



Town Council Meeting  
June 7, 2018



**A** quorum being duly present, Council President Eric Steinhilber called the June 7, 2018, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Steinhilber regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

**PRESENT:** Britt Beedenbender, James Crocker, Jr., Debra Dagwan, John Flores, Jessica Rapp Grassetti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Eric Steinhilber, James Tinsley, Jr., Philip Wallace. **ABSENT:** Jennifer Cullum

The Pledge of Allegiance was led by President Steinhilber followed by a moment of silence.

**PUBLIC COMMENT:**

Tina Carey discussed the Hyannis Main Street Business Improvement District (BID), the opting out process and her anguish over the membership fees. She felt the organization was dishonest. (Exhibit A)

Lori Lundholm said she did not know about the 2008 BID when she purchased her property. She felt she received no benefit or value for the fees. (Exhibit B)

Janet Cook felt there was no advantage to being part of the BID and gave a copy of her bill to the Town Council. (Exhibit C)

Maria Barroso thanked Chief Paul MacDonald for his service and mentioned all three candidates would have made a great Chief of Police. She gave Chief Sonnabend her full support.

Narinder Thind spoke about the lien that was placed on his property. He asked for a copy of the BID members who had opted out of the organization. (Exhibit D)

Lori Crawley questioned the memorandum of understanding (MOU) regarding the leaching field on Dunn's pond. She was very concerned with the issue of water as most homes in the area were now running their sump pumps 24 hours a day.

Kathy Duran was opposed to the MOU and hoped the Town could find an alternative sight.

She had pictures of the affected area. (Exhibit E)

Michael Mangalo spoke about his BID bill for \$20,000 and felt these fees would be a burden passed on to renters; that he received no benefits from the organization; and there was no way to opt out of the organization. (Exhibit F)

Steve Luciani discussed the regulations related to adopt-a-spot. He asked the Town to reconsider the ban on signs for his adopt-a-spot.

Alison Alessi from the Renewable Energy Commission spoke about the Town of Barnstable transiting to a more green community. She noted 70 percent of the state's populations live in green communities.

Chris Gagne, a 1996 Barnstable High School graduate, felt the cannabis industry was a good industry for the Town.

Kris Clark discussed the 11<sup>th</sup> annual Flag Day. She mentioned they were accepting all flags for proper disposal. She noted all were welcome at the Meeting House Farm in West Barnstable.

Land Acquisition Committee discussed their successful endeavors and noted how the committee valued and contributed to life in Barnstable.

Henry Farnham spoke about the 24<sup>th</sup> annual Father's Day Car Show. He mentioned there were 350 show cars and attendance was expected to be between 60,000 and 70,000.

Close Public Comment

**COUNCIL RESPONSE TO PUBLIC COMMENT:**

Thank you Steve Luciani for the signs unfortunately we all have to abide by rules so that everyone is treated the same. Thank you Maria Barroso for your comments and please continue to build our community with our new Police Chief Sonnabend. There needs to be more discussion regarding the leaching field and wastewater. The water hydrant on Dunn's Pond is underwater; it is a public safety issue and needs to be pumped clear. Proper notice needs to be given for a lien on a BID property.

**TOWN MANAGER COMMUNICATIONS: Update period May 18 through June 7, 2018**

Budget Fiscal Year 2019

Massachusetts Department of Fish & Wildlife

Vineyard Wind

Center for Coastal Studies mapping of Barnstable Harbor

Free Lunch Program at Hyannis Youth & Community Center

One Love workshop

Barnstable Public High School Sport Field Upgrade Project

**Councilor questions and comments:**

There is confusion on the lien BID process. What is the role of the Town? This is a clarity issue. Ruth Weil, Town Attorney explained the lien was placed on the property not by the Town but by the BID members. She added the scope of the Town's duties is to only send out the BID documents. She noted laws have changed regarding opting out of the BID. Clarity is needed as the process for the BID was approved by Council.

What is the next step regarding affluent discharge? We need to know how to handle his issue. Treat it and reuse it.

Ann Quirk, Town Clerk discussed the changes to the upcoming election polling locations. She noted the Town was no longer utilizing public school facilities as polling locations. She added the changes needs to be approved by Council at the next Council meeting. No more voting in public school buildings? [Correct] What is the process to alert the residents of the change in certain polling locations? [Send out postcards to the registered voters from the affected precinct announcing the change to the polling location] What about early voting? [Early voting only currently scheduled for the November 2018 election]

**ACT ON MINUTES:** Upon a motion duly made and seconded it was voted to approve the minutes of the May 17, 2018

**VOTE: PASSES UNANIMOUS**

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

Councilors mentioned upcoming June and July 4<sup>th</sup> events in their precincts.

Reorder the agenda to take agenda item 2018-160 before agenda item 2018-111.

**2018-160 CONFIRMATION OF APPOINTMENT OF MATTHEW K. SONNABEND AS BARNSTABLE CHIEF OF POLICE INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Barnstable Town Council hereby confirms the appointment by Town Manager Mark S. Ells of Matthew K. Sonnabend as Chief of Police

**VOTE: 12 YES – PASSES**

**2018-111 APPROPRIATION ORDER IN THE AMOUNT \$14,532,512 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 BARNSTABLE POLICE DEPARTMENT BUDGET INTRO: 05/03/18, 05/17/18, 06/07/18**

Chief Sonnabend gave the rationale. He discussed the community and reassured the residents the police priorities have remained the same through the transition from Chief MacDonald to himself. He mentioned Unity Day was planned for August 3<sup>rd</sup>, 2018. He gave an overview with a PowerPoint presentation. He spoke about crime statistics; calls for service; investigative services; narcotic units; and the communication center. Chief Sonnabend noted Barnstable had next generation 911 calling and an memorandum of Understanding (MOU) with the Hyannis Fire District for the new shared equipment.

Open public hearing seeing no one close public hearing

**Councilor questions and comments**

How many overtime hours? [Will have to get back to you on with the answer] What is the number of resource offices in the schools? [2 officers in the high school and 1 officer in the intermediate school]

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$14,532,512** be appropriated for the purpose of funding the Town's Fiscal Year 2019 Barnstable Police Department budget; and to meet such appropriation that **\$14,482,512** be raised from current year revenues and that **\$50,000** be transferred from the Embarkation Fee Special Revenue Fund as presented to the Town

Council by the Town Manager  
**VOTE: PASSES UNANIMOUS**

Jump to 2018 -152

**2018-152 ACCEPTANCE OF A FISCAL YEAR 2018 SUSTAINED TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT IN THE AMOUNT OF \$9,478.03 FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY, OFFICE OF GRANT AND RESEARCH, HIGHWAY SAFETY DIVISION INTRO: 06/07/18**

Ann Spillane, Director of Police Support Services gave the rationale. She mentioned this was the second year Barnstable was offered the grant and a total of sixteen municipalities had received grants. She added this was a reimbursement grant with no matching element needed.

