



Town Council Meeting
July 21, 2022



A quorum being duly present, President Matthew Levesque called the July 21, 2022, Town Council meeting to order at 7:06 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: (On Zoom) Nikolas Atsalis, Kristine Clark, Jessica Rapp Grasseti, Paul Hebert, Matthew Levesque, Jeffrey Mendes, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber. **ABSENT:** Jennifer Cullum

The Pledge of Allegiance was led by Councilor Paul Hebert, Council President Levesque followed with a moment of silence asking for all to remember the Ukraine and all other border countries struggling. He hoped we would all keep peace for all in our thoughts and prayers.

Councilor Steinhilber joined the zoom meeting at approximately 7:09 pm.

PUBLIC COMMENT:

Eileen Elias spoke about the critic need for affordable cost housing. She felt this was needed to help attain diversity within Barnstable. There was a need to address affordable housing for healthcare, teachers and office service providers.

Ann Burke felt the LGBTQ (The Lesbian, Gay, Bisexual, Transgender and Questioning) community was marginalized and had no transportation. She added there were no safe places for LGBTQ members to live. She noted there should also be affordable housing for everyone.

Response to Public Comment:

Councilor Hebert who is the liaison to the Housing Committee spoke about the high cost of construction which is hindering housing construction and development. He noted developers are not coming forward to initiate housing projects.

Councilor Schnepf discussed the awareness of unmet needs in the community and ways in which Barnstable is trying to address it. She spoke about resources for some of our own vulnerable Barnstable people.

Amy Mesirow, President Friends of Long Pond Marstons Mills, hoped the pond would become safe for all to enjoy. She spoke about the need to reduce input into Long Pond. She mentioned education and storm water improvements have not improved the pond. She added she and the seven-member board were looking toward next year for the Town to improve our pond.

Greg Quilty, Major USMC (Ret) Barnstable Veterans Services Agent, spoke about the Veterans

Gold Star Tax Work Off. He said other towns have accepted this benefit. He explained the need for this exemption in Barnstable.

Ken Kimmell, Vice-President Offshore Wind Development Avangrid Renewable spoke about the Avangrid Renewables LLC's host community agreement with the Town of Barnstable. He was thankful Council approved the agreement and having the cost-effective technology in Barnstable.

Close Public Comment

Town Manager's Communications: (Exhibit A)

Karen Nober, Town Attorney, explained the Conservation Law Foundation (CLF) law suit which alleged violations of the Federal Clean Water Act was dismissed yesterday. She explained the federal district judge agreed with the Town that nitrogen and effluent that is released from the Town's wastewater treatment facility and which travels for 21 years over a distance of 1 ½ miles before it even reaches navigable waters cannot be considered the functional equivalent of a direct discharge in to those waters. Therefore the federal district judge found that the Federal Clean Water Act does not regulate such discharges. It is the state that has the authority and responsibility to regulate ground water discharges. The federal district judge also noted that the Town's wastewater treatment facility is fully permitted by the state under the state's regulatory framework. CLF now has 30 days from the date on which the decision was entered, which is today to file an appeal.

Karen Nober said the work on this matter has really been a team effort from all involved: Legal Department, Department of Public Works, and with outside lawyers at Anderson and Creager.

Councilor questions and comments:

Council President Levesque thanked Nober and her entire team for the great work. Council Vice-President Schnepf and Councilor Hebert said they were extremely pleased with the result. Council Vice-President Schnepf questioned the likelihood of an appeal. Karen Nober, Town Attorney could not estimate the probability of an appeal, we think it is unlikely only because now it is a district court decision which is persuasive but not controlling. If they appeal to circuit court and lose there it is a much worse result for them. It is unlikely they will appeal but certainly possible. Councilor Rapp Grassetti asked about recovering the fees? Karen Nober, Town Attorney explained the Town would not be able to recover legal fees though technically it is possible we would have to show their case was so implausible and specious and it is not. The statute is really structured in a way to encourage plaintiffs and not to disincentify them. The possible appeal would be difficult as the decision was a well written argument opinion. She added it is the correct opinion.

Sarah Ahern, Superintendent of Barnstable Schools, spoke about her background; came from the Town of Franklin where she was Superintendent of Schools, she was a high school science teacher previously before pursuing leadership roles. She discussed her approach which will be to prioritizing relationships, with a shared vision and long-term strategic goals. She spoke about her plan for the next four months to meet with people and organizations to share their educational perspectives and ideas.

