



Town Council Meeting
October 6, 2022



A quorum being duly present, President Matthew Levesque called the October 6, 2022, Town Council meeting to order at 7:05 PM.

An announcement was made by President Levesque 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: Nikolas Atsalis, Kristine Clark, Jennifer Cullum, Paul Cusack, Jessica Rapp Grassetti, Matthew Levesque, Betty Ludtke, Jeffrey Mendes, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber

The Pledge of Allegiance was led by President Levesque followed with a moment of silence by Councilor Clark who asked for prayers for the family of John Jenkins.

PUBLIC COMMENT:

Mark Thurman Barnstable No Place for Hate spoke about the issue of affordable housing. He has workers that cannot afford housing, asked the Council to consider the measures to increase housing.

Yvonne Yancey was concerned about the change in the law to have the marijuana product sold close to churches, please stop it.

Close Public Comment

COUNCILOR RESPONSE TO PUBLIC COMMENT:

(Ludtke) housing production plan is underway right now, huge amount of public engagement, we are going to get a great product.

(Levesque) currently we are only looking at the setbacks and the ordinance on 2022-159 responding to a citizen's petition

TOWN MANAGER'S COMMUNICATIONS: (Exhibit A)

- Election Update, Ann Quirk, Town Clerk gave an overview of the number of vote by mail requests received, and assurance that we have another vault for the ballots.
- Budget Action Calendar for FY 2024 School and Town will meet jointly on October 20th.
- Board of Health update regarding proposed regulatory changes under consideration to Title 5.
- Continuing review of permits filed with regulatory agencies regarding a proposed Phase 3 (Commonwealth Wind) landing of cable in Barnstable.
- Drinking water contains chemicals known as perfluoroalkyl and polyfluoroalkyl substances (PFAS). PFAS is used in a wide range of products including non-stick cookware, water

and stain repellent fabrics, and fire-fighting foam.

Councilor questions and comments;

(Ludtke) Joint meeting on the 20th of October with the School Committee (Levesque) Remote meeting and public is invited to watch (Ludtke) is attachment D going to be available on the website, (Ells) we can put the link on our website, so the public can comment. (Ludtke) can they comment directly through the link on the website; (Ells) Yes (Starr) At one point we were going to give you host agreement, is this the time to do that (Ells) That was allowing me to speak on behalf of the town, it didn't start out with us supporting the project, we had major concerns, it took two years to negotiate, recommend that you approve your town manager to go forward with a host agreement on behalf of the town. (Starr) So if we go forward, it doesn't mean that we are all for it, it just gives negotiating room (Levesque) It is not an agenda item tonight, we just need a little more time to allow the new councilor to speak with his constituents. (Clark) Regarding the PFAS, this link that was on your report will that be available to the public (Ells) Yes (Schnepp) Will the public have a chance to comment on the nitrogen level and what they are proposing as changes (Ells) We have the Wastewater Management Plan with a time frame, if they don't recognize what we are doing, they may require us to spend more money for additional innovative on-sites. (Schnepp) Please communicate with the entire council when this becomes available that would be appreciated.

- Elizabeth Jenkins, Director of Planning and Development, provided an update on the Local Comprehensive Plan (LCP). Utilizing a PowerPoint presentation to show the progress of the community engagement plan.

Councilor questions and comments:

(Rapp Grassetti) Wondering if all that information is going to be on your document library (Jenkins) we are cataloging all the comments and adding them to the document library (Rapp Grassetti) It is important to see the concerns from the different villages (Jenkins) We will work on how to formalize this information (Clark) For the coffee dates you might want to add a weekend date to get the folks who are at work (Cullum) Only one human being on that committee is a renter out of the whole committee, who are we planning for, are we planning for young parents that have kids in our schools, maybe talk to the Parent Teacher Organization (PTO) to get parents involved; appreciate the effort (Jenkins) Superintendent Ahern has been engaged with us (Cullum) a booth in the school during parent teacher conferences would be a good idea (Levesque) During COVID it was so difficult to communicate with people, what I could see was an uninvolved group of people, when they could participate remotely, we had more people getting involved, the LCP is how we are moving forward. You have a great staff and the tools you need to go forward.

ACT ON MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of September 15, 2022 as presented.