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council hereby accepts a Sustained Traffic Enforcement Program (STEP) Grant award in the amount of **\$9,478.03** from the Executive Office of Public Safety and Security, Highway Safety Division

**VOTE: PASSES UNANIMOUS**

Jump to 2018 - 153

**2018-153 ACCEPTANCE OF A FISCAL YEAR 2018 GRANT IN THE AMOUNT OF \$5,622 FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY, OFFICE OF GRANTS AND RESEARCH, HIGHWAY SAFETY DIVISION INTRO: 06/07/18**

Ann Spillane, Director of Police Support Services gave the rationale. She explained this grant was to help reduce fatalities regarding pedestrians and bicycles. She added this was a reimbursement grant with no matching element needed.

Upon a motion duly made and seconded it was

**RESOLVED:** That the Barnstable Town Council does hereby accept the Fiscal Year 2018 Pedestrian and Bicycle Safety Enforcement and Equipment Grant in the amount of **\$5,622** from the Executive Office of Public Safety and Security, Office of Grants and Research, Highway Safety Division

**VOTE: PASSES UNANIMOUS**

Jump to 2018 - 146

**2018-146 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$100,000 FOR THE FISCAL YEAR 2018 AIRPORT CAPITAL BUDGET FOR THE PURPOSE OF FUNDING VARIOUS AIRPORT CAPITAL IMPROVEMENT PROJECTS INTRO: 05/17/2018, 06/07/18**

Bud Breault, retiring Airport Manager, introduced the new Assistant Airport Manager Select. Katie Servis Incoming Airport Manager gave the rationale. She discussed the shovel ready projects, which 80 percent were funded. She noted tonight's request was for the Hanger 2 Project.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$100,000** be appropriated for the purpose of supplementing funds requested and approved in Town Council order 2018-104 to fund the Hanger II Drainage Improvements project and that to meet this appropriation, that \$100,000 be

transferred from the Airport Enterprise Fund reserves; and that the Airport Commission 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.

**VOTE: PASSES UNANIMOUS**

**Jump to 2018-126**

**2018-126 APPROPRIATION ORDER IN THE AMOUNT OF \$275,682 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 TOWN COUNCIL BUDGET INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale. He said there were no significant changes to the budget.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$275,682** be raised and appropriated for the purpose of funding the Town's Fiscal Year 2019 Town Council budget as presented to the Town Council by the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-127 APPROPRIATION ORDER IN THE AMOUNT OF \$671,810 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 TOWN MANAGER BUDGET TOWN MANAGER DEPARTMENT INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$671,810** be raised and appropriated for the purpose of funding the Town's Fiscal Year 2019 Town Manager budget as presented to the Town Council by the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-128 APPROPRIATION ORDER IN THE AMOUNT OF \$6,008,108 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 ADMINISTRATIVE SERVICES DEPARTMENT BUDGET INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale. He recognized all the Inspectors from Administrative Services who were attending the Council meeting.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of \$6,008,108 be raised and appropriated for the purpose of funding the Town's Fiscal Year 2019 Administrative Services Department budget as presented to the Town Council by the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-129 APPROPRIATION ORDER IN THE AMOUNT OF \$22,788,710 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 EMPLOYEE BENEFITS BUDGET INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

**Councilor questions and comments**

What is the Town's OPEB liability? [The liability is 180 million dollars]

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$22,788,710** be appropriated for the purpose of funding the Town's Fiscal Year 2019 Employee Benefits budget, and to meet such appropriation, that **\$21,349,710** be raised from current year revenue, that **\$250,000** be transferred from the Pension Reserve Trust Fund, and that **\$1,189,000** be transferred from the General Fund reserves, as presented to the Town Council by the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-130 APPROPRIATION ORDER IN THE AMOUNT OF \$9,996,301 FOR THE PURPOSE OF FUNDING THE TOWN'S FY 2019 GENERAL FUND DEBT SERVICE BUDGET INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$9,996,301** be appropriated for the purpose of funding the Town's FY 2019 General Fund Debt Service budget, and to meet such appropriation, that **\$4,206,789** be raised from current year revenue, and that **\$5,677,329** be transferred from the Capital Trust Fund, and that **\$59,283** be transferred from the Embarkation Fee Special Revenue Fund, and that **\$52,900** be transferred from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-131 APPROPRIATION ORDER IN THE AMOUNT OF \$2,009,000 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 LIBRARY AND TOURISM GRANT BUDGETS INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$2,009,000** be raised and appropriated for the purpose of funding the Town's Fiscal Year 2019 Library and Tourism Grant budgets as presented to the Town Council by the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-132 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2019 RESERVE FUND INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale. He noted this action has never been taken before.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$250,000** be appropriated for the purpose of funding the Town's Fiscal Year 2019 Reserve Fund and that the sum of **\$250,000** be transferred from the General Fund reserves

**VOTE: PASSES UNANIMOUS**

**2018-133 APPROPRIATION ORDER IN THE AMOUNT OF \$15,597,099 FOR THE PURPOSE OF FUNDING THE TOWN'S FY 2019 INSURANCE, ASSESSMENTS, TRANSFERS AND OTHER FIXED COSTS BUDGET INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$15,597,099** be raised and appropriated for the purpose of funding the Town's Fiscal Year 2019 Insurance, Assessments, Transfers and Other Fixed Costs budget as presented to the Town Council by the Town Manager, and that the following sums be transferred from the Town's Enterprise Funds for the purpose of reimbursing administrative, employee benefit and insurance costs budgeted within the General Fund:

Water Pollution Control	\$510,970
Solid Waste	\$344,416
Water Supply	\$177,332
Airport	\$734,716
Golf Course	\$440,012
Marinas	\$67,371
Sandy Neck	\$94,826
HYCC	\$317,446
PEG	\$79,128

And further, that the sum of **\$1,275,000** be transferred from the General Fund reserves all for the purpose of funding the Town's FY 2019 General Fund budget as presented to the Town Council by the Town Manager.