Massachusetts Department of Environmental Protection (MassDEP) - Mark Ells, Town Manager, discussed the regulatory revision approaches to ensure timely actions are taken to restore and protect the coastal estuaries that have been impacted by excessive nitrogen

pollution. The two regulatory approaches which MassDEP has developed and plans to publish for public comment provide communities with choice on how to address pollution problems affecting our waters. We have drafted a letter after meeting with MassDEP, summarizing our comments on the proposed changes for MassDEP's consideration as they finalize their draft regulations. He added once the formal draft regulations are out he will ask the Board of Health and The Town Council if they would like to have a joint hearing with MassDEP to review those regulations. Karen Nober, Town Attorney added that CLF's lawsuit, the Title 5 lawsuit against MassDEP, Town of Barnstable and the Town of Mashpee has been put on hold so that MassDEP can undertake this regulatory process. She added that this is why the regulations are on the fast track because they have committed to a timeframe and a schedule to meet the litigation schedule and to see if the end result of the regulations will allow for a settlement.

We are having continued conversations with Vineyard Wind – Phase I (ongoing); Park City Wind – Phase II (permitting phase); and Commonwealth Wind - Phase III (planning phase). He noted at the national level our President and our Commonwealth are on board with this type of renewal energy.

Town of Barnstable and the Cape Cod Commission are working on a Complete Street plan which will provide accommodations for all users. The proposed study is to explore transportation improvement alternatives that will reduce conflicts, improve traffic flow and incorporate multi-model options.

Town Council received on July 1, 2022 the new working draft of Town Manager's regulations providing "grant of location" procedures and standards for wireless communication facilities in public ways.

Department of Public Works will hold a Public Information Evening on Monday August 15th at 7 pm at the Barnstable Performing Arts Center at Barnstable High School to give updates on sewer expansion projects necessary to protect our water resources.

Receiving questions regarding water quality in lakes and ponds. We are active in developing management plans for our lakes and ponds. He added he will update Town Council and the public as management plans are developed.

ACT ON MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of June 16, 2022 as presented.

VOTE: PASSES 8 YES 3 ABSTAIN (Clark, Schnepf, Steinhilber)

Roll Call: Atsalis, Rapp Grasseti, Hebert, Levesque, Mendes, Neary, Shaughnessy, Starr.

Council President Levesque said prior to tonight's Town Council meeting, I reviewed 1 set of Executive Session minutes with the Assistant Town Clerk and the Town Attorney. However, I just learned that a lawsuit has been filed against the Town by the neighbors of the bog. So, based upon my review and based upon this new information, I am announcing that I approved the Executive Session minutes of May 19, 2022, and I have determined that continued non-disclosure is warranted for those minutes. The recommended vote needs to change from what is on the agenda so I will ask Attorney Nober to tell us what the revised motion should be.

Karen Nober, Town Attorney stated to approve the decision of the Town Council President approving the executive session minutes of the May 19, 2022 Town Council meeting and determining that continued non-disclosure is warranted for those minutes.

Upon a motion duly made and seconded it was to continued non-disclosure for the Executive Session minutes of May 19, 2022.

VOTE: PASSES 10 YES 1 ABSTAIN (Atsalis)

Roll Call: Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

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

Council President Levesque mentioned Next Friday July 29 is the 6th Annual Unity Day on the Village Green; Shanties - Thank You Melissa Chartrand Director of Arts, Planning and Development and Licensing for all your hard work on this project: Cape Cod Collaborative Arts Network (Cape Cod CAN) New Public Art Installation called the Sea of Colors located at the Harbor Overlook.

Break (8:33 – 8:45)

Grow Smart Cape Cod Mapping Project – Alisa Magnotta, Chief Executive Officer, Housing Assistance Corporation and Andrew Gottlieb, Executive Director, Association to Preserve Cape Cod. They discussed land protection, water quality improvements and housing diversity. Andrew Gottlieb gave an overview of his PowerPoint presentation. Alisa Magnotta spoke about the priority need for housing which locals can afford.

Councilor Clark reiterated about the Grow Smart Cape Cod Mapping Project online training happening on September 23rd and October 13th you will need to go to - Haconcapecod.org

Mark Ells, Town Manager postponed the Private Road Policy to the end of the meeting.

2023-001 AUTHORIZATION TO EXPEND A FISCAL YEAR 2022 LEGISLATIVE EARMARK FROM THE MASSACHUSETTS DEPARTMENT OF MENTAL HEALTH IN THE AMOUNT OF \$60,000 INTRO: 07/21/2022

Anne Spillane gave the rationale and thanked Representative Kip Diggs for all his help. She noted this item would approve funding for a part-time Mental Health Clinician to help the current full-time Mental Health Clinician.