VOTE: PASSES UNANIMOUS

Upon a motion duly made and seconded it was to accept an Administrative Correction to Misnumbered Agenda Items: Approve the renumbering of Agenda Items #2023-017, 2023-018, 2023-019, as they appeared on the September 1, 2022 Town Council Meeting Agenda, to Items # 2023-038, 2023-039, and 2023-040, respectively.

VOTE: PASSES UNANIMOUS

COMMUNICATIONS- from elected officials, boards, committees, and staff commission

reports, correspondence and announcements:

(Clark) Fall Walking Weekend guided walks. (Atsalis) Centerville Civic Association discussed the Park City landing in Centerville, and voted on the different landings; 3 years ago there was a shortfall at the Centerville Osterville Marstons Mills Fire District (COMM) and this year there is another shortfall, based on a lack of public oversight, and the public not attending the meetings. (Schnepp) Strategic Planning Process slated for this fall, planned a two part process, however have modified the process it will be next Thursday via zoom. The hope is to do another process in 2023. The agenda will be posted next Tuesday, the public is able to attend via zoom webinar link, however there will not be public comment. Attended the Science and Engineering Center opening (Levesque) Attended the No Place for Hate meeting was a great experience (Schnepp) Second Fall Open Streets in Hyannis on October 16th (Shaughnessy) What is the membership number of the COMM and the number of residents? (Atsalis) the number of residents in Precinct 4 is 3,786.

Who is the Mid-Cape Cultural Council? Presented by Co-Chairs Margeaux Weber and Sarah Thornington utilized a PowerPoint presentation to give the Council an overview which fills a cultural need in the Mid-Cape region. Some of the things they funded were: Chamber concert music, ballroom dancing, passport to history, student mentorship program and sculptures on the Discovery Walk in Hyannis.

Councilor questions and comments:

(Schnepp) What is the grant range (Weber) 250 to 1500 (Schnepp) Do you have more request than money available? (Weber) we have a check list, serving the people of Barnstable or Yarmouth you will get some money (Rapp Grassetti) Discovery Walk is wonderful, the Growth Management Department is now the Planning and Development Department (Clark) Happy to say that the West Barnstable Village Festival committee was one of the recipients.

Major Greg Quilty, District Director, of Veterans Services for Barnstable County: Spoke about the Chapter 115 to provide financial assistance to honorably discharged low-income veterans and their dependents who are residents of the Town of Barnstable and meet eligibility requirements. We have more Veterans in this town than they have in Boston. (Exhibit B) No parade this year on Veteran's Day.

Councilor questions and comments:

(Atsalis) Thank you for your service, do you have mental health services? (Quilty) No we do not have mental health professionals we have to arrange for the veteran to go to a hospital. (Atsalis) The Veterans Agency (VA) doesn't give you the ability to staff mental health professionals (Quilty) We are under the state, they do not have mental health professionals either. (Shaughnessy) Do you take volunteers from maybe the Council on Aging (Quilty) Yes, Mass Health buy-in we send them into Shine, outreach is our weakness. (Rapp Grassetti) District having the highest percentage of elderly, the nearest VA is Providence, RI; we have a clinic here in Hyannis. We are part of a Rhode Island VA system here in Barnstable; (Rapp Grassetti) they should be able to go to our local hospitals. (Schnepp) Housing is a big issue; public housing authorities give preference to veterans.

Presentation by Laurel Schaidler, PhD, Senior Scientist, Environmental Chemistry and Engineering Silent Springs Institute: Schaidler is sharing an update on the PFAS study; Hyannis had the highest levels of exposure to PFAS.

Councilor questions and comments:

(Neary) Do you have the information on the studies done on private wells (Schaidler) 2018 and

2019 we just received the results we still have some work to do on the results (Schnepp) Can you bring the testing to the people (Schaidler) Thought about that it is not just a simple blood sample, it would be a little difficult (Schnepp) how about using our recreation center to get people when they are there (Schaidler) we would welcome other venues as well (Neary) Pennsylvania has a higher participation do you know why (Schaidler) I would like to know, maybe they are covering a larger area (Clark) Could you recruit some participants through the Churches (Schaidler) Houses of worship haven't yet been in person, but if you have connection, that's a great suggestion (Ludtke) Has anyone here participated, I have there is a lot more to it, very disappointed with the numbers, there are people that are disenfranchised, intend to go door to door, hopefully we can do the screening then. Our numbers should be higher; (Shaughnessy) One of the challenges in Precinct 9, it is the most transitional, and there is a language barrier do you have the materials in Portuguese and Spanish (Schaidler) they do have materials in those languages (Shaughnessy) I did it, and It did not take that much time, they were very flexible with the in-office appointment. (Cullum) Community toolbox, a municipal management workshop, try to find what other communities are doing to reach other demographics how about a community liaison (Schaidler) Breast Cancer Coalition works with us, (Cullum) Public Library in Hyannis is also a good one.