**VOTE: PASSES UNANIMOUS**

**2018-134 COMMUNITY PRESERVATION FUND ADMINISTRATION EXPENSES AND FISCAL YEAR 2019 PROGRAM SET-ASIDES INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale. Lindsey Counsell, Chair of the Community Preservation Committee spoke about the expenses with regards to to an administrative position and debt service.

Open public hearing seeing no one close public hearing

**Councilor questions and comments**

Is the administrative position part-time? [Yes]

Upon a motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year beginning July 1, 2018, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: **\$393,988** for open space and recreation; **\$393,988** for historic resources; **\$393,988** for community housing; **\$593,486** for a budget reserve, and that the sum of **\$150,000** be appropriated from the annual revenues of the Community Preservation Fund for the administrative expenses the Community Preservation Committee, to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager

**VOTE: PASSES UNANIMOUS**

**2018-135 APPROPRIATION ORDER IN THE AMOUNT OF \$2,107,952 FOR THE PURPOSE OF PAYING THE FISCAL YEAR 2019 COMMUNITY PRESERVATION FUND DEBT SERVICE REQUIREMENTS INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the Town Council hereby appropriate **\$2,107,952** for the purpose of paying the Fiscal Year 2019 Community Preservation Fund debt service requirements, and to meet such appropriation, that **\$2,014,433** be provided from current year revenues of the Community Preservation Fund and that **\$93,519** be provided from the reserve for the historic preservation program within the Community Preservation Fund

**VOTE: PASSES UNANIMOUS**

**2018-136 CHANGES TO CHAPTER 86 ARTICLE III OF THE GENERAL ORDINANCES INTRO: 05/03/18, 05/17/18, 06/07/18**

Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

**Councilor questions and comments**

This is good it will help clean the property titles for future lands to be sold.

Upon a motion duly made and seconded it was

**ORDERED:** That the following changes be made to the Town's Revolving Fund ordinance under Chapter 86 Article III:

§ 86-7

A. Establishment.

The Town hereby establishes revolving funds, pursuant to Chapter 44, § 53 E 1/2 of the General Laws, within the special revenue accounts of the Town of Barnstable and for use by the designated town departments and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities.

B. Authorized Revolving Funds.

- (1) Classroom Education Fund, Senior Services Division operated by the Community Services Department.
- (2) Recreation Program Fund, Recreation Division operated by Community Services Department.
- (3) Shellfish Propagation Fund, Natural Resources Division operated by the Marine & Environmental Affairs Department.
- (4) Consumer Protection Fund operated by Licensing Department.
- (5) Geographical Information Technology Fund, Information Technology Department operated by Administrative Services Department.
- (6) Arts and Culture Program Fund operated by Planning and Development Department.
- (7) Asset Management Fund operated by Town Manager Department.

§ 86-8 Operation and Procedures



The Senior Services Division and the Recreation Division of the Community Services Department, the Licensing Department, the Information Technology Department of the Administrative Services Department, the Planning and Development Department, the Marine and Environmental Affairs Department and the Town Manager Department are hereby authorized to operate said funds in the following manner:

#### A. Revenues

The Finance Director shall account for all funds separately from all other monies of the Town and to which shall be credited only the departmental receipts received in connection with the programs supported by such revolving fund. Receipts credited to each of these revolving funds shall mean the following:

- (1) For the Classroom Education Fund and the Recreation Program Fund: program registration fees to participate in these programs.
- (2) For the Shellfish Propagation Fund: fees generated from the sale of commercial and recreational shellfish permits and the sale of shellfish related merchandise.
- (3) For Consumer Protection Fund: fees generated for services performed under the weights and measures program.
- (4) For the Geographical Information Systems Fund: fees generated for the production of GIS maps and reports.
- (5) For the Arts and Culture Program Fund: lease payments received from the rental of artist shanties, gifts or contributions received for the support or promotion of arts and culture programs and any revenue generated from Town-sponsored arts and culture programming.
- (6) For the Asset Management Fund: proceeds from the sale of tax foreclosed property and other town owned property not specifically required to be accounted for subject to any other general law for the support and promotion of any expenditure related to the Town's comprehensive asset management program.

#### B. Expenditures

Expenditures may be made from the revolving funds established and authorized by this ordinance without further appropriation, subject to the following:

- (1) Expenditures shall not be made or liabilities incurred from any of the revolving funds in excess of the balance of the fund nor in excess of the total authorized expenditures from such fund. Expenditures from such revolving funds shall be at the approval of the Town Manager or their designee.
- (2) Expenditures from said fund shall not be made for the purpose of paying any wages or salaries for full-time employees unless the fringe benefits associated with such wages or salaries are also charged to the fund. Subject to the foregoing, the funds may be expended for payment of teachers, recreational instructors, shellfish propagation officers, weights and measures inspectors, and other expenses of programs providing classroom education to participating senior citizens, programs providing recreational activities to participating residents of the Town, shellfish seed stock and related shellfish propagation equipment and shellfish merchandise purchased for resale, weights and measures enforcement, production of GIS reports and, expenses related to the promotion of arts

and culture programs and expenses related to the support and promotion of the town's asset management program.

(3) The total amount spent during a fiscal year shall not exceed the amount authorized by the Town Council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Town Council.

C. Interest earned on any revolving fund balance shall be treated as general fund revenue of the Town.

§ 86-9 Annual Spending Limitation.

Annually, at the time the Town budget is submitted to the Town Council, the Town Manager shall submit an order to the Town Council authorizing the spending limitation for each revolving funds set forth in § 86-7.

§ 86-10 Annual report.

At the end of each fiscal year, the Finance Director shall report to the Town Manager the total amount of receipts and expenditures of each revolving fund for the prior fiscal year. The program directors shall report to the Town Manager the programs, services and participants served by each of the programs. The Town Manager shall forthwith cause a report to be made to the Town Council, together with such other information, as the Town Council shall require.

§ 86-11 Revolving Fund closure.

In the event that a revolving fund is not continued in the following fiscal year, the balance in the fund at the end of the fiscal year shall revert to the general fund surplus revenue unless the Town Council, upon the recommendation for a transfer from the Town Manager, votes to transfer such balance to another revolving fund.

