Housing Authority and asked about the propriety of appointing a member of the staff. Richardson explained that the Housing Authority members voted to have Lynch represent them. Smith said it is prohibited unless the council provides for it.

A motion was made and seconded to suspend the rules and allow Mr. Lynch to serve.

VOTE: Unanimous

On Prescribed members:

VOTE: Unanimous

At-Large:

Susan Rohrbach, 432 Main Street, Centerville 02632; term expires 6/30/06

Laura Shufelt, 1696 W. Barnstable Rd., W. Barnstable 02668; term expires 6/30/07

Terry Duenas, 690 Cedar Street, West Barnstable 02668; term expires 6/30/08

Lindsey Counsell, 1183 Old Stage Road, Centerville 02632; term expires 6/30/08

Tom Mullen, PO Box 551, Barnstable 02630

Felicia Penn, 15 Daisy Bluff Lane, Hyannis 02601

Councilor Milne hopes that Rohrbach, Counsell, Penn and Mullen are elected. They will maximize diversity on the committee and support Hyannis. Shufelt and Duenas have interests already represented by the prescribed membership.

Councilor Tobey is also concerned that the Hyannis area is not represented. He asked whether Penn accepted the nomination. Richardson said she did not take her name out of consideration. Milne pointed out that her 'interview' was a phone call an hour before the scheduled interview. He feels she was slighted and the appointment committee did not offer her another interview date. The process was not clean.

Councilor Canedy submitted Tom Mullen's name and spoke on his behalf. Richardson explained the process, stating it was not set up to represent villages but was based on seeking a variety of talents.

VOTE: Rohrbach: 13 Yes; Shufelt: 7 Yes; Duenas: 8 Yes; Counsell: 13 Yes; Mullen: 6 Yes; Penn: 5 Yes. (roll call) Appointed: Rohrbach, Counsell, Shufelt and Duenas.

HYANNIS MAIN STREET WATERFRONT HISTORIC COMMISSION:

Joseph Dunn, 30 Chestnut Street, Hyannis 02601; term expires 6/30/08

VOTE: Unanimous

2005-121 ADMINISTRATIVE CODE AMENDMENT ESTABLISHING A LAND ACQUISITION AND PRESERVATION COMMITTEE

Upon a motion duly made and seconded it was

ORDERED, that the Administrative Code is hereby AMENDED by adding Section 241-44.5

241-44.5 Land Acquisition and Preservation Committee

A. Term of Office: There shall be a Land Acquisition and Preservation Committee consisting of nine members, who shall be appointed by the Town Council. Members shall serve for terms of three years, so arranged that an equal number shall expire each year. Said Committee shall be geographically diverse whenever possible.

B. Authorities and responsibilities.

(1) Acquisition.

(a) The Land Acquisition and Preservation Committee shall recommend to the Community Preservation Board parcels of land available for acquisition.

(b) The Land Acquisition and Preservation Committee, in conjunction with the Town Manager and the Town Council, will leverage non CPA funding for purchase of additional land.

(c) The Land Acquisition and Preservation Committee shall review conservation restrictions before presentation to the Town Council for approval.

(d) The Land Acquisition and Preservation Committee shall be responsible for keeping the Open Space & Recreation Plan & Open Space section of the Local Comprehensive Plan updated and current.

(e) The Land Acquisition and Preservation Committee shall be responsible for implementing the approved Cape Cod Pathways Plan.

(f) A member of the Land Acquisition and Preservation Committee shall serve as the Town's representative on the Santuit Preserve Management Committee.

(g) The Land Acquisition and Preservation Committee shall assist Town departments in the management of the Land Bank lands acquired under the Land Bank Act in accordance with the Act and its provisions.

Councilor Canedy gave the rationale. It is a re-morphing of an old entity that will now bring parcels of interest to the CPA. It is as a resource for the CPA. The committee will have other tasks such as leveraging other funds for land acquisition other than the CPA, etc. Conservation restrictions would not have to go through this committee. The amendment was evaluated by the ConCom and other staff. Duplication issues were addressed.

Councilor Richardson supports it but wanted to amend it by omitting "representing the town on the Santuit Preserve Management Committee. He feels that person needs to be very talented.

A motion was made and seconded to continue this item to June 2.