Councilor questions and comments: none

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 2022 Legislative Earmark in the amount of **\$60,000** from the Commonwealth of Massachusetts, Department of Mental Health for the purpose of funding part-time co-response clinician services at the Barnstable Police Department, with such funds to be expended by June 30, 2026

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-002 SUPPLEMENTAL APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$6,007,000 FOR THE PURPOSE OF FUNDING THE RECONSTRUCTION OF RUNWAY 6-24 PROJECT AT THE CAPE COD GATEWAY AIRPORT INTRO: 07/21/2022

Open public hearing seeing no one close public hearing

Councilor questions and comments: none

Upon a motion duly made and seconded it was

ORDERED: That the amount of \$13,045,000 appropriated under Town Council Order 2021-088 be increased by **\$6,007,000** for a total revised appropriation amount of \$19,052,000 for the purpose of funding the Airport's Design and Reconstruction of Runway 6-24 Project, 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 \$19,052,000 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 Cape Cod Gateway Airport Commission is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: REFER TO PUBLIC HEARING ON 08/18/2022 - PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-003	RESOLVE APPROVING MARK S. ELLS' OUTSIDE EMPLOYMENT WITH CAPE COD COMMUNITY COLLEGE INTRO: 07/21/2022
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Karen Nober, Town Attorney explained this item was to allow Mark Ells to continue teaching at the Cape Cod Community College.

Upon a motion duly made and seconded it was

RESOLVED: That, in accordance with Section 7 of the Employment Agreement between the Town of Barnstable and Mark S. Ells effective July 21, 2021, the Barnstable Town Council does hereby approve and ratify Mark S. Ells' outside employment with Cape Cod Community College (the "College") to allow him to continue teaching at the College for the period of July 1, 2022 through June 30, 2023.

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-004	APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION: INTRO: 07/21/2022
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Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Council on Aging:** Ellen Queoney, as a regular member to a term expiring 6/2025

VOTE: REFER TO SECOND READING ON 08/18/2022 - PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-005	REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO: 07/21/2022
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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: **Planning Board:** Raymond Sexton, as a regular member to a

term expiring 06/2025; Robert Twiss, as a regular member to a term expiring 06/2025; **Sandy Neck Board:** William Monroe, as a member at large to a term expiring 06/2025; William Carey, as a member at large to a term expiring 6/2025

VOTE: REFER TO SECOND READING ON 08/18/2022 - PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-006 CONFIRMING REAPPOINTMENTS TO THE AFFORDABLE HOUSING/GROWTH & DEVELOPMENT TRUST FUND BOARD INTRO: 07/21/2022

Mark Ells, Town Manager gave the rationale. He said the three members have served and want to continue to serve on the Affordable Housing/Growth and Development Trust Fund Board. He noted he is in favor of approving their reappointment.

Councilor Rapp Grassetto asked about the reappointment of Ruth Weil. Ruth Weil served as the administrator not as a board member. It was noted Ruth Weil asked to be replaced.

Upon a motion duly made and seconded it was

RESOLVED: That Town Council hereby confirms the Town Manager's reappointment of the following individuals to serve as Trustees of the Affordable Housing/Growth and Development Trust Fund Board (the "Board"), pursuant to the provisions of M.G.L. c. 44 §55C, and in accordance with the Amended Declaration of Trust, as approved by the Board at its September 25, 2020 meeting:

Michael Andrew Clyburn, a resident of Sandwich, MA, to a term expiring June 30, 2023

Mark Milne, a resident of Marstons Mills, MA, to a term expiring June 30, 2024

Wendy Northcross, a resident of West Barnstable, MA, to a term expiring June 30, 2023

Laura Shufelt, a resident of West Barnstable, MA, to a term expiring June 30, 2024

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-007 AUTHORIZATION TO EXPEND A GRANT FROM BARNSTABLE COUNTY IN THE AMOUNT OF \$1,965,218.61 TO FUND A PORTION OF THE COST OF CONSTRUCTING A PUMP STATION AT 725 MAIN STREET HYANNIS INTRO: 07/21/2022

Mark Milne, Finance Director, gave the rationale.

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby authorize the Town Manager to contract for and expend a grant from Barnstable County in the amount of **\$1,965,218.61** for the purpose of constructing a pump station at 725 Main Street Hyannis.

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2022-008 ORDER ACCEPTING THE PROVISIONS OF M.G.L. CHAPTER 59, SECTION 5N AND AMENDING CHAPTER 183 OF THE GENERAL ORDINANCES TO ADD A PROGRAM FOR A VETERANS PROPERTY TAX WORK-OFF ABATEMENT INTRO: 07/21/2022

Mark Milne, Finance Director, gave the rationale. He discussed that the Town had a Senior Property Tax Work-Off since 2009. He added expanding the program to include veterans would need the Town's acceptance of the Massachusetts General Law C. 59, State Statute 5N and amending Chapter 183 of the General Ordinances.