**VOTE: PASSES UNANIMOUS**

<b>2018-137 REVOLVING FUNDS FISCAL YEAR 2019 REVOLVING FUND SPENDING LIMITS INTRO: 05/03/18, 05/17/18, 06/07/18</b>
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Mark Milne, Director of Finance gave the rationale.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council hereby authorizes the following spending limitations for Fiscal Year 2019 Revolving Funds:

Senior Services Classroom Education Fund - **\$75,000**

Recreation Program Fund - **\$525,000**

Shellfish Propagation Fund - **\$200,000**

Consumer Protection Fund - **\$400,000**

Geographical Information Technology Fund - **\$10,000**

Arts and Culture Program Fund - **\$50,000**

Asset Management Fund - **\$1,000,000**

**VOTE: PASSES 11 YES, 1 Abstention (Schnepp)**

**2018-148 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$195,000.00 OF COMMUNITY PRESERVATION FUNDS FOR CREATION AND ACQUISITION OF CONSERVATION RESTRICTION 2.18 ACRES±, 3600 FALMOUTH ROAD, MARSTONS MILLS, MAP 077, PARCEL 005 INTRO: 05/17/18, 06/07/18**

Lindsey Counsell, Chair of the Community Preservation Committee gave the rationale and introduced Janet Milkman, Executive Director of the Barnstable Land Trust. She discussed Route 149 and Route 28 on Mill Pond.

Open public hearing

Janet Barton, former Barnstable Land Trust President, spoke about the dredging project and felt it would improve public access.

close public hearing

Upon a motion duly made and seconded it was

**ORDERED:** That pursuant to the provisions of the community Preservation Act, G.L. c. 44B, the sum of One Hundred Ninety-Five Thousand and NO/100 (**\$195,000.00**) Dollars be appropriated and transferred from the amount set aside for open space in the Community Preservation Fund for creation and acquisition of a conversation restriction for open space and passive recreation from Barnstable Land Trust, Inc. ("BLT") representing a portion of the total amount of **\$287,500.00** needed by BLT to purchase and create and the Town to acquire a conservation restriction on a vacant open space lot including passive recreation in Marstons Mills containing 2.18 acres more or less, having a street address of 3600 Falmouth Road, Marstons Mills, shown on Barnstable Assessors Map 77, Parcel 5; that the conversation restriction is hereby approved in the form approved by the Land Acquisition and Preservation Committee and Town Manager subject to further approval by the Secretary of the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs; that the Town Manager is authorized to expend the amount appropriated on behalf of the Town for the restriction acquisition and reimbursement for creation as a vacant lot contingent upon public passive recreation rights and BLT raising and expending an **\$80,000.00** Massachusetts Conservation Partnership grant and **\$12,500.00** private funds subject to oversight by the Community Preservation Committee together with the grant and taking as a gift of rights from BLT to the Town for the periodic restoration of Mill Pond, fishway ladders and structures thereon senior to this conservation restriction; and that the President and Town Manager are authorized to execute, receive, deliver and record any written instruments for the stated purposes.

**VOTE: PASSES UNANIMOUS**

Jump to 2018-162

**2018-162 APPROVE THE CONSERVATION RESTRICTION BETWEEN BARNSTABLE LAND TRUST, INC. (GRANTOR) AND THE COMPACT OF CAPE COD CONSERVATION TRUSTS (GRANTEE) INTRO: 06/07/18**

Mark Robinson, Executive Director of the Compact of Cape Cod Conservation Trusts gave the rationale. He discussed the two properties on Peppercorn Lane, as well as other donated lands.

Upon a motion duly made and seconded it was

**RESOLVED,** that the Town Council approve the Conservation Restriction between Barnstable Land Trust, Inc. (grantor), and The Compact of Cape Cod Conservation Trusts (grantee), over approximately 4.07 acres of land on 0 Peppercorn Lane, Map 16 Parcel 029 Lot 002, and 35 Peppercorn Lane, Map 16 Parcel 029 Lot 001, for the purposes of preserving open space, water quality, and rare species habitat.

**VOTE: PASSES UNANIMOUS**

Upon a motion duly made and seconded it was discussed to extend the Council meeting past 11:00 PM

**VOTE: PASSES UNANIMOUS**

**2018-149 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION  
INTRO: 05/17/18, 06/07/18**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Disability Commission:** Steven Spillane, 44 Liam Lane, Centerville as a regular member to a term expiring 06/30/2021; **Youth Commission:** George Cole, c/o Hyannis Youth and Community Center, as a regular student member to a term expiring 06/30/2019

**VOTE: PASSES UNANIMOUS**

**2018-150 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:  
INTRO: 05/17/18, 06/07/18**

Upon a motion duly made and seconded it was to amend and remove the following appointees as they have sent resignation letters. **Airport Commission:** Mary Smith as a regular member to a term expiring 6/30/21; **Library Committee:** Karen Rezendes as a regular member representing Centerville Library to a term expiring 6/30/2019.

**VOTE: PASSES UNANIMOUS**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Airport Commission:** John Griffin as a regular member to a term expiring 6/30/2021; Joseph Berlandi as a regular member to a term expiring 6/30/2021; **Comprehensive Financial Advisory Committee:** John Schoenherr as a regular member to a term expiring 6/30/2021; Hector Guenther as a regular member to a term expiring 6/30/21; Joseph Mladinich as a regular member to a term expiring 6/30/2021; **Conservation Commission:** Dennis Houle as a regular member to a term expiring 6/30/2021; **Community Preservation Committee:** F.P. Tom Lee as a Conservation Commission Representative member to a term expiring 6/30/2021; **Council On Aging:** Helen Stretch as a regular member to a to a term expiring 6/30/2021; John Alden as a regular member to a term expiring 6/30/2021; Anna Valtsakis as a regular member to a term expiring 6/30/2021; Barbara Cross as a regular member to a term expiring 6/30/2021; **Disability Commission:** Sheila Mulcahy as a regular member to term expiring 6/30/2021; **Historical Commission:** Elizabeth Mumford as a regular member to a term expiring 6/30/2021; Cheryl Powell as an alternate member to a term expiring 6/30/2021; Marilyn Fifield as a regular member to a term expiring 6/30/2021; **Housing Committee:** Donald Lynde as a regular member to a term expiring 6/30/2021; **Human Services Committee:** Scott Fitzgerald as a representative member to a term expiring 6/30/2021 **JFK Memorial Trust Fund:** Robert Jones as a regular member to a term expiring 6/30/2021; Lynne Poyant as a regular member to a term expiring 6/30/2021; **Library Committee:** Suzanne Kelly as a regular member representing Sturgis Library to a term expiring 6/30/2019; Chrystal LaPine as a regular member representing Whelden Library to a term expiring 6/30/2019; Laurie Young as a regular member representing Osterville Library to a term expiring 6/30/2019; Margaret Sutphina as a regular member

