

BARNSTABLE TOWN COUNCIL MEETING
June 17, 2004

The June 17, 2004, regular Barnstable Town Council Meeting was called to order by President Gary Brown at 7:00 p.m., in the hearing room of the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Gary Brown, Henry Farnham, Richard Barry, Leah Curtis, Royden Richardson, Janice Barton, James Crocker, Jr., James Munafo, Jr., Harold Tobey, Janet Joakim, J. Gregory Milne, Ann Canedy and Thomas Rugo arrived after roll call had been taken at 7:04 P.M.

President Brown led the council and guests in the pledge of allegiance, followed by a moment of silence.

At that time President Brown expressed sympathy to the family of Edwin "Bud" Gourley, who passed away this week. Gourley served twenty (20) years as Airport Commissioner in the Town of Barnstable. Bud our blessings are with you and your family.

President Brown asked Councilor Janice Barton to come forward. Councilor Barton, liaison to the Jane Eshbaugh Community Service Award Committee, acknowledged committee members: Gwen Phillips, Deborah Fitton, Charles Sabbatt, Shirley Flynn and Jeff Eshbaugh (Jane's son). Councilor Barton stated that the Jane Eshbaugh Community Service award is given annually to someone who unselfishly has given to the town as an unsung hero. This year's award was presented to Betty Nilsson.

President Brown spoke highly of Betty Nilsson acknowledging her many achievements and many years of service to the town of Barnstable. He spoke of Betty's love for history and preservation of Barnstable's Historic sites. Brown then presented her with a Proclamation (**See Exhibit A**). Betty expressed her heart felt thanks to all for the award.

PUBLIC COMMENT

Peter Feeney wanted to thank the town council for the opening in the median divider at the Airport Plaza on Barnstable Road, which has proved to be a great advantage to business owners. Feeney and the plaza business owners thanked Mark Ells for his help in making this happen.

Felicia Penn commented on town council agenda item 2004-117. Penn is a direct abutter of both of the parcels referenced in agenda item 2004-114 for 51 years. She was just notified of this proposal (a change in zoning of two (2) residential parcels on Channel Point Road in Hyannis). This would change zoning from residential to office use for a new building at the site of the old Mooring Restaurant. Penn respectfully requests a withdrawal of this proposal. She expressed her concerns on this property being transformed into a commercial use; and asked if this is a precedent the town council wishes to make. She suggested this is more than just a mere map change as it is shown in the proposed town council agenda item. Penn has retained an attorney to secure and protect her rights as a private land owner.

Susan Rohrbach of Centerville spoke on behalf of Friends of Baybridge Clubhouse located on Main Street, Hyannis. Baybridge members suffer with mental illness, some are homeless need help with housing or help finding jobs. Mrs. Rohrbach stated that it is important that Baybridge Clubhouse have a permanent home in downtown Hyannis. She acknowledged the Town Manager, Councilor President Gary Brown, Business Improvement District and its Director Cynthia Cole, and all the human service providers who have all worked together to help those who are in need of help. She wanted it noted that with the downtown revitalization, there are human faces.

Mike Wyman and his wife Cheryl live on Channel Point Road. Wyman agreed with Felicia Penn. He said there should be more discussion before this becomes an agenda item. This is our neighborhood. There are only a handful of houses and it should stay a residential neighborhood. Wyman asked the council to take more time to discuss this to understand what the consequences would be, and if this is necessary or not necessary. Wyman said Channel Point Road is a residential area and it is important that it remains that way.

Al Baker of Marstons Mills commented on the Walkway to Sea and thought was looking good. He mentioned the school committee problems that hit the local newspaper today. Mr. Baker acknowledged the passing of Bud Gourley. And, he still thinks the split tax rate can only help the town. He spoke on land problems. He stated that at the last council meeting Councilor Crocker brought forward a land swap near Prince Marina, which he felt was good, but there are some other land issues that should also be settled in a fair and equitable manner.

Lynne Poyant thanked President Brown for his kind remembrance of Ruth Rusher given at the last town council meeting. Poyant also thanked DPW on their tremendous effort put out for the completion of the comfort station. She reminded everyone of the 10th Annual Father's Day Car Show & Cruise where over 400 cars are registered. She also announced the town dates of the 4th of July fireworks on Friday July 2nd at Lewis Bay with a rain date of July 3rd. On Sunday July 4th Cotuit is hosting their parade at 11:30 and the Hyannis Boat Parade will start at 1 PM; America on Parade will be held at 4 PM on July 4th. On July 5th the Barnstable Village 3rd Annual Mercy Otis Warren Women of the Year award will be presented at 9 AM followed by the Barnstable/ West Barnstable parade.

Sandy Lenney expressed her sadness to see the gazebo gone from in front of the Post Office, since it had been a little landmark and a benefit to the town. In the future she hopes the town people would let the public know so they could voice their protest if they need to.