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

ORDERED:

SECTION 1. That the Town Council hereby accepts the provisions of Massachusetts General Laws, Chapter 59, § 5N, effective for the fiscal year beginning July 1, 2022.

SECTION 2. That the General Ordinances, Part I, of the Code of the Town of Barnstable are hereby amended by deleting Chapter 183 in its entirety and inserting the following new Chapter 183 in its place:

“Chapter 183. Senior Citizen and Veterans Property Tax Work-Off Abatement Programs

§ 183-1. Purpose.

In accordance with the provisions of M.G.L. c. 59, § 5K and M.G.L. c. 59, § 5N, the Town is offering programs which allow certain eligible seniors aged 60 and older and veterans the opportunity to perform work for the Town in exchange for an abatement of property taxes for the maximum amount of \$1,500 yearly.

§ 183-2. Eligibility.

- A. In order to be eligible to apply for the Senior Property Tax Work-off Program, an individual shall meet all of the following requirements:
 - a. Owns and occupies a residential property in the immediate fiscal year preceding the fiscal year in which the taxpayer applies to volunteer his/her services;
 - b. Has reached 60 years of age by July 1 of the fiscal tax year for which the tax credit is given;
 - c. Has a gross yearly income from all sources of not more than \$40,000 for single taxpayers and \$50,000 for married taxpayers; and
 - d. Otherwise qualified municipal employees may participate in the program as long as they are able to secure an exemption to M.G.L. c. 268A, § 20.

- B. In order to be eligible to apply for the Veterans Property Tax Work-off Program, an individual shall meet all of the following requirements:
 - a. If the veteran has a service-connected disability or is deceased, the veteran's spouse or surviving spouse may earn the abatement instead;
 - b. Owns and occupies a residential property in the immediate fiscal year preceding the fiscal year in which the taxpayer applies to volunteer his/her services;
 - c. Has a gross yearly income from all sources of not more than \$40,000 for single taxpayers and \$50,000 for married taxpayers; and
 - d. Otherwise qualified municipal employees may participate in the program as long as they are able to secure an exemption to M.G.L. c. 268A, § 20.

§ 183-3. Program administration.

- A. The Town Manager or his/her designee shall be responsible for administering the Senior and Veterans Tax Work-Off Programs.

- B. The Town Manager or his/her designee shall review and approve the volunteer services to be included in the programs and place and/or assign eligible residents to perform such services.
- C. The Town Manager or his/her designee shall certify the amount of volunteer services performed by each participating taxpayer to the Barnstable Board of Assessors on or before December 1 of the year for which tax credits are to be given. Upon timely receipt of this certification, the Board of Assessors shall credit the real property tax obligations of the participating taxpayers in an amount not to exceed \$1,500 per taxpayer. A copy of each taxpayer's certification will be given to that taxpayer. This credit shall be in addition to any exemption or abatement for which the volunteer may otherwise be eligible.
- D. There shall be a maximum number of 20 residents who may participate in the programs in a given year.

§ 183-4. Program criteria.

- A. The hourly rate at which the volunteer services are to be credited shall be the minimum wage of the Commonwealth in effect at the time the services are provided.
- B. The Town will pay the volunteer's share of FICA taxes.
- C. The maximum amount by which the real property tax obligation of any one volunteer may be reduced in any given tax year shall not exceed \$1,500 for each program.
- D. Tax credits may be applied only toward real property, which the volunteer occupies as a principal residence and has property tax liability.
- E. Only one tax abatement per property per year shall be allowed.
- F. Participation will be awarded using a lottery system if qualified applications received exceed the number of available slots.
- G. Taxpayers in the program may not participate in two consecutive years unless the number of applicants is less than the eligible slots.

VOTE: REFER TO PUBLIC HEARING ON 08/18/2022 - PASSES 11 YES

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

2023-009 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 MASSTRAILS GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS IN THE AMOUNT OF \$500,000 FOR PRELIMINARY DESIGN OF THE CAPE COD RAIL TRAIL PHASE 4 EXTENSION IN THE TOWN OF BARNSTABLE INTRO: 07/21/2022

Rob Stein, Public Works Assistant Director, gave the rationale. He noted the rail trail was 4 phase project and it would cover 9 miles. Phase 3 starts in January 2023.

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 MassTrails Grant in the amount of **\$500,000** from the Commonwealth of Massachusetts for the purpose of funding the preliminary design of the Cape Cod Rail Trail Phase 4 extension in the Town of Barnstable.