representing Centerville Library to a term expiring 6/30/2019; Fred Schlipp as a regular member representing Sturgis Library to a term expiring 6/30/2019; **Licensing Authority:** Larry Decker as an associate member to a term expiring 6/30/2021; **Old Kings Highway Historic District Commission:** Polly Brazelton as an alternate member to a term expiring 6/30/2021; **Planning Board:** Stephen Helman as a regular member to a term expiring 6/30/2021; **Water Quality Advisory Committee:** Barry Gallus as a regular member to a term expiring 6/30/2021; **Waterways Committee:** John Meade as a regular member to a term expiring 6/30/2021; Robert Hazelton as a regular member to a term expiring 6/30/2021; **Zoning Board of Appeals:** Jake Dewey as a regular member to a term expiring 6/30/2021; Paul Pinard as an associate member to a term expires 6/30/2021; Kyle Evancoe as an associate member to a term expiring 6/30/2021

**VOTE: PASSES UNANIMOUS AS AMENDED**

**2018-151 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$340,000 PURSUANT TO TEMPORARY REPAIR TO PRIVATE ROADS PROGRAM REGARDING BUTLER AVENUE, OCEAN AVENUE, CLARK AVENUE, PROSPECT AVENUE, HOTEL AVENUE, SUMMERBELL AVENUE, LAKE ELIZABETH DRIVE, VALLEY AVENUE, LAUREL AVENUE, VINE AVENUE IN CENTERVILLE INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$340,000** be appropriated for the purpose of making temporary repairs to Butler Avenue, Ocean Avenue, Clark Avenue, Prospect Avenue, Hotel Avenue, Summerbell Avenue, Lake Elizabeth Drive, Valley Avenue, Laurel Avenue, Vine Avenue in the Village of Centerville, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, be authorized to borrow **\$340,000** and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, and that the Town Manager is further authorized to assess betterments and to accept any grants and/or gifts in relation thereto.

**VOTE: to a Public Hearing on June 21<sup>st</sup> - unanimous**

**2018-154 REPEAL OF SECTION 241-44.1 OF THE TOWN OF BARNSTABLE ADMINISTRATIVE CODE, AGRICULTURAL COMMISSION INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:** That the Town Council hereby amends the Administrative Code by repealing Section 241-44.1, Agricultural Commission

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> - unanimous**

**2018-155 REPEAL OF §241-27 OF THE TOWN OF BARNSTABLE ADMINISTRATIVE CODE, PERSONNEL BOARD AND AMENDMENTS TO CHAPTER 242 OF THE BARNSTABLE CODE, PERSONNEL AND CHAPTER 401, ARTICLE VIII, PERSONNEL REGULATIONS. INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED that:**

#### **SECTION 1.**

The Town Council hereby amends the Administrative Code by repealing §241-27, Personnel Board.

#### **SECTION 2.**

The Town Council hereby amends Chapter 242, Personnel, as follows:

By striking the phrase "Personnel Director" wherever it appears in §§242-5, 242-6 and 242-7 and substituting in place thereof the phrase "Human Resources Director".

By striking the phrase "Personnel Board and" where it appears in §242-5B(2), §242-7A and §242-7B.

By striking the phrase "and the Personnel Board" in §242-6A.

By striking §242-3 and §242-4 in their entirety and sequentially renumbering the remaining sections under Chapter 242.

### **SECTION 3.**

The Town Council hereby amends Chapter 401, Article VIII, Personnel Regulations as follows:

By striking the word "Personnel" wherever it appears in Chapter 401, Article VIII, Personnel Regulations, of the Barnstable Code and by substituting in place thereof the phrase "Human Resources" except under 401-82B and §401-97B(2)-(4).

By striking the phrase "except for persons under the control of the School Committee" in §401-81H.

By striking the phrase "Personnel Board" and substituting in place thereof the phrase "Human Resources Director" in §401-82B.

By adding the phrase "to the Human Resources Department" at the end of the second sentence in §401-83.

By striking out the definition of "Personnel Board" in its entirety under §401-84.

By striking §401-85B in its entirety and substituting in place thereof the following:

"B.  
Administration of classification plan. Each classified position is allocated to a grade. The Human Resources Director is responsible for classifying all positions. The Human Resources Director will recommend changes to the Town Manager for approval. When a new position is established or when a position has changed substantially as to the kind and/or level of work, the Town Manager, a department manager, an employee, or a recognized labor union may initiate a request for a change in classification by submitting a written request to the Human Resources Department accompanied by a position description questionnaire. The Human Resources Director shall document any changes in the position, its duties and/or responsibilities, evaluate the position and shall make a recommendation concerning the reclassification request to the Town Manager. The Town Manager's decision concerning the classification or reclassification request shall be final."

By striking the phrase "Town Accountant" and substituting in place thereof "Finance Director" in §401-85C.

By striking the second sentence of §401-88A in its entirety.

By striking the first sentence under §401-89D(1)(a) and substituting in place thereof "The vacation accrual for the calendar year in which employees were hired will be as follows:"

By striking the number "five" under §401-89D(4) and substituting in place thereof the number "ten".

By striking the phrase "Effective July 1, 1998" under §401-89E(4)(b) and by capitalizing the word "After" which follows the stricken phrase.

By striking the phrase "Effective January 1, 2016" under §401-89E(7) and by capitalizing the word "An" which follows the stricken phrase.

By striking the phrase "Effective July 1, 1998" under §401-89G(2) and by capitalizing the word "Upon" which follows the stricken phrase.

By adding the following subsections under §401-89J (1)(a):

"[4]

To care for covered service members and veterans who incurred a serious illness or injury in the line of duty; or

[5]

Any "qualifying exigency" arising out of the fact that a covered military member serving in the National Guard, Reserves, or Regular Armed Forces, called to active duty status in support of a contingency operation. Exigency defined as short notice deployment (limited to 7 calendar days from notice); military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation (limited to 5 days from FMLA leave per leave), post deployment activities (up to 90 days from end of deployment)., additional activities agreed to by the Town and employee."

By striking the second sentence under §401-90B(4)(b).

By striking the phrase "Personnel Director under §401-90D(1)(b)(2) and substituting in place thereof the phrase "department manager or their designee."

By adding the phrase "or their designee under §401-90D(3)(a).

By adding the phrase "that requires a pre-employment physical" after "position" under §401-90D(4).