Senator Rob O'Leary said it is a very good state budget this year. It is good for the Town of Barnstable and for Cape and the Islands in general. He was present to ask the council to call the governor's office and ask him not to veto the amendment that he is presenting; and secondly, if it becomes law, it requires that the town council votes affirmatively to put a question on the November ballot. This would ask the people of the Town of Barnstable whether they would substitute for the existing land bank an amended version of the community preservation act. This will double the revenues available to the town for every year forward without increasing any taxes or fees at the local level. This is proverbial found money for the Town of Barnstable and represents, annually for the foreseeable future, about \$2.5 million dollars in new revenues.

There would be a change to the land bank. It would allow you to use some of those new funds for any of three different uses: 1) historic preservation 2) affordable housing, and/or 3) existing open space. Barnstable has obligated most of its prospective land bank monies for open space. The town council will need to act this summer, if the governor signs it (**See Exhibit B**).

ACT ON MINUTES

Upon motion duly made and seconded it was voted to approve the minutes of May 20, 2004 and June 3, 2004 as submitted.

VOTED: Unanimous

COUNCIL RESPONSE TO PUBLIC COMMENT

President Brown met a postal worker on Main Street who said the gazebo was causing trouble as it was a haven for the homeless. Brown agreed with Ms. Lenney and he thought the gazebo was used by many and with some police vigilance the gazebo was not a problem. He misses it too.

President Brown's told Ms. Penn and Mr. Wyman that this is only a first reading tonight and it does not come-up for a second reading until July 15th. Hyline wants to build an office building for their personnel since the lot abuts their property. This has just come out to receive public comment.

Ann Canedy acknowledged Betty Nilsson who is an asset to the Town of Barnstable. She was glad Betty was recognized.

Councilor Milne thanked the Jane Eshbaugh Committee for choosing Betty Nilsson who is an active member of the Main Street Park Committee. Milne said that those who spoke on the Channel Point Road issue are in his precinct. He said he has a feel for what that street is now and what the Mooring was. However, that building was falling down so now that it is gone he thinks it was an improvement. We will have other discussions with Ms. Penn and Mr. Wyman and any others. The Scudders have given me their solemn commitment that they will work very closely with the abutters so that everybody comes out with a win, win situation.

Councilor Crocker echoed the concerns from Ms. Penn about the zoning issue. He understood it to be an office use and certainly the zone that is proposed is something we can look at. This is the reason why this issue should go forward and must be heard and everybody should have their say so that a resolve can come for the betterment of that area.

Crocker said as far as Mr. Baker's issues on settling land problems, he would state that the hardest thing is to stand by and watch our neighbors, friends, and constituents have to sue the town to get what is rightfully theirs. Anyone that has a land settlement issue should bring it to the light of day and maybe this can be resolved in a professional manner for the best of the residents.

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

Councilor Joakim extended a thank you to Councilors: Canedy, Tobey and Brown for coming to the reception for the new director of the Senior Center. She asked - Is their anything we can do as a council to establish a gate at the railroad crossing on Phinney’s Lane and Rt. 149 or to consider some how getting involved in that? President Brown advised her to contact Mark Ells on that.

Councilor Canedy announced on the Second Annual Arts in the Barnstable Village on July 26. One of the aims of the local comprehensive plan is to highlight Barnstable as a center for the arts and theater. On the same day the 2004 Kids Carnival will be held to benefit the kids department of the Sturgis Library. On Monday, June 21st the Local Comprehensive Plan Committee will meet again. She would like to urge people to support the Community Preservation Act and to call the governor to sign it, and if he doesn’t then we need to contact our legislators to override the veto.

Councilor Barton thanked Councilor Tobey for attending the Year of Our Youth kick off at the Recreation Center. Starting on July 1st we will be celebrating the year of our youth and young people and youth initiatives in town.

Councilor Richardson said the Assessment Committee is proceeding with its task. There was a meeting on residential exemption which has been left open until tomorrow. Additional comments should be sent to the council office. There will be a meeting of the Appointments Committee this Thursday Night. All of our appointments have not been made so people are encouraged to still be in touch with us. Richardson confirmed with the Town Attorney that positions not filled by July 1 may still be occupied by those that currently hold the positions until a successor has been approved. Interested citizens may contact Richardson or the council administrative assistant.

PRESIDENT/VICE PRESIDENT COMMUNICATIONS

President Brown again announced the fireworks. Then stated the next Meeting of the council will be at 6 p.m. on July 15th. The dedication of the Walkway to the Sea begins at 4 PM.

TOWN MANAGER COMMUNICATIONS

Town Manager John Klimm said he will be presenting an update of the strategic plan.

He stated that a large group of staff and residents traveled to the Mass Aeronautics meeting in support of the Marstons Mills Airport. We are very pleased to announce that all three runways will be open shortly. The leasees will be able to run at a full complement and he wished them well. He also thanked the Management Advisory Committee and many councilors who took interest in this and helped to work through process. He announced that on July 15th, we will be having a ceremony at 4 PM on the Village Green by the Iyanough Statue, recognizing the

opening of the Walk way to the Sea. Dignitaries will speak and they will proceed to the Maritime Museum where there will be a ceremony as well.

He said we still need to bring 13A (the provision that deals with fees) back to this council. A final decision needs to be made about the process that staff needs to follow when requesting a fee increase in the future. We want to do this so we don't miss another cycle.

There are several other items that will be discussed tonight that appear as late files. One is the \$97,000 that we received from the county. This money is to be committed to our school department. Klimm spoke with former Superintendent Ravenelle about using those funds to restore our elementary school positions as they are looking at a larger class ratio. That will be his recommendation.

There is also a first reading on the YMCA's desire to expand, and their need for a longer term lease. There is a parcel behind the YMCA that if it came under town control, would work very nicely with the housing plan. This has the support of the West Barnstable Civic Association, so there is a late file for discussion at the next meeting on that issue.

LPC STATUS UPDATE

Ray Lang and Marlene Weir were present from the Local Planning Committee. Tom Broadrick, Planning Director, distributed a report on the progress of the LPC on rewriting of the local comprehensive plan. They hope to keep the promised 24 month time frame from beginning to end. They presented a one page summary of each of the seven (7) sections of the plan and a one page summary of each of the village's local needs assessments. We are very committed for this to be a transparent and open process (**See Exhibit C**).

It was explained that prior to the two planning board meetings each month, one hour is an open meeting. This is broken up into subcommittees for each of the sections of the plan. We've tried to get experts from the state, county and local government as well as the private sector to discuss such items as transportation, solid waste management, nitrate nitrogen loading, and smart growth. This information is really state of the art information and is going to be incorporated into sections of the plan.

They urged the Councilors to keep abreast of subject areas. They plan to have various workshops such as harbor management, work-force housing, etc. They plan to put the summaries, committee meeting schedules and other items of interest on the website.

Eventually this plan will come back to the council, with a first draft in January. They said that they hope to establish a communication path with the Councilor Rugo as their liaison. If they hit a road block, or need input then you will be informed.

The committee spoke with Mark Milne about how to integrate a local comprehensive plan into a budget process.

Councilor Crocker said this group needs our support. He noted that they are right on time with their report and deserves our admiration.

Councilor Curtis worked with the group would like to say thank you.

Councilor Milne complimented them on the excellent summary.

Ray Lang, the chairman thanked the President and members of the council. He said they are fortunate to have Marlene Weir working on the plan. She is the force behind what they are doing. We as a council and a planning board commission and committees have to develop ownership in the plan we are revising then we know people are going to use it. We will highlight the plan so that people can use it to make it simple and get it down to a summary form so people will have a working booklet. All of our meetings with the Planning Board start with a workshop and are televised. He said they will work with the Town Manager if they need additional help. Since they heard about staff cuts the board has been working on the plan and not burdened the remaining staff.

ORDERS OF THE DAY

OLD BUSINESS (MAY BE ACTED UPON)

**2004-084 APPROPRIATION AND LOAN ORDER WATER POLLUTION CONTROL
ENTERPRISE FUND CAPITAL IMPROVEMENT PLAN
INTRO.: 04/20/04; 05/20/04; 06/03/04; 06/17/04**

Upon motion duly made and seconded it was:

ORDERED: that the sum of **\$11,775,000** be appropriated for the purpose funding two capital projects for improvements at the Hyannis Water Pollution Control Facility and one capital project at the Marstons Mills Charter School as outlined in the FY 2005-FY 2009 Capital Improvement Plan as recommended by the Town Manager as follows:

Water Pollution Control Facility Capacity Improvements	\$2,550,000
Water Pollution Control Facility Effluent Mitigation	\$8,850,000
MM Charter School Sewage System Odor Control Improvements	\$375,000

And that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$11,775,000**, 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 Munafo noted that before it can be read we need to have a motion to re-consider. He said that two (2) meetings ago he asked the council to reconsider 2004-084, and I've come before the council to move for that reconsideration. The motion to reconsider was seconded. President Brown explained that all we are doing is bringing this forward so we can vote on it and have a discussion.

VOTE Unanimous to reconsider.

Councilor Munafo presented his rationale **2004-084 APPROPRIATION AND LOAN ORDER WATER POLLUTION CONTROL ENTERPRISE FUND CAPITAL IMPROVEMENT PLAN** as written.

President Brown is there a second? Councilor Crocker seconded.

President Brown asked Mark Ells to come forward to update the council.

Councilor Munafo asked to speak.

Munafo said the reason why he asked to bring this back before the council is the way this is designed right now the enterprise fund for capital improvement at the waste water treatment plant would be offsetting some of the costs for major projects throughout the town. We have 3,000 residential users and about 1,000 businesses that are presently paying into the capital fund for the future repairs and maintenance of that facility. Right now with this loan order those monies would be used as well for the expansion of Lake Wequaquet for affluent mitigation and for some other properties. He asked the council to come back and look at that to see if this is the best way to deal with this expenditure. His opinion would be to have those people who need the expansion pay for the capital improvements and not put that burden on the present rate payers for something they substantially won't need. Also going through that I recognize within this loan order there are a few items that need to be addressed immediately, immediate concerns that need to be done and I'll have some amendments for that. I believe Mr. Ells at this point can give further explanation.

Mark Ells stated this appropriation order has three parts:

First part is the Waste Water Treatment Plant Improvements. There is a list of projects that need to be done they are currently in our capital program. There are also dollars in there to put in place an order control.

Second is for ethel mitigation for alternative means of disposal of waste water at most sites to accommodate future flow at the treatment plant. This money is for design, potential land purchase and construction of a facility to take up to 1.4 million gallons per day.

Finally \$375,000 is for an odor control improvement at the Horace Mann Middle and Elementary school. We found that those odor pollution control systems are not functioning properly. We would go through a design and then construction to improve those systems. Specifically we discussed this with Councilor Munafo. I believe he will make a recommendation on how to proceed. We do need these funds to proceed with these projects. Part of my concern related to the State revolving fund process from which we access subsidized loans to do waste water projects and there is a substantial lead time in being able to obtain those funds. We appropriate locally then we go forward with a design, and then get approval. Construction is a two (2) stage process. The entire process just to get to the point where your eligible and to go forward with construction typically takes about 24 months. I believe that a short term deferral would not slow

that process down but a longer term definitely would take us into a an added 12 months, so I think we need to take that into consideration.

President Brown asked Councilor Munafo for an amendment.

Councilor Munafo yes - I would like to strike the line Water Pollution Control Facility Effluent Mitigation of \$8,850,000 and bring that back to a time certain in July and then final approval in August. Under Water Pollution Control Facility Capacity Improvements, add the words after \$2,550,000 "subject to final council approval" and leave the rest as written. Then also in the last paragraph "authorize to borrow \$2,925,000".

Councilor Crocker seconded the motion.

President Brown asked Ells if he has any trouble with this amendment.

Ells said no I do not, that is a short enough time frame.

President Brown now in July we take the vote on this then it goes to August is that correct?

Ells said that is the time line that has been laid out.

Councilor Richardson asked for further explanation.

Councilor Crocker said the clearest way for the council to understand what's in front of us tonight is we are voting on two of the three items tonight which are totaling \$2,925,000. As the DPW Liaison I will bring in July the third one that's being eliminated tonight onto the agenda, so it will be heard in a time frame which is acceptable to Mark Ells. What we are looking at is moving 2004-084 with two of the three items totaling \$2,925,000 and we looking to vote that tonight to keep on track with Mark Ells request.

Councilor Joakim said she had a real problem with this. Two or three months meetings ago we did the budget and somehow it keeps getting reconsidered. I also don't have anything printed I would like to have a printed copy of what you are asking for in this amendment. I would really like to go back to the 13-0 roll call vote when we took it. I just have a real problem with this whole process.

Councilor Curtis asked Councilor Munafo what his reason was for wanting to postpone this till July. Curtis said just to reiterate what I think I heard is that your concern needs to be looked at in terms of who will pay for it?

Councilor Munafo said yes the way this is currently written, the present users would have to pay for the improvements. For the future would be to come up with a more even way to distribute those capital improvement costs so people are taking on their fair share.

Councilor Curtis said she was concerned about that approach that it may be setting precedent that can have far reaching consequences to the way we fund many things in the Town of Barnstable. We did have an opportunity to address this at the workshop when we took a vote on it.

Councilor Richardson said we had our opportunity to ask questions, and we did take a vote that was unanimous to have to support or not support this reconsideration. It is asking a lot of this group. In terms of who pays for what this could be a far reaching question. My inclination is to support what we did before.

Councilor Farnham said the key issue here is how to pay for it, and who in a fair manner does that. This is a challenge that we are going to face in the Capital Improvement Plan over the next five years. One of the things that the Financial Advisory Committee has been working on in the last couples of months is dealing with the roads program that we need to get our arms around. Councilor Crocker has attended a couple of CFAC meetings where we discussed how do we pay in a fair and efficient manner for nominal amount of capital we going to have to come up with over a reasonably short time. My understanding of Lake Wequaquet is that most of the properties owners would pay for their connection through the betterment process. It would not affect any of the existing rate payers. I think in fairness, Mr. Munafo does have a legitimate question. On the other hand I don't like to have to postpone the efforts of how we are going to have to pay for all of this.

Robert Smith, Town Attorney, said since this is borrowing of money going to bond. I want to make sure that we all know what exactly is taking place here. Starting with just tonight Councilor Munafo acted on a previous given notice of intent to submit a motion to reconsider. At the beginning of this part of the meeting the council took a vote a majority vote to reconsider the capital appropriation regarding the water pollution control facility. That put on the floor the original motion as it was submitted that is what was on the floor at that point. Then Councilor Munafo offered an amendment and that was seconded to reduce that by eliminating one big item and there are two smaller items that remain. The question on the floor at this point is whether we adopt that amendment of the original motion. After that amendment is adopted if it then you will have to come back to re-vote by a two thirds vote the original appropriation as amended if the amendment fails you will have to vote again to approve the amendment as it was originally adopted. Is that everybody's understanding?

Councilor Munafo amendment was **2004-084 APPROPRIATION AND LOAN ORDER WATER POLLUTION CONTROL ENTERPRISE FUND CAPITAL IMPROVEMENT PLAN** would strike the line "Water Pollution Control Facility Effluent Mitigation of \$8,850,000" and bring that back to a time certain in July and then final approval in August. The Water Pollution Control Facility Capacity Improvements and then adding the words after \$2,550,000 "subject to final council approval" and leave the rest as written. Then also in the last paragraph "authorize to borrow \$2,925,000".

VOTE 4 - Yes 9 - No (Farnham, Curtis, Barry, Joakim, Richardson, Tobey, Barton and Rugo)

President Brown said the amendment has been defeated. He asked Town Attorney Smith if they had to vote on the original.

Town Attorney Smith explained that the council had passed vote to approve it as it was originally presented. He said as long as everybody understands what the original vote was it doesn't have to be read again.

Councilor Brown said the council will vote on the original motion as previously heard a couple months ago this will be a Roll Call vote.

Upon motion duly made and seconded it was voted to approve 2004-084 as originally presented.

VOTE 9 - Yes 4 - No (Crocker, Milne, Munafo and Tobey) - Roll Call

<p>2004-111 ACCEPTANCE OF GRANT TO THE BARNSTABLE SENIOR CENTER FOR EDUCATION, OUTREACH AND TRAINING FROM THE GAY AND LESBIAN EQUITY FUND, A PROGRAM OF THE COMMUNITY FOUNDATION OF CAPE COD INTRO.: 06/17/04</p>

Councilor Crocker asked who the grant writer was. Senior Services Director, Elyse DeRoot, said the grant writer was Rose DeGregorio.

Upon motion duly made and seconded it was:

RESOLVED: that the Town of Barnstable hereby accept a grant of \$3,400.00 for funding to support the position of Program Coordinator to develop and implement an out reach, education, and training program for the community to better understand diversity in sexual orientation. The grant will be monitored by the Barnstable Senior Center staff and all grant activities would be held at the Senior Center.

VOTE 11 - Yes 1 - No (Munafo)

<p>2004-112 TRANSFER ORDER FOR FY 2004 POLICE DEPARTMENT INTRO.: 06/17/04</p>

Upon motion duly made and seconded it was:

ORDERED: that the sum of \$31,500 be transferred from the FY 2004 Police Department's personnel expenses to the FY 2004 Police Department's operating expense category.

VOTE 11 - Yes 1 - No (Milne) 1 - Abstain (Rugo)

ORDERS OF THE DAY

NEW BUSINESS (To Be Referred To Joint Public Hearing on July 15th)

**2004-113 AMEND THE ZONING ORDINANCE BY ADDING THE FOLLOWING PROVISION TO THE RC-1 RESIDENTIAL C-1 ZONING DISTRICT AS A NEW SUB-SECTION 3-1, 4 (4)(B), AS FOLLOWS
INTRO.: 06/17/04**

Upon a motion duly made and seconded it was voted to refer amended Item 2004-113 Amend the Zoning Ordinance by Adding the Following Provision to the RC-1 Residential C-1 Zoning District as a New Sub-Section 3-1, 4 (4)(B), as Follows to Joint Public Hearing on July 15, 2004 (See Exhibit D).

VOTE 12 - Yes 1 Abstain

**2004-114 AMEND THE ZONING ORDINANCE BY ADDING THE FOLLOWING NEW SPECIAL DISTRICT PROVISION SECTION 3-1.8, PRIVATE INITIATED AFFORDABLE HOUSING DEVELOPMENT
INTRO.: 06/17/04**

Upon a motion duly made and seconded it was voted to refer Item 2004-114 Amend the Zoning Ordinance by Adding the Following New Special District Provision Section 3-1.8, Private Initiated affordable Housing Development to Joint Public Hearing on July 15, 2004 (See Exhibit D).

VOTE 11 – Yes 2 Abstain

**2004-115 AMEND THE ZONING MAP BOUNDARY LINE OF THE RESIDENTIAL C1 ZONING DISTRICT AND THE B BUSINESS ZONING DISTRICT IN HYANNIS
INTRO.: 06/17/04**

Upon a motion duly made and seconded it was voted to refer Item 2004-115 To See if Town Council Will Vote to Amend the Zoning Map Boundary line of the Residential C1 Zoning District and the B Business Zoning District in Hyannis to Joint Public Hearing on July 15, 2004 (See Exhibit D).

VOTE Unanimous

**2004-117 BL-B ZONING MAP AMENDMENT
INTRO.: 06/17/04**

Upon a motion duly made and seconded it was voted to refer Item 2004-117 BL-B Zoning Map Amendment to Joint Public Hearing on July 15, 2004.

VOTE Unanimous

2004-118 GENERAL AMENDMENT - REGULATORY AGREEMENT
INTRO.: 06/17/04

Councilor Farnham introduced the next five (5) orders 2004-118, 2004-119, 2004-120, 2004-121, and t2004-122 all of which will have some minor changes. Town Council members have been provided the revised agenda with changes noted. Councilor Farnham moved to order as printed the following exceptions (**See Exhibit E**).

Upon a motion duly made and seconded it was voted to refer amended Item 2004-118 General Amendment – Regulatory Agreement to Public Hearing on July 15, 2004.

VOTE Unanimous

2004-119 INDUSTRIAL ZONING DISTRICTS, ZONING AMENDMENT
INTRO.: 06/17/04

Upon a motion duly made and seconded it was voted to refer amended Item 2004-119 Industrial Zoning Districts, Zoning amendment to Joint Public Hearing on July 15, 2004 (**See Exhibit D and Exhibit E**).

VOTE Unanimous

2004-120 ROUTE 132 CORRIDOR ZONING MAP REVISIONS, ZONING AMENDMENT
INTRO.: 06/17/04

Upon a motion duly made and seconded it was voted to refer Item 2004-120 Route 132 Corridor Zoning Map Revisions, Zoning Amendment to Joint Public Hearing on July 15, 2004 (**See Exhibit D**).

VOTE Unanimous

2004-121 TRAFFIC MANAGEMENT OVERLAY DISTRICT
INTRO.: 06/17/04

Upon a motion duly made and seconded it was voted to refer amended Item 2004-121 Traffic Management Overlay District to Joint Public Hearing on July 15, 2004 (**See Exhibit D**).

VOTE Unanimous

**2004-122 AMENDMENTS TO THE ADMINISTRATIVE CODE, TOWN OF
BARNSTABLE, ESTABLISHING COMMUNITY DEVELOPMENT BOARD
INTRO.: 06/17/04**

Upon a motion duly made and seconded it was voted to refer amended Item 2004-122 Amendments to the Administrative Code, Town of Barnstable, Establishing a Community Development Board to Public Hearing on July 15, 2004 (See Exhibit E).

VOTE Unanimous

LATE FILE

**2004-123 APPOINTMENT
INTRO.: 06/17/04**

That the Barnstable Town Council appoints the following individual to a multiple member board:

ZONING BOARD OF APPEALS

James Hatfield PO Box 825, Hyannis Port, MA 02647 to serve as an Alternate until term expires 06/30/2005,

Upon a motion duly made and seconded it was voted:

VOTE Unanimous in favor.

LATE FILE

**2004-124 - RESOLVE TO ACCEPT SURPLUS FUNDS FROM BARNSTABLE
COUNTY FOR EDUCATION PURPOSES
INTRO.: 06/17/04**

Upon a motion duly made it was voted:

RESOLVED: that the Town Council hereby supports the acceptance of county funds – Round VI - in the amount of \$97,432, and authorizes the Town Manager to place the funds in a separate account to be used by the Barnstable Public School system for the hiring of classroom teachers.

VOTE Unanimous in favor.

LATE FILE

**2004-125 AUTHORIZATION FOR LEASE AND ACQUISITION OF PORTIONS OF
AND SHOWN ON ASSESSORS MAP 215 AS PARCEL 28
INTRO.: 06/17/04**

Upon a motion duly made and seconded it was voted to refer Item 2004-125 for a second reading on July 15, 2005.

VOTE Unanimous

LATE FILE

**2004-126 RESOLVE TO ACCEPT SURPLUS FUNDS FROM BARNSTABLE COUNTY
FOR PUBLIC SAFETY SERVICES
INTRO.: 06/17/04**

Councilor Crocker said that President Brown deserves a lot of credit for getting us this money thank you. Councilor Milne said this is a first for bringing money in.

Upon a motion duly made and seconded it was voted:

RESOLVED: that the Town Council hereby supports the acceptance of county funds for public safety services in the amount of \$41,700; and furthermore, authorizes the Town Manager to place the funds in a separate account to be shared equally between the Barnstable Police Department and the Hyannis Fire Department for public safety services.

VOTE Unanimous in favor.

RECESS till 9:00 PM

WORKSHOP – HYANNIS IMPLEMENTATION PLAN

John Klimm said we hope to provide an explanation of the items that will be brought before you at the July 15th Public Hearing.

We were presented with a marketing study and recommendations for revitalization of downtown. Last fall we had a comprehensive workshop when we presented to you our recommendations. The Town Council directed us to take those recommendations and transform them into ordinances which we have been doing over the spring.

We all will be attending a wonderful ceremony on July 15th signifying the long awaited Walkway to the Sea and the beginning of the downtown improvement project. We have many people in our community to thank who believed in this project. Principally they are the Hyannis Area Chamber of Commerce and the Hyannis Civic Association, but there are many, many other groups as well who have been incredibly helpful to us. We thank them for making the Walk way

to the Sea happen as well as the downtown project. With our ceremony on July 15th is a new sense of hope to under take a real effort beginning with an adoption of a package of sensible reforms

The recommendation that you will hear tonight are from experts who are consistent with principals Smart Growth and the Cape Cod Commission Regional Policy Plan. We talked with residents, downtown businesses, and potential investors. We listened and responded by putting together a set of recommendations for your consideration. Without a strong commitment my recommendation to you is as it was last fall, to spend our limited time and resources on other pressing issues in this town. We have to deal with issues such as traffic congestion. We must stop the hemorrhaging caused by excessive growth our plan heads us in this direction. Our overall plan addresses capacity issues, sewer and other infrastructure, traffic circulation, historic preservation, affordable housing and the like for the downtown area. You have to have a system in place for the design to work and we need a sun set clause. Zoning should be about what we want and not about what we don't want.

We would like to begin this presentation with Tom Broadrick who will summarize the conclusions of the 132 Committee which have been incorporated in our recommendation that will be before you on July 15th.

Tom Broadrick said one of our most powerful tools for growth management can be rezoning and that is what the 132 Committee took under advisement. We found out that we were allowing by our zoning all of the business uses you could possibly have in the Town of Barnstable all along Rt. 132. The industrial zone district also allowed all the B Business uses you could have here. We decided we were going to change zoning. We need to say what we want and not what we don't want. The proposal is to look at re-zoning.

Councilor Barry asked about widening of Route 132?

Tom Broadrick stated that we cannot do anything until 2005. We are still on schedule.

Councilor Richardson would you elaborate on the grandfathering in the industrial zoning area.

Tom Broadrick said unfortunately we have grandfathering clause in Massachusetts, that says if you have an existing use and if you don't change anything with your retail use you can continue forever. As soon as you change something then you have to comply with zoning.

Councilor Crocker asked if Broadrick was against grandfathering.

Tom Broadrick replied that Massachusetts is the only state who does grandfathering this way. Usually grandfathering is at the point of a building permit being issued.

Councilor Crocker that is a great explanation but the real question is, are you in favor of grandfathering in Massachusetts?

Tom Broadrick answered no.

Councilor Richardson asked if we have incentives and disincentives.

John Klimm said yes there are but we haven't got to that yet.

Councilor Munafo asked on the North side you would like to re zone that for residential? We are looking at the land near the golf course where one of the biggest objections to that was they don't want to see the number of trips on 132 to be increased. What are we looking for residential use and are there any projections for the number of trips on 132 at this time?

Tom Broadrick didn't have the data available but can obtain it. The idea was to rezone it so that we would encourage open space smaller size lots (1 acre zoning). To replace the business it would make sense to put residential in its place.

Councilor Farnham asked if the proposed changes in the industrial area would have an affect.

Kevin Shea said he didn't think it would change or impact the state regulations.

Patty Daley stated that this ordinance is limited geographically. We identified the major arteries leading into Hyannis: Rt. 28, Rt. 132, Yarmouth Road, Phinney's Lane, Haddaway Road, Bearses Way, Barnstable Road, West Main Street, Enterprise Road and Incorporation Street. We've identified those as the major transportation corridors into this community. So that is the geographic limitation. Essentially, any properties located on those roadways cannot put in a new development or expand a existing development if it will result in additional traffic. The ordinance is limited to 18 months to give the town time to look at those corridors and identify what the existing uses are. The Cape Cod Commission is going to start a study to look at transportation issues relative to Hyannis. Essentially it stops for a limited period of time new development that will result in increase of traffic and that is the purpose of the ordinance in a nutshell.

Councilor Tobey said the moratorium bothers me. Is this the only way that we can slow this down? Have you looked at any other controls to use.

Patty Daley said another option is to not adopt a moratorium and to study these issues over the next 18 months. But the problem then is you have new developments coming on line all the time. Our feeling is the traffic situation just gets worse.

John Klimm said this is a very conservative proposal. This is not permanent. Residents have been pleading for us to do something.

John Klimm said if the majority of the committee (after the 6 month review) finds that it isn't working you offer a ordinance to rescind the moratorium.

Councilor Crocker we are having some serious discussions. First the loss of grand fathering rights, and now were hearing discussion on a moratorium on state as well as town roads. This is

very, very progressive, and I appreciate your aggressive approach. I'm just going to be cautious while going through this process.

Councilor Rugo I think this is excellent foresight I don't even go on Main Street anymore I just know better it's too stressful. Thank you.

John Klimm said the second item is the office of Economic and Community Development that is a hybrid agency lacking many of the tools that communities have and use to implement their revitalization strategies. We are recommending a community development board. We revised the proposal so that it is a citizen's board and that it would be this council that will use the eminent domain tool. We need a citizens group to focus on the future of a specific area to recommend a plan to the town council and to recommend an economic development strategy to assist in the drafting of a plan for submission to the state.

Kevin Shea stated Community Development Board puts the council in the driver's seat. We have plenty of investment what we need in place is a catalyst. This ordinance sets up community development board and through existing state statute it gives the board powers of a renewal agency. Those powers can only be used with the authority of the town council. Furthermore as Councilor Farnham detailed tonight in the amendments to the ordinance, there is a provision that eminent domain shall only be done by the town council. This plan also has to be approved by the state. It gives the town the opportunity to assemble parcels that are blighted or under utilized in the downtown area. This actually gives the town tools to do something about that. There is citizen participation there is state approval and there is council approval. The board is a five person board four elected by the council the fifth is a gubernatorial appointment appointed by the Department of Housing and Community Development. There are five-year staggered terms. We are setting up a structure within our current structure. Through the state statute the community development board is given the powers to create that tool. Also a sunset review provision to give the council an opportunity to see if things are working.

Councilor Canedy hopes the board members consist of one or more from each village which could rotate or be a voted position. That it is important to have this representation. What would the vote for approval by the council have to be a majority vote or 2/3rds vote and would the majority vote include eminent domain? Would the area of concern extend to Bearses Way a development for affordable housing perhaps?

John Klimm said the first members of the committee should be a council decision. If there ever is to be an eminent domain taking that would probably be a 2/3rds vote. The area of concern that is before should be looked over, worked on.

Councilor Milne asked if in building a criteria is there something either from the way the state sets these up or through our own requirements, and who will actually become that person to develop that property and will there be a preference for local business versus national corporate type of business.

Kevin Shea answered that would have to be specified before the council.

Greg Milne asked can you clarify the blue color is the eminent domain area and then the orange area on the map? What was the decision making relevant for a development agreement?

Kevin Shea answered that is the CARD district a state designation that is the outside line. This is the zone where the Citizens group will focus their effort.

Councilor Munafo said this Community Development Board is designed to circumvent the laws of the state and give us a way to do it. You can put blue here on Main Street all we want but all we really want to do is gain control of the 500 block. This is scary, scary to the community and its kind awkward to hear it being put back on this council whether we trust ourselves or not. The fact comes down to I don't know any one of the councilor members here who won't go back and look at the hard work of any board that has been presented before them and not take their recommendation in order to be able to move forward. By putting them in that position to begin with it only ends up to be a rubber stamp. We've already put one restriction on Rt.132 and were going to look at other areas now on Rt. 28 and what have we really accomplished other than slowing things. Most of the stuff that's been done is what we've done to ourselves in an effort to gain control of something we thought was out of control we only ended up hurting ourselves. For me as far as I'm concerned these people own their property this amounts to nothing more than wealth fare for the business community.

Councilor Crocker asked for a definition of a blighted property?

Kevin Shea answered a blighted property is stated in the state regulations.

Councilor Crocker asked can you give me an example of a blighted property on Main Street. I'm searching for the criteria if were talking about eminent domain.

Kevin Shea said Stevens Street where all the trash and the old ice cream trucks are. The old Hood plant.

Councilor Crocker said this would certainly scare me if I were a property owner in the blue area.

Kevin Shea responded if you have a nice piece of property you have nothing to fear its not the purpose of the plan.

Councilor Crocker asked did you see the expo by 60 Minutes on blighted properties.

Kevin Shea answered yes.

Councilor Crocker said with eminent domain the expense of moving people could cost more than the real estate itself.

Council Curtis said my assumption would be that there are a lot of steps before consideration of eminent domain.

John Klimm said this was done very sparingly. There would have to be a very compelling reason to use eminent domain as an offensive tool and defensive tool.

Councilor Farnham – Redevelopment plan is tied to the eminent domain can you explain that.

Kevin Shea it would be a specific plan to one project. The project is the redevelopment plan. Its done in two fashions you can either take the whole area and do a master redevelopment plan, or you could take a specific parcel within that redevelopment plan that would become the specific project.

Councilor Joakim said she is really excited about all this. Since 1983 I've seen the whole area go down hill. Thank you very much for your very hard work.

Councilor Richardson stated that there is a need for a redevelopment authority to guide and direct. You are talking about Route 132 to rezone that into residential. I am very much opposed to sprawl. My fear is that we are going to lose that charm.

John Klimm said the issue of a Regulatory Agreement Process is a part of this and will be presented to you on July 15th. The regulatory review exists at the local level and county level. People who own property on Main Street said we have to do something about the regulatory process and this agreement initiates a process for maximum capacity of the downtown area. We want to make sure that we are clear about what we want.

Patty Daley said the particular benefits of the master project and the streamlining of the permitting process has been laid out nicely. The regulatory agreement is essentially a contract voluntary in terms of the property owner to proceed under zoning or regulatory. Regulatory agreements are negotiated by the Planning Board and they have to be approved by the town council. In the event that a regulatory intended to vary zoning in any way a 2/3rds vote by this council would be necessary to ratify the agreement (**See Exhibit F & Exhibit G**).

Upon motion duly made and seconded it was voted to adjourn at 11:00 PM.

Respectfully submitted,

Cheryl A. Phillips, Secretary
Barnstable Town Council
Town of Barnstable