VOTE: PASSES 11 YES

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

2023-010 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 SHARED STREETS AND SPACES GRANT FROM THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$50,000 TO FUND THE PURCHASE OF A SIDEWALK SNOW MACHINE INTRO: 07/21/2022

Rob Stein, Public Works Assistant Director, gave the rationale. He spoke about the need for the sidewalk snow machine.

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 Shared Streets and Spaces Grant in the amount of **\$50,000** from the Massachusetts Department of Transportation for the purpose of purchasing a sidewalk snow machine.

VOTE: PASSES 11 YES

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

2023-011 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, CHAPTER 240 ZONING, ARTICLE V SECTION 46, HOME OCCUPATION, AND ARTICLE III SECTION 14, RC-1 AND RF RESIDENTIAL DISTRICTS, SUBSECTION (C) CONDITIONAL USES, TO UPDATE REQUIREMENTS PERTAINING TO HOME OCCUPATIONS INTRO: 07/21/2022

Elizabeth Jenkins, Planning and Development Director, Kate Maldonado, Planning and Development Assistant Director and James Kufer, Senior planner gave the rationale. Brian Florence, Building Commissioner, discussed the needed change to the ordinance as things have changed regarding home occupation needs and areas in which residents are requiring home occupational permits.

Upon a motion duly made and seconded it was

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending Article V Accessory Uses, Section 46, Home Occupation by deleting Section 240-46 in its entirety and inserting the following new Section 240-46 in its place:

“§ 240-46 Home occupation.

A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within a dwelling, subject to the provisions of this section, provided that the activity shall not be discernible from outside the dwelling except as provided herein; there shall be no increase in noise or odor; no visible alteration to the premises which would suggest anything other than a residential use; no increase in traffic above normal residential volumes; and no increase in air or groundwater pollution.

B. A home occupation shall be permitted, in all zoning districts as of right subject to the following conditions:

- (1) The activity is conducted by a permanent resident of a dwelling unit, located within that dwelling unit, or within an accessory structure located on the same lot, subject to the limitations herein.
- (2) Such use is clearly incidental to and subordinate to the use of the premises or occupants for residential purposes.
- (3) Such use occupies no more than 20% of the dwelling unit including office and storage areas combined unless relief is granted by Special Permit as provided by subsection (C) (1)a. below. Such use within an accessory structure shall occupy no more than 200 square feet unless relief is granted by Special Permit as provided by subsection (C) (1)f. below.
- (4) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use except as provided herein.
- (5) The use is not objectionable or detrimental to the neighborhood and its residential character
- (6) Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics.
- (7) The use shall not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other objectionable effects.
- (8) There is no storage or use of toxic or hazardous materials, or flammable, or explosive materials, in excess of normal household quantities.
- (9) Any need for parking generated by such use shall be met on the same lot containing the customary home occupation, and not within the front yard.
- (10) There is no exterior storage or display of materials or equipment.
- (11) There are no commercial vehicles related to the home occupation, other than one van or one pickup truck not to exceed one-ton capacity, and one trailer not to exceed 20 feet in length and not to exceed four tires, parked on the same lot containing the home occupation. This section does not apply to residents of a dwelling who park take-home work vehicles that are not registered to them and that do not have a home occupation on premises.
- (12) No sign shall be displayed indicating the home occupation.
- (13) If the home occupation is listed or advertised as a business, the street address shall not be included.

(14) No more than one non-resident employee may be employed on the premises of a home occupation. Except pursuant to a special permit in accordance with Section C (1) (c) below.

(15) Home occupations shall not include such uses similar to, and including the following:

- (a) Barber- and beauty shops.
- (b) Commercial stables or kennels¹.
- (c) Real estate or insurance office.²
- (d) The sale of retail or wholesale merchandise from the premises, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to B (3) above.
- (e) The sale of antique or secondhand goods, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to B (3) above.
- (f) Service or repair of vehicles, and gasoline or diesel powered machinery.
- (g) Contractor's storage yards. Contractor's storage yard includes the keeping of materials in trade outdoors, such as: lumber, granite, windows and other such bulk materials including but not limited to stone, gravel, mulch, firewood etc. beyond the limits of personal use.
- (h) Veterinary services.
- (i) The manufacture of goods using heavy machinery.
- (j) Medical or dental practice.
- (k) Fortune-telling or palm reading.

C. Home occupation by special permit. The Zoning Board of Appeals may allow by Special Permit, subject to the provisions of § 240-125C herein, a home occupation subject to the specific standards for such conditional uses as required in this section:

(1) Home occupations shall comply with all of the requirements of Subsection B (1) through (11) above, except the Zoning Board of Appeals may allow by Special Permit the following waivers from the requirements of Subsection B above.