2022-159 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, CHAPTER 240 ZONING, ARTICLE III, §240-30(E)(4) BY AMENDING THE SEPARATION REQUIREMENTS OF THE MEDICAL MARIJUANA OVERLAY DISTRICT
INTRO: 05/05/2022, 09/15/2022, 10/06/2022

Elizabeth Jenkins, Director of Planning and Development gave the rationale for medical use of marijuana; the item is to amend the overlay district. Attorney, Tim McNamara owns a marijuana dispensary in another town gave further information to the Council.

Open public hearing

Beth Dost a Registered Nurse (RN) gave information regarding cannabis as a naturally occurring plant, first used by the Chinese for pain. We had cannabis in our food system until 1940's until Hemp was removed from the grasses. We need to educate safe access is mandated by law and should be available to all people who want cannabis for their health reasons.

Close public hearing

Councilor comments and questions:

(Atsalis) Can you give a quick overview between medical versus retail establishment (McNamara) in order to visit a medical dispensary, you have to have a qualifying condition and a physician needs to prescribe, a patient has to be registered. The ordinance we are discussing today is only for medical use. (Levesque) medical marijuana industry is not what we are voting on, it is just the setbacks. (Cullum) This is something we should embrace, responsibly done it is the way to go, you have my vote (Neary) Does this change the zoning map or just the setbacks (McNamara) this changes the set back from religious institutions (Rapp Grassetti) Separation is at least a 1000 feet distance from schools, religious, day care center or preschool; in order to open a facility you have to go before the Zoning Board (ZBA) not less than 500 feet by appeal, In regards to the ZBA process are abutters notified when a permit is requested (Jenkins) a medical marijuana treatment facility, requires a special permit from the ZBA; notice for two weeks published in the paper, and notice to abutters within 300 feet of the property. (Rapp Grassetti) is an abutter the property line or is it door to door, clarify please (Jenkins) separation requirements are measured from boundary to boundary, but the state regulates from entrance

to entrance. (Mendes) spoke of many illnesses that medical marijuana can help, science is clear; what are we to do, we should do this holistically; I am in support of this item.

Attorney Nober gave an overview of the possible amendments to clean this up; believe the ordinance needs to be revised. Our ordinance needs to be revised, reasonable safe guards, at least 500 feet from the nearest school (buffer zone) the safest course of action is to use the 500 feet including the religious institution.

Developed two amendments the first to clean up the wording:

2022-10-06 Town Council

Upon a motion duly made and seconded it was:

to move to amend to amend Section 240-30, Medical Marijuana Overlay District, of Chapter 240 Zoning, Article III District Regulations, of the Code of the Town of Barnstable to update certain references therein for consistency with applicable state law and regulations by as presented:

AMENDMENT #1

To amend Section 240-30, Medical Marijuana Overlay District, of Chapter 240 Zoning, Article III District Regulations, of the Code of the Town of Barnstable to update certain references therein for consistency with applicable state law and regulations by:

- (a) deleting “registered marijuana dispensary/ies” wherever that term appears and inserting “medical marijuana treatment center/s” in its place;
- (b) deleting “RMD” wherever that term appears and inserting “MTC” in its place;
- (c) deleting “Department of Public Health” and “DPH” wherever those terms appear and inserting “Cannabis Control Commission” in their place;
- (d) deleting “105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana” in Section B(1) and inserting “935 CMR 501.000, Medical Use of Marijuana” in its place;
- (e) deleting “Registration” in Section E(1) and inserting “Licensing” in its place;
- (f) deleting “registered” in each instance where that word appears after the word “properly” in Section E(1) and inserting “licensed” in its place;
- (g) deleting “105 CMR 725.100” in Section E(1) and inserting “935 CMR 501.050(1) and 935 501.101” in its place;
- (h) deleting “registration” in each instance where that word appears in Section E(9) and inserting “licensure” in its place;
- (i) deleting “[r]egistration” in each instance where that word appears in Section F(1)(h) and inserting “licensure” in its place;
- (j) deleting “105 CMR 725.100(E), Expiration and Renewal of Registration” in Section F(5)(a) and inserting “935 CMR 501.103(4), Expiration and Renewal of Licensure” in its place; and
- (k) deleting “105 CMR 105(O), Requirements Upon Expiration, Revocation or Voiding of Certificate of Registration of RMD” in Section F(5)(b) and inserting “935 CMR 501.105(18), Requirements on the Expiration, Revocation, or Voiding of Certificate of Licensure of MTC” in its place.