By striking the sentence fifth sentence under §401-92D(2) which currently reads: "The Personnel Director shall make every effort to conduct an exit interview with each employee who resigns and will verify the employee's reasons for leaving."

By striking the phrase "and be removed two years after the appraisal year" under §401-

By striking the “Effective July 1, 1998 under §401-94D(2).

By striking “Personnel Board” under §401-97B(2)-(4) and substituting in place thereof “Human Resources Director.”

By striking §401-79 Personnel Board in its entirety and sequentially renumbering the remaining sections in Chapter 401, Article VIII

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> - unanimous**

**2018-156 REPEAL OF CHAPTER 241-45.2 OF THE TOWN OF BARNSTABLE ADMINISTRATIVE CODE, RENEWABLE ENERGY COMMISSION INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:** That the Town Council hereby amends the Administrative Code by repealing Chapter 241-45.2, Renewable Energy Commission

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> - unanimous**

**2018-157 REPEAL OF CHAPTER 241-44.5 OF THE TOWN OF BARNSTABLE ADMINISTRATIVE CODE, LAND ACQUISITION AND PRESERVATION COMMITTEE INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:** That the Town Council hereby amends the Administrative Code by repealing Chapter 241-44.5, Land Acquisition and Preservation Committee

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> - unanimous**

**2018-158 AMEND §241-45.1A OF THE ADMINISTRATIVE CODE AMENDMENT, HUMAN SERVICES COMMITTEE, BY REDUCING THE NUMBER OF MEMBERS FROM NINE TO SEVEN INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:** That §241-45.1A of the Administrative Code (Composition and term of office) be amended by striking the phrase “of at least nine” in the first sentence therein and by substituting in place thereof the number “seven.”

So the first sentence of §241-45.1A would read “There shall be a Human Services Committee consisting of seven members, representing Barnstable’s diverse community.”

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> - unanimous**

**2018-159 ORDER TO AMEND THE ZONING ORDINANCE TO PROHIBIT NON-MEDICAL MARIJUANA IN ALL ZONING DISTRICTS WITHIN THE TOWN OF BARNSTABLE INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:** That the Code of the Town of Barnstable, Zoning Ordinance, Chapter 240, Article I, Prohibited Uses, §240-10, is hereby amended by adding a new paragraph E as follows:

“E. All types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses.”



**VOTE: to a Planning Board meeting – 11 YES 1 opposed (Tinsley)**

**2018-161 ACCEPTANCE OF GRANT IN THE AMOUNT OF \$3,753,000 FROM THE COMMONWEALTH OF MASSACHUSETTS EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT 2017 MASSWORKS INFRASTRUCTURE PROGRAM  
INTRO: 06/07/2018**

Elizabeth Jenkins, Director of Planning and Development gave the rationale.

Councilor Neary off dais at approximately 11:10 pm

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council does hereby accept the 2017 MassWorks Infrastructure grant award in the amount of **\$3,753,000** from the Commonwealth of Massachusetts Executive Office of Housing & Economic Development for the “Hyannis Regional Commercial Center Traffic and Pedestrian Improvement” project and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

**VOTE: to a Planning Board meeting – unanimous**

Councilor Neary returned to dais at approximately 11:12 pm

**2018-163 AMENDING CHAPTER 240, ARTICLE III, OF THE ZONING ORDINANCES TO CREATE A CANNABIS OVERLAY DISTRICT-A AND CANNABIS OVERLAY DISTRICT-B AND DISTRICT REGULATIONS FOR ESTABLISHING AND OPERATING REGISTERED RECREATIONAL MARIJUANA DISPENSARIES INTRO:  
06/07/2018**

Upon a motion duly made and seconded it was

**ORDERED:**

**Section 1.**

That Chapter 240, Article III of the Zoning Ordinance is hereby amended by adding a new Section 240-30.1 "Cannabis Overlay Districts" as follows:

**§240-30.1 Cannabis Overlay Districts.**

- A. District established. A Cannabis Overlay District (COD) is hereby established and shall be considered as superimposed over any other districts established by this chapter in two areas, COD-A and COD-B, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.
- B. Purpose; applicability; use.
- (1) Purpose. To provide for the location of Medical Marijuana Treatment Centers (MMTC) and Recreational Marijuana Establishments (RME), as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, in locations suitable for lawful MMTCs and RMEs and to minimize adverse impacts of MMTCs and RMEs on adjacent properties, residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of MMTCs and RMEs.
  - (2) Applicability. The cultivation, production, processing, manufacturing, assembly, packaging, retail or wholesale sale, trade, distribution, or dispensing of marijuana is

prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted under this section.

- (3) Use. Within the COD-A, licensed Medical Marijuana Treatment Centers (MMTC) and Recreational Marijuana Establishments (RME) may be permitted as a conditional use, provided a special permit is first obtained from the Zoning Board of Appeals. Within the COD-B, only non-retail Recreational Marijuana Establishments (RME) may be permitted as a conditional use, provided a special permit is first obtained from the Zoning Board of Appeals. All special permits granted under this section shall be subject to the provisions of §240-125C and §240-24.1.2.E. (as applicable) herein and subject to all additional standards and conditions of this section.

- C. Definitions. Any term not specifically defined herein shall have the meaning as defined in Massachusetts General Laws Chapter 94G, §1, and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of Marijuana.

**CANNABIS OR MARIJUANA OR MARIHUANA** - All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

- (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- (b) hemp; or
- (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

**MEDICAL MARIJUANA TREATMENT CENTER** - Also known as a Registered Marijuana Dispensary (RMD), a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

**RECREATIONAL MARIJUANA ESTABLISHMENT** – Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

**RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA CULTIVATOR** – An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

RECREATIONAL MARIJUANA ESTABLISHMENT, CRAFT MARIJUANA COOPERATIVE – A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA PRODUCT MANUFACTURER – An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA RETAILER – An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

RECREATIONAL MARIJUANA ESTABLISHMENT, INDEPENDENT TESTING LABORATORY – A laboratory that is licensed by the Cannabis Control Commission and is:

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission;
- (b) independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA RESEARCH FACILITY – An entity licensed to engage in research projects by the Cannabis Control Commission.

D. Cap on the Number of Special Permits for Recreational Marijuana Retailers  
Pursuant to MGL c. 94G §3(a)(2), the number of Recreational Marijuana Retailers shall be limited to three (3) establishments in Town of Barnstable to be located in COD-A only, which is fewer than 20 per cent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138 §15

E. On-Site Consumption. On-site consumption of recreational marijuana products at MMTCs or RMEs shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL 94G §3(b).

F. Requirements for Recreational Marijuana Establishments and Medical Marijuana Treatment Centers. Recreational Marijuana Establishments and Medical Marijuana Treatment Centers shall comply with the following requirements:

(1) General

- (a) MMTCs and RMEs shall comply with applicable State and local laws, regulations, ordinances, codes, conditions and agreements with the Town, including, but not limited to, Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, M.G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and M.G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, the Town of Barnstable's General Ordinances, the Town of Barnstable's Zoning Ordinances, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the MMTCs and RMEs (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the MMTC or RME and the Town, including host community agreements.
- (b) MMTCs and RMEs shall maintain all permits and licenses required by State and local laws. Any voiding of the Cannabis Control Commission's or Department of Health's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Department of Health or Cannabis Control Commission approval), and any revocation or suspension of the Recreational Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the MMTC or RME and pending further determination by the Zoning Board of Appeals.
- (c) All taxes and charges owed to the Town must be paid on a current basis. Failure to pay all taxes and charges shall be subject to the provisions of Chapter 121 of the Barnstable Code and all other available legal remedies.
- (d) An approved Host Community Agreement shall be required prior to granting a Special Permit for a Recreational Marijuana Establishment and Medical Marijuana Treatment Centers.
- (e) Dimensional requirements. Except where it is explicitly stated otherwise in this section, MMTCs or RMEs shall conform to the dimensional requirements applicable within the underlying and other overlaying zoning districts.
- (f) Parking. The required number of parking spaces for a MMTC registered marijuana dispensary or a RME, Marijuana Retailer shall be one space for every 200 square feet of gross floor area; and one space for every 700 square feet of gross floor area for any type of MMTCs except marijuana dispensaries or RMEs except Marijuana Retailers. The Zoning Board of Appeals shall also rely on the recommendation of Site Plan Review.
- (g) Loading. The Zoning Board of Appeals may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
- (h) Landscaping. For MMTCs or RMEs in the COD-A, Landscape requirements in the underlying zoning district shall apply. For MMTCs or RMEs in the COD-B, §240-53. Landscape requirements for parking lots shall apply.

- (i) Landscape Buffers. The landscape setback from any residential property line shall be 20 feet. Landscape buffers shall be densely landscaped with a combination grasses, trees, and shrubs providing year-round screening.
- (j) Signage. For MMTCs or RMEs in the COD-B, signage shall not exceed two signs, the total area of which shall not exceed 24 square feet. No part of any freestanding sign shall exceed six feet above existing average grade. External illumination of signage may be permitted only during actual hours of businesses. In the COD-A, the signage requirements of the underlying zoning district pursuant to Article VII of this chapter shall apply. The Zoning Board of Appeals may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
- (k) Groundwater Protection. Uses and development in the COD-A and COD-B shall be subject to the requirements of Section 240-35 Groundwater Protection Overlay Districts as applicable.

## (2) Operational Requirements

- (a) All MMTC or RME's licensed operations shall be conducted within a building at a fixed location.
- (b) No MMTC or RME shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible to the public without the use of binoculars, aircraft, or other optical aids.
- (c) MMTCs and RMEs may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the MMTC or RME to access the area.
- (d) The hours of operation for a RME shall be those conditioned by the RME's special permit. The hours of operation of MMTC or RME Retailer shall be limited to the hours between 8:00 a.m. to 8:00 p.m.
- (e) MMTCs and RMEs shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
- (f) MMTCs and RMEs shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
- (g) MMTC and RME operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the MMTC or RME, or in use of Marijuana in any manner that violates State or local law.
- (h) MMTC and RME operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties.
- (i) MMTCs and RMEs shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, or into a wastewater treatment system or in any other manner that may contaminate the groundwater and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of any adjoining use or property.

- (j) MMTCs and RMEs shall be required to remove all Marijuana and Marijuana Products by the earlier of: prior to surrendering its State-issued license; or within six (6) months of ceasing operations.
- (k) MMTCs and RMEs are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.
- (l) MMTCs and RMEs must display a sign legible from the exterior of the building in which the MMTC or RME is located either by posting on the building exterior in close proximity to the entrance or by placement in a window in close proximity to the entrance with the text facing and legible from the exterior, which states: "Must be 21 years or older and show identification to enter this establishment."
- (m) Solid and liquid waste, including waste composed of or containing marijuana, finished marijuana, Marijuana-Infused Product, or byproducts of marijuana processing shall be stored, secured, managed, and disposed of in accordance with State Law and all other applicable statutes and ordinances and regulations of the Town.

### (3) Security-Specific Requirements

- (a) MMTCs and RMEs shall submit and receive the approval of the Barnstable Police Department for its required security and emergency procedures, including a disaster plan, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.
- (b) Lighting shall be designed and maintained so as to protect adjacent properties from intrusive lighting; however, in accordance with State Law, the exterior perimeter of MMTCs and RMEs shall be sufficiently lit to facilitate surveillance.
- (c) MMTCs and RMEs shall secure every entrance so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the MMTC or RME to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.
- (d) MMTCs and RMEs shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
- (e) MMTCs and RMEs shall file an emergency procedures, including a disaster plan, with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified
- (f) Landscaping shall be in compliance with the requirements set forth herein, except that in accordance with State Law, MMTCs and RMEs shall maintain trees, bushes, and other exterior vegetation so that they do not allow for a person or persons to conceal themselves from sight.

### (4) Access to Premises and Information/Reporting/Record-Keeping

- (a) MMTCs and RMEs shall be subject to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and applicable Fire Department on week-days between 8:00 a.m. to 5:00 p.m. to determine the MMTC or RME's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the MMTC or RME. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.
- (b) MMTCs and RMEs shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning & Development, Building, Health, Police, Fire and Public Works Departments.
- (c) Within twenty-four (24) hours of receipt of notice of it, MMTCs and RMEs shall file with the Town Manager, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the MMTC or RME, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

(5) Additional Location Requirements for MMTCs and RMEs,

- (a) No MMTC or RME shall be located within 500 feet, as measured from each lot line of the subject lot, or the following preexisting uses: K-12 educational use; childcare center; or children's camp.

G. Site Plan Review for MMTCs and RMEs. MMTCs and RMEs shall be subject to Article IX, Site Plan Review, §240-102.

H. Special Permits. The following apply to special permits to operate a MMTC or RME.

- (1) Application requirements: Applicants shall include with their special permit application:
  - (a) Copies of any required licenses and permits relating to the operation of the MMTC or RME, or, if an application for a required license or permit is pending, a copy of the application.
  - (b) Evidence of the applicant right to use the proposed site as an MMTC or RME, such as a deed, lease or purchase and sales agreement.

- (c) A copy of the Site Plan Review Approval.
  - (d) A description of the security measures, required by this section, approved by Barnstable Police Department and MDPH or CCC for the MMTC or RME, as applicable.
  - (e) A copy of emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, approved by MDPH or CCC for the MMTC or RME, as applicable.
  - (f) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between MMTC or RME, as applicable.
  - (g) A copy of proposed waste disposal procedures.
  - (h) Proof of liability insurance that is in accordance with 105 CMR 725.105(Q) or any applicable regulations promulgated by the CCC.
  - (i) Any waivers from MDPH or the CCC regulations issued for the MMTC or RME, as applicable.
  - (j) A copy of the Community Host Agreement.
  - (k) Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning and Development Department determines is necessary for review, such as Department reports or transportation studies or a license application.
- (2) Special permit criteria, The Zoning Board of Appeals, subject to the provisions of §240-125C. shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:
- (a) That the MMTC or RME has demonstrated compliance with or the ability to comply where the requirements are prospective with all of the General Requirements set forth in this section.
  - (b) That the MMTC or RME has an approved Host Agreement.
  - (c) That the MMTC or RME has a security and public safety plan approved by the Barnstable Police Department.
  - (d) Issuance of the special permit would not contravene the cap on the number of special permits that may be granted to Recreational Marijuana Retailers (see subsection 4 of this section).
  - (e) The location is compliant with this section in its entirety.
  - (f) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, cyclists and public transportation users.
  - (g) Traffic generated by client trips, employee trips, and deliveries to and from the MMTC or RME shall not create a substantial adverse impact on nearby residential uses.
  - (h) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for an MMTC or RME, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing MMTC or RME location or transfer of an existing license to a new owner shall require a new Special Permit pursuant to the Barnstable Zoning Ordinance.

#### I. Revocation

In accordance with 105 CMR 105(O), Requirements Upon Expiration, Revocation or Voiding of Certificate of Registration of RMD, should DPH take action under this section, the special permit for a MMTC shall be null and void.



#### J. Implementation

This section shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500.

#### K. Severability

The provisions of §240-30.1 are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

### Section 3

That the official zoning map of the Town of Barnstable is hereby amended by adding the Cannabis Overlay District-A (COD-A) and Cannabis Overlay District (COD-B) as shown on the maps entitled:

- “Proposed Amendment to the Town Zoning Map Creating the Cannabis Overlay District”
- “Proposed Amendment to the Hyannis Zoning Map Creating the Cannabis Overlay District”
- “Proposed Amendment to the Barnstable Zoning Map Creating the Cannabis Overlay District”
- “Proposed Amendment to the Marstons Mills Zoning Map Creating the Cannabis Overlay District” and
- “Proposed Amendment to the Osterville Zoning Map Creating the Cannabis Overlay District”

dated June 1, 2018, as prepared by the Town of Barnstable GIS Unit.

### Section 4

That Chapter 240, Article II, § 240-5 "Establishment of Districts" of the Zoning Ordinance is hereby amended adding “Cannabis Overlay District-A” and “Cannabis Overlay District-B” under Overlay Districts.

**VOTE: to a Planning Board meeting – unanimous**

<b>2018-164 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION</b> <b>INTRO: 06/07/18</b>
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Upon a motion duly made and seconded it was

**RESOLVED**, That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Board of Assessors:** William Garreffo, 22 Thornberry Lane, Centerville as a regular member to a term expiring 06/30/2021; **Board of Health:** John Norman, 1625 Old Post Road, Marstons Mills as a regular member to a term expiring 06/30/2021; **Planning Board:** Steven Costello, 255 Scudder Road, Osterville, as a regular member to a term expiring 06/30/2021; **Sandy Neck Board:** Ann Canedy, 70 Van Duzer Road, Cummaquid as a regular member to a term expiring 06/30/2021; Robert Lovell, 12 New London Ave, Marstons Mills as a regular member to a term expiring 06/30/2021; Thomas O’Neill, 58 Holway Drive, West Barnstable as a regular member to a term expiring 06/30/2021

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> – unanimous**

**2018-165 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION  
INTRO: 06/07/18**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Cultural Council:** Kimberly Rumburger as a regular member to a term expiring 06/30/2021; Georgia Kreth as a regular member to a term expiring 06/30/2021

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> – unanimous**

**2018-166 ADMINISTRATIVE CODE AMENDMENT- TERM LIMITS FOR CHAIRS  
OF MULTIPLE MEMBERS BOARDS, COMMITTEES AND COMMISSIONS INTRO:  
06/07/18**

Upon a motion duly made and seconded it was

**ORDERED:**

**Section 1.**

That §241-8E of the Administrative Code be amended by adding the following sentence after the first full sentence contained therein: “No Chair shall serve more than three (3) consecutive terms.” So that §241-8E shall read:

E. Multiple-member board internal organization. Each multiple-member board shall, at a minimum, annually elect from its membership a chair, vice chair and clerk. Boards may further elect a treasurer, and such other officer or officers as are deemed necessary or as is required by statute. No Chair shall serve more than three (3) consecutive terms. The annual election shall occur in July of each year, or as near after appointment of new members by the Town Council. The Town Council shall be notified of the officers of the board upon their election. The chair shall preside over all meetings of the board, and shall be the official representative of the board in all proceedings before the Town Council and other officials of the Town. The vice chair shall perform the chair's functions, in the absence of the chair. The clerk shall be responsible for the certification of the board's meeting minutes, observance of the public records law, and maintenance of other records of the board.

**Section 2.**

That this amendment shall take effect on July 1, 2019.

**VOTE: to a 2<sup>nd</sup> Reading on June 21<sup>st</sup> – unanimous**

**VOTE: ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED TO ADJOURN:**

**Adjourned at 11:20 PM**

Respectfully submitted,

Janet E. Murphy  
Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: JUNE 17, 2018

EXHIBITS:

- A. Tina Carey documents regarding BID
- B. Lori Lundholm documents regarding BID
- C. Janet Cook documents regarding BID
- D. Narinder Thind documents regarding BID
- E. Kathy Duran photographs regarding Dunn's Pond Road
- F. Michael Mangalo documents regarding BID