- a. The Zoning Board of Appeals may allow an activity to exceed 20% of a dwelling's gross floor area by special permit but at no time shall allow a home occupation to occupy more than 40% of a dwelling's gross floor area.
- b. The Zoning Board of Appeals may allow one non-illuminated wall sign not exceeding two square feet in area by special permit.
- c. The Zoning Board of Appeals may allow more than one non-resident employee to be employed on the premises of a home occupation but at

¹ Kennel - Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or over.

² Real Estate and Insurance Offices which provide public access shall be prohibited. Real Estate Office for administrative purposes only are allowed.

no time shall a home occupation allow for greater than two non-residents of the household to be employed on the premise at the same time.

- d. The Zoning Board of Appeals may allow the parking of one work vehicle capable of being operated under a Massachusetts Class B license related to the home occupation by special permit. All parking generated by the use by special permit shall be accommodated off-street, screened by a physical or natural barrier so not to be seen from a public way.
- e. Home occupations shall not include the uses listed in Subsection B (15) above. However, The Zoning Board of Appeals may allow activities that may not be customary within a dwelling provided that the activity meets the intent as specified herein.
- f. The Zoning Board of Appeals may allow a home occupation use to be located within an accessory structure which may occupy greater than 200 sq. ft. of the accessory structure, on the same lot as the primary residential dwelling unit occupied by the applicant. Such use within an accessory structure may occupy greater than 200 square feet by special permit but at no time shall the use within the accessory structure occupy an area within an accessory structure that is greater than 25 percent of the square footage of the primary residential dwelling unit occupied by the applicant.

(2) Home Occupations requiring a special permit shall require Article IX, Site Plan Review.

(3) Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his or her residence, and shall not be transferable to another person, or to another location.”

SECTION 2

By amending Article III District Regulations, Section 240-14 RC-1 and RF Residential Districts, by deleting in paragraph (1) of Subsection C. Conditional Uses, the words “Home occupation, subject to all the provisions of §240-46C, Home occupation by special permit” and inserting the word “Reserved” in their place.

VOTE: REFER TO PLANNING BOARD - PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grasseti, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

<p>2023-012 APPROPRIATION ORDER IN THE AMOUNT OF \$62,000 FOR THE PURPOSE OF FUNDING THE LOCAL MATCH REQUIREMENT FOR A FEDERAL GRANT FROM THE NATURAL RESOURCE CONSERVATION SERVICE IN THE AMOUNT OF \$320,000 FOR THE LONG POND FISHWAY PROJECT AS OUTLINED IN THE FISCAL YEAR 2023 - FISCAL YEAR 2027 CAPITAL IMPROVEMENT PLAN AND AUTHORIZATION TO EXPEND SAID GRANT INTRO: 07/21/2022</p>

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$62,000** be appropriated and added to the amount appropriated under Town Council Order 2022-116, resulting in a revised appropriation amount of \$112,000, representing the local match requirement for the acceptance of a grant from the U.S. Department of Agriculture Natural Resource Conservation Service in the amount of \$320,000, and that to meet this appropriation, that \$62,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and grant for the purpose of funding the Long Pond Fishway Design, Permitting and Construction Project as outlined in the Fiscal Year 2023 – Fiscal Year 2027 Capital Improvement Plan, including the payment of costs incidental or related thereto.

VOTE: REFER TO PUBLIC HEARING ON 08/18/2022 - PASSES 11 YES

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

2023-013 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND S&C REALTY INVESTMENT CO., LLC, FOR 442 MAIN STREET, HYANNIS INTRO: 07/21/2022

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby authorizes the Town Manager pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the "Code"), to enter into and execute a Regulatory Agreement between the Town of Barnstable S&C Realty Investment Co., LLC for the property at 442 Main Street, Hyannis, Massachusetts, and shown on Assessor's Map 309 as Parcel 223, consisting of 35,531 square feet of land and located in the Hyannis Village Business District (HVB) zoning district; the Hyannis Main Street Waterfront Historic District; and the Aquifer Protection (AP) overlay district (hereafter, the "Property"); and further authorizing the redevelopment of the Property by enclosing the existing drive-through; creating a food service establishment/coffee shop restaurant in the back of the building with a new drive-through window; creating a patio area with seating for customers in the alley along the easterly side of the building; maintaining the first floor retail area in the front of the building for commercial tenants; adding five (5) residential apartments on the second floor; reconfiguring the parking lot; adding sidewalk to connect the sidewalk along Winter Street to the sidewalk along North Street; and adding new lighting, landscaping, and signage, all as shown on the plans submitted and attached hereto as **Exhibit A** (hereafter, the "Redevelopment Plans", and such proposed site work, new buildings and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment"), and granting the requested zoning relief pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT
S&C REALTY INVESTMENT CO., LLC
442 MAIN STREET
HYANNIS, MA 02601

This Regulatory Agreement ("Agreement") is entered into by and between the applicant, **S&C Realty Investment Co., LLC** (the "Applicant" and/or "Developer"), a Massachusetts limited liability company with a mailing address of 169 Main Street, Stoneham, MA 02180, and the **Town of Barnstable** (the "Town"), a municipal corporation with a mailing address of 367 Main Street, Hyannis, MA 02601, on this ____ day of _____, 2022, pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapter 168 of the Code of the Town of Barnstable.