VOTE: Unanimous

B. NEW BUSINESS

2005-123 PETITION TO THE GENERAL COURT TO ENACT LEGISLATION AMENDING THE LAND BANK ACT

Upon a motion duly made and seconded it was
RESOLVED: that the Town Manager is hereby authorized to petition the General Court to adopt legislation in substantially the following form:

“ ____ NO. ____

"AN ACT AMENDING REAL PROPERTY INTERESTS UNDER THE CAPE COD OPEN SPACE ACQUISITION PROGRAM IN THE TOWN OF BARNSTABLE

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. Notwithstanding any general or special law to the contrary, land and interests in land acquired by the Town of Barnstable with funds appropriated and expended pursuant to the Cape Cod Open Space Acquisition Program, chapter 293 of the Acts of 1998 as amended by section 211 of chapter 127 of the Acts of 1999, may consist of or be held for future wellhead development under section 3 in addition to section 5 of said chapter 293 as amended by section 211 of said chapter 127.

SECTION 2. This act shall take effect upon its passage.”

Klimm gave the rationale. Councilor Crocker said he supports it.

VOTE: Unanimous

2005-124 PETITION TO THE GENERAL COURT TO ENACT LEGISLATION FURTHER AMENDING THE COMMUNITY PRESERVATION ACT WITHIN BARNSTABLE COUNTY

Upon a motion duly made and seconded it was
RESOLVED: that the Town Manager is hereby authorized to petition the General Court to adopt legislation in substantially the following form:

“ ____ NO. ____

"AN ACT FURTHER AMENDING THE PROVISIONS OF THE COMMUNITY PRESERVATION ACT IN BARNSTABLE COUNTY”

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. Subsection (h) of section 298 of chapter 149 of the Acts of 2004, as amended by sections 130 to 133 of chapter 352 of the Acts of 2004, is hereby further amended by adding in the first sentence, after the word “Any,” the words “appropriation for maintenance and improvement pursuant to section 5 of chapter 293 of the acts of 1998 and any”; and by adding, after the word “may be” the words “expended by the town pursuant to section 5 of chapter 293 of the acts of 1998 and.”

SECTION 2. This act shall take effect upon its passage.”

Klimm gave the rationale.

VOTE: Unanimous

Late Files:

2005-125 RESOLVE ACCEPTING CONVEYANCE OF PROPERTY AT 259 BARNSTABLE ROAD, HYANNIS FROM FRANCIS B. CASH

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council authorizes acceptance of the conveyance to the Town of the property having a street address of 259 Barnstable Road, Hyannis more particularly described in Certificate of Title number 33037 recorded in the Barnstable County Registry of Deeds, Land Registration District, from Francis B. Cash, the purchase price of \$300,000.00 having been paid by First Hyannis Realty, LLC.

Klimm gave the rationale. It is a late file because the Registrar of Deeds wanted a vote of the council before filing the deed. Usually such a vote is not necessary. Councilor Munafo asked what the ramifications of waiting would be. Smith said conceivably the property could be sold to someone else. If it doesn't get on record what might happen is an unsuspecting bystander could be hoodwinked into buying it. Munafo feels it should be done at a regular meeting.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2005-125

VOTE: Unanimous

2005-127 ORDER AUTHORIZING CONVEYANCE OF A PORTION OF THE FORMER FIFTH GRADE SCHOOL PROPERTY

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on June 2nd.

VOTE: Unanimous

2005-128 ORDER TRANSFERRING THE CARE, CUSTODY, CONTROL AND MANAGEMENT OF THE FORMER FIFTH GRADE SCHOOL PROPERTY TO THE TOWN MANAGER FOR PURPOSES OF CONVEYANCE

Upon a motion duly made and seconded it was voted to refer this item to a public hearing on June 2nd.

VOTE: Unanimous

Regarding a fourth Late File, 2005-126, Councilor Munafo questioned the importance of this item being brought up tonight, at a special meeting, as a late file. It will become a part of the regular agenda on June 2.

PUBLIC COMMENT

An unidentified gentleman expressed concern over various issues such as lack of places to walk during the snow, lack of signage at crosswalks, adoption of bicycle registration requirements to assist police in identifying bicyclists, and improved ticketing of persons parked in handicapped parking spots.

TOWN MANAGER COMMUNICATIONS

John Klimm said that Mark Ells, Public Works Director and Paul Niedzwiecki, Assistant Town Manager, would respond to the questions on the Nantucket Electric construction and the town's efforts regarding the homeless.

Mark Ells said Nantucket Electric's repaving of Ocean St. is on schedule. They have put patches down and his people will look at it again. The intent was to have a patch in place that is sound. The electric company has put off paving until the fall so the town can have them build a new sidewalk.

Niedzwiecki reviewed all the input and efforts put out by the town to resolve the homeless situation. The town has worked at this every day. The Sullivan property is no longer an option because the license expired. The town obtained the land and the organization of the human services community was not there, so it fell through. The criticisms are not valid.

Upon a motion duly made and seconded it was voted to adjourn the meeting at 11:09 PM.

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk