

Darby water easement OK'd

Some continue to
question the vote

By David Still II

dstill@barnstablepatriot.com

A water easement for the Centerville-Osterville-Marstons Mills Fire District to protect a potential future water supply well on the town-owned Darby land was approved last week by the Barnstable Town Council.

While the vote is recorded, it's not entirely clear if the matter is fully resolved. The sometimes confusing manner in which the vote was taken prompted complaints immediately afterward. There's also been talk in some quarters about filing a complaint with the state Ethics Commission over the dual role played by Osterville town councilor Jim Crocker, who also serves as an elected member of the COMM prudential committee.

During the council discussion of the matter, Councilor Tom Rugo of Centerville was the most direct about why he thought the easement was sought, saying that it was a means for Osterville to prevent affordable housing. That drew a grumble from the predominately pro-easement crowd.

One caller to the paper coined the phrase, "The gang who couldn't vote straight," and so it appeared last Thursday as the council moved awkwardly toward a decision.

After procedural confusion about what was being voted, the final vote on the matter was made. Rugo passed when first called to cast his vote. When the vote came back to him it stood at 6 yes, 4 no, and two abstentions.

Rugo voted yes, indicating that he was doing so to retain his rights. He then immediately called for reconsideration after the clerk announced the vote. Only those voting in the affirmative can call for reconsideration.

During a five-minute break, Barnstable Village councilor Ann Canedy was pressed to change her vote in the hallway by Hyannis councilor Greg Milne. Both had abstained in the initial vote.

The vote to reconsider failed, with Canedy still abstaining.

The vote came after a week of

PATRIOT
4/14/06

CONTINUED ON PAGE A:5



DAVID STILL II PHOTOS

THE MANY MOODS OF JIM CROCKER – Osterville's Jim Crocker is among the more animated town councilors on the dais, as his expressions and movements during last Thursday's Darby debate demonstrate.

Darby water easement OK'd...

CONTINUED FROM PAGE A:1

pointed e-mail correspondence among councilors and hints that alleged violations of the open meeting law had occurred.

Crocker and council vice president Janet Joakim were the central figures in that correspondence.

At the meeting, Joakim read excerpts from the town's affordable housing plan, which calls for the development of 87 units of housing on Darby. While two years old, the plan remains Barnstable's approved housing plan recorded with the state. She asked that the council postpone its vote on the easement until questions relating to housing and others raised by councilors during the meeting could be addressed.

Hyannis Councilor Harold Tobey called the question for a vote before any proper vote to postpone was made.

Regarding the claims of a potential conflict of interest, Crocker said in an interview this week that the issue of dual representation had been addressed three years ago. A similar complaint was filed against then councilor and elected

COMM water commissioner Carl Riedell. According to the letter provided by the state Ethics Commission on that complaint, it was determined that "the conflict of interest law does not apply to public/public conflicts within the same town."

Crocker said that he had also discussed the matter with town attorney Robert Smith.

Other Points of Interest

In his opening remarks, COMM Prudential Committee chairman Nestor Silva, who serves with Crocker on that board, said that it had "been a pleasure" working with Crocker. "And we always meet in public," Silva said, a not-so-hidden slight at councilors Crocker accused of violating the open meeting law.

Public comment on the issue was mixed, some asking for additional time for questions and issues to be answered and discussed, some asking that the easement go forward and others that it be turned down.

Among those seeking its defeat was Tom Lynch, executive director of the

Barnstable Housing Authority and signer of a "declaration of mutual interest" regarding the Darby property. That document was presented two years ago as a roadmap for water exploration and housing uses on the land. As he did last May at the COMM annual meeting when the easement was first debated, Lynch criticized COMM signatories Bill McIntyre, chairman of the district's water board, and prudential committee member Nestor Silva for what he saw as a breach of its provisions.

Also as he did last year, Lynch did not include Town Manager John Klimm, another signer of the declaration, in his comments. Klimm was not questioned during the town council meeting and offered no written staff recommendation on the proposal. As town manager, Klimm is responsible for executing any and all agreements on town-owned and controlled land.

Klimm told the Patriot last week that if asked, he would recommend that "we certainly have made it very clear that we have recommendations that deal with Darby and other parcels" with respect to housing and water.