WITNESSETH:

WHEREAS, this Agreement shall establish the following: permitted uses, densities, signage, and traffic within the proposed Redevelopment (as defined herein), the duration of this Agreement, and any other terms and conditions mutually agreed upon between the Applicant and the Town;

WHEREAS, pursuant to section 168-3 of the Code of the Town of Barnstable, the Town of Barnstable is authorized to enter into a Regulatory Agreement with a qualified applicant within the Downtown Implementation District as the Town's Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan and said certification has not been revoked, and the Town has adopted the enabling regulation contained in §§ 168-1 through 168-10;

WHEREAS, Developer has an agreement to purchase the property located at 442 Main Street, Hyannis, Massachusetts consisting of 35,531± square feet, shown on Town of Barnstable Assessor's Map 309 as Parcel 223, the parcel is referred to herein as the "Property";

WHEREAS, the Property is developed with a two-story building consisting of approximately 11,736 square feet, formerly used as a bank with a two lane drive-through;

WHEREAS, the Property borders Main Street to the south, Winter Street to the west, and North Street to the north, and has access to Winter Street and North Street;

WHEREAS, the Property consists of approximately 35,531 square feet of land and is located in the Hyannis Village Business District (HVB) zoning district; the Hyannis Main Street Waterfront Historic District; and the Aquifer Protection (AP) overlay district.

WHEREAS, Developer proposes to: redevelop the property by enclosing the existing drive-through; creating a food service establishment/coffee shop restaurant in the back of the building with a new drive-through window; creating a patio area with seating for customers in the alley along the easterly side of the building; maintaining the first floor retail area in the front of the building for commercial tenants; adding five (5) residential apartments on the second floor; reconfigure the parking lot; adding sidewalk to connect the sidewalk along Winter Street to the sidewalk along North Street; and adding new lighting, landscaping, and signage, all as shown on the plans submitted and attached hereto as **Exhibit A** (hereafter, the "Redevelopment Plans", and such proposed site work, new buildings and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment");

WHEREAS, the Redevelopment is consistent with the Town of Barnstable's Design and Infrastructure Plan in that the proposed project provides a sidewalk which connects the existing sidewalks onto Winter Street and North Street; improves curb cuts along Winter Street and North Street; and provides access from Main Street to the North Street parking lot; the scale, placement, materials, design, and details of the re-developed building comply with the Design and Infrastructure Plan guidelines; and the project provides the infrastructure necessary to support the project.

WHEREAS, the Town and Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to the Redevelopment;

WHEREAS, the Applicant is willing to commit to the reuse of the Property in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the reuse and therefore considers this Agreement to be in its best interests;

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of the Agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare;

WHEREAS, the Redevelopment will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Property is located in the Downtown Hyannis Growth Incentive Zone (GIZ) as originally approved by the Cape Cod Commission by decision dated April 6, 2006 and re-designated by decision dated April 19, 2018, and as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11, and 18-11, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Redevelopment is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this Redevelopment may proceed;

WHEREAS, the Redevelopment has undergone formal site plan review and the Town of Barnstable Site Plan Review Committee determined the Redevelopment Plans approvable by decision dated May 10, 2021, and Developer shall submit final plans consistent with the terms and conditions contained in this Agreement to the Building Commissioner to determine whether any modifications to the Site Plan Review approval are necessary prior to any building permits being issued for the Redevelopment;

WHEREAS, the Redevelopment has undergone formal review by the Hyannis Main Street Waterfront Historic District Committee on September 15, 2021 and October 6, 2021 and received a Certificate of Appropriateness for the proposed exterior renovations and addition to the building and a Certificate of Appropriateness for business signage;

WHEREAS, the Redevelopment proposal has undergone a public hearing before the Planning Board opened on May 9, 2022 and closed on May 9, 2022 on the Agreement application and received an affirmative majority vote from the Planning Board on May 9, 2022;

WHEREAS, the Redevelopment proposal has undergone a public hearing opened on _____ and closed on _____ on the Agreement application before the Barnstable Town Council and has received a two-thirds vote approving the Agreement on _____, 2022;

WHEREAS, this Agreement authorizes only the uses, intensity of uses, dimensions and signage specified herein. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to

Chapter 168-10 of the Code;

NOW, THEREFORE, in consideration of the agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which each of the parties hereby acknowledge to each other, the Applicant and Town do enter into this Agreement, and hereby agree and covenant as follows:

1. Description of Existing and Proposed Conditions:

A. Existing Conditions

The Property is developed as follows:

- A two-story building consisting of approximately 11,376 square feet, formerly used as a bank;
- The Property contains two curb-cuts, one off of North Street and one onto Winter Street;
- No landscaping;
- A two-lane drive-through; and
- A parking lot with 35 spaces.