VOTE: AS AMENDED PASSES UNANIMOUS

AMENDMENT #2

Upon a motion duly made and seconded it was to move to amend Item number 2022-159 by deleting the following sentences: "The site does not abut a religious institution/place of religious assembly, and is at least 500 feet from any school, day-care center, preschool or afterschool facility or any facility in which children commonly congregate. In no case shall a RMD directly abut another RMD or any medical marijuana use." and inserting the following in their place as presented:

"The MTC Entrance, as defined by 935 CMR 501.002, is at least 500 feet from the nearest School Entrance, as defined by 935 CMR 501.002, and from the nearest entrance of any religious institution/place of religious assembly, day-care center, preschool or afterschool facility or any facility in which children commonly congregate. Distance shall be measured in a straight line from the geometric center of the MTC Entrance to the geometric center of the nearest School Entrance or nearest entrance to such other institution or facility, unless there is an Impassable Barrier, as defined by 935 CMR 501.002, within those 500 feet, in which case the distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the MTC Entrance to the geometric center of the nearest School Entrance or nearest entrance to any religious institution/place of religious assembly, day-care center, preschool or afterschool facility or any facility in which children commonly congregate. In no case shall an MTC directly abut another MTC or any medical marijuana use."

VOTE: AS AMENDED PASSES UNANIMOUS

Upon a motion duly made and seconded it was

ORDERED: To amend the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning by deleting §240-30(E)(4) in its entirety and inserting the following new §240-30(E)(4) in its place:

"The MTC Entrance, as defined by 935 CMR 501.002, is at least 500 feet from the nearest School Entrance, as defined by 935 CMR 501.002, and from the nearest entrance of any religious institution/place of religious assembly, day-care center, preschool or afterschool facility or any facility in which children commonly congregate. Distance shall be measured in a straight line from the geometric center of the MTC Entrance to the geometric center of the nearest School Entrance or nearest entrance to such other institution or facility, unless there is an Impassable Barrier, as defined by 935 CMR 501.002, within those 500 feet, in which case the distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the MTC Entrance to the geometric center of the nearest School Entrance or nearest entrance to any religious institution/place of religious assembly, day-care center, preschool or afterschool facility or any facility in which children commonly congregate. In no case shall an MTC directly abut another MTC or any medical marijuana use

VOTE: AS AMENDED PASSES 13 YES

Roll Call: Atsalis, Clark, Cullum, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-030 APPROPRIATION ORDER IN THE AMOUNT OF \$1,337,890 FOR THE PURPOSE OF FUNDING THE RESTORATION WORK TO THE ZION UNION HISTORIC MUSEUM AND ORIGINAL CHAPEL, 296 NORTH STREET, HYANNIS, MA INTRO: 09/15/2022, 10/06/2022

Mark Ells, Town Manager asking for a withdrawal, the Legal Department wants to review the lease agreement between the town and the museum and come back to the Council with a modified agreement; we would need to vote to withdraw.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$1,337,890** be appropriated for the purpose of funding the restoration and rehabilitation work to the Zion Union Historic Museum and original chapel located at 296 North Street, Hyannis MA, Map 308, Parcel 029, and to fund this appropriation that **\$457,390** be provided from the Capital Trust Fund, and that, pursuant to the provisions of G.L. c. 44B, the Community Preservation Act, **\$261,778** be transferred from the amount set aside for Historic Preservation within the Community Preservation Fund and **\$618,722** be transferred from the Undesignated Fund Balance within the Community Preservation Fund. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

VOTE: TO WITHDRAW-PASSES UNANIMOUS

2023-032 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO: 10/06/2022

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: **Housing Committee:** Emily Cornett as a regular member to a term expiring 06/2024; **Waterways Committee:** Gary Shramek as a regular member to a term expiring 06/2025

VOTE: TO A SECOND READING ON 10/20/2022- UNANIMOUS

2023-033 SUPPLEMENTAL APPROPRIATION ORDER IN THE AMOUNT OF \$19,350 FOR THE BARNSTABLE POLICE DEPARTMENT FISCAL YEAR 2023 OPERATING BUDGET FOR THE PURPOSE OF FUNDING A PART-TIME POLICE DETAIL COORDINATOR POSITION INTRO: 10/06/2022

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$19,350** be raised from current year revenue and added to the Fiscal Year 2023 Barnstable Police Department operating budget of \$16,423,419 appropriated under Town Council Order 2022-162, resulting in a revised Fiscal Year 2023 Operating Budget of \$16,442,769.

VOTE: TO A PUBLIC HEARING ON 10/20/2022-UNANIMOUS

2023-034 APPROPRIATION ORDER IN THE AMOUNT OF \$15,000 WITH SUCH FUNDS TO BE DEPOSITED INTO A DEDICATED ACCOUNT ESTABLISHED FOR THE PURPOSE OF ACQUIRING PROPERTY INTERESTS SUBJECT TO THE PROVISIONS OF ARTICLE 97 OF THE AMENDMENTS TO THE MASSACHUSETTS CONSTITUTION INTRO: 10/06/2022

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$15,000** be raised from current year revenue within the sewer enterprise fund and deposited into a dedicated account for the purpose of acquiring property interests subject to the provisions of Article 97 of the Amendments to the Massachusetts

Constitution in accordance with the terms of a Declaration of Restriction recorded September 4, 2008, in the Barnstable County Registry of Deeds in Book 23135, Page 316, for the property at 725 Main Street, Hyannis, Massachusetts, which requires that the appraised value of the sewer easement on 725 Main Street be placed in such a dedicated account prior to utilizing the sewer easement for sewer purposes.

VOTE: TO A PUBLIC HEARING ON 10/20/2022-UNANIMOUS

2023-035 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$400,000 FOR THE PURPOSE OF FUNDING THE LEAD SERVICE LINE INVENTORY AND REPLACEMENT PLAN DEVELOPMENT INTRO: 10/06/2022

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$400,000** be appropriated for the purpose of funding the Lead Service Line Inventory and Replacement Plan Development within the Hyannis Water System, required for compliance with the U.S Environmental Protection Agency's Lead and Copper Rule Revisions, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$400,000 under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: TO A PUBLIC HEARING ON 10/20/2022-UNANIMOUS

2023-036 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 COASTAL RESILIENCY GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF COASTAL ZONE MANAGEMENT IN THE AMOUNT OF \$128,127 FOR THE DESIGN, PERMITTING, AND OUTREACH OF THE SANDY NECK BEACH FACILITY COASTAL RESILIENCY PROJECT INTRO: 10/06/2022

Dan Santos, Director of Public Works gave the rationale
Open public hearing seeing no one close public hearing

Councilor comments and questions:

(Rapp Grassetti) Has the Sandy Neck Board worked on this and they have not found an alternative (Santos) this is the alternative that makes the most sense financially. (Rapp Grassetti) Utilizing the sand on Sandy Neck Beach, which has been taken away, by dredging, should be explored.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 Coastal Resiliency Grant in the amount of **\$128,127** from the Commonwealth of Massachusetts, Office of Coastal Zone Management for the purpose of funding the design, permitting, and outreach of the Sandy Neck Beach Facility Coastal Resiliency Project, including the payment of costs incidental or related thereto.

VOTE: PASSES UNANIMOUS

2023-037 REAPPOINTMENT OF MARK S. ELLS, TOWN MANAGER, AS THE BARNSTABLE MEMBER TO THE CAPE COD AND ISLANDS WATER PROTECTION FUND MANAGEMENT BOARD INTRO: 10/06/2022

President Levesque gave the rationale; and stated this is a three year term.

Upon a motion duly made and seconded it was

RESOLVED: That, pursuant to G.L. c. 29C, § 20, the Town Council does hereby reappoint Mark S. Ells, Town Manager, as the Town of Barnstable's member to the Cape Cod and Islands Water Protection Fund Management Board to serve a three-year term.

VOTE: PASSES UNANIMOUS

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

VOTE: PASSES UNANIMOUS

Adjourned at 10:50 PM

Respectfully submitted,

Ann M Quirk

Barnstable Town Clerk

NEXT MEETING: October 20, 2022

Exhibits:

A. Town Manager update

B. Major Greg Quilty, District Director, Veterans Services for Barnstable County