B. Proposed Redevelopment

The proposed Redevelopment involves development as follows and as shown on the Redevelopment Plans listed below:

- Adding a 2,524 square foot two-story addition to the North Elevation of the building;
- The second floor will contain two (2) two-bedroom apartments and three (3) one-bedroom apartments;
- The new addition will be brick matching as nearly as possible the existing brick ("Old Port");
- Install new Anderson, white vinyl windows to match as nearly as possible the existing windows in appearance;
- Replace existing wood shutters with vinyl shutters to match as nearly as possible the existing appearance;
- The existing entrance way off of North Street and exit onto Winter Street will be reconfigured;
- Significant landscaping and vegetation improvements;
- Architectural and site design in accordance with the Design and Infrastructure Plans;
- Construction of a sidewalk connecting the existing sidewalks on Winter Street and North Street;
- Drive-through menu, directional signage, and a free-standing monument based sign (with brick base to match existing building brick) located next to the entrance along North Street;
- A total of 33 paved parking spaces.

2. The Developer agrees to construct the Redevelopment on the Property in accordance with the Redevelopment Plans which are submitted herewith and which are entitled as follows:

- a. "Proposed First Floor Plan Date: 10/06/21, Job Location Hyannis, MA 442 Main St. Hyannis, MA" drawn by James D. Smith Architects, Sheet A-1.0;
- b. "Proposed Second Floor Plan Date: 10/06/21, Job Location Hyannis, MA 442 Main

- St.” drawn by James D. Smith Architects, Sheet A-2.0;
“Proposed Elevations; Signage Information Plan Date: 10/06/2021, Job Location Hyannis, MA 442 Main St.” drawn by James D. Smith Architects, Sheet A-3.0;
- c. “Existing Conditions Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C1.0;
 - d. “Site Layout Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C2.0;
 - e. “Grading, Drainage & Utility Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C3.0;
 - f. “Details Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C4.0 and C4.1; and
 - g. “General Notes & Legend Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C5.0.

The Redevelopment has undergone formal site plan review and the Town of Barnstable Site Plan Review Committee determined the Redevelopment Plans approvable by decision dated May 10, 2021, and Developer shall submit final plans consistent with the terms and conditions contained in this Agreement to the Building Commissioner to determine whether any modifications to the Site Plan Review approval are necessary prior to any building permits being issued for the Redevelopment.

3. The Redevelopment provides, without limitation, the following multi-modal transportation, economic, place-making, site design, traffic safety, and community benefits:
 - a. Redevelopment and significantly improved aesthetics at a historic, Main Street, Hyannis property.
 - b. Substantially increased landscaping.
 - c. Construction of a sidewalk along the Property’s frontage along Winter Street and North Street connecting the existing sidewalks in accordance with the Department of Public Works specifications and review and approval by the Town Engineer.
 - d. Safe and well marked interior pedestrian connections within the Property.
 - e. Exterior site lighting improvements, including use of LED lights.
 - f. Addition of five (5) new apartments on Main Street, Hyannis.
 - g. Improved access to and from Main Street to the North Street parking lots.
4. Outdoor storage is prohibited including storage in trailers, containers, trucks or other storage units. This prohibition shall be prominently noted on the final approved site plans.
5. The Developer currently owns and operates a coffee shop with drive through at the address 149 North Street Map 309 Parcel 226-001. The Developer agrees to abandon the drive-through use at 149 North Street within one year of receipt of an occupancy permit for the coffee shop with drive-through at the Property.
6. Prior to an occupancy permit granted, the Developer shall grant a public access easement from the North street parking lot to Main Street between the Property and 438 Main Street. Said easement shall be reviewed as to form by the Town Attorney and shall be granted in perpetuity and recorded at the Barnstable Registry of Deeds by the Developer.
7. This Agreement shall run with the land, and all of the terms, conditions, and obligations contained in this Agreement shall be binding on any successor or assignor of the Applicant for as long as the Property is used in accordance with this agreement and unless and until it is

redeveloped further into some other use.

8. Prior to the issuance of the first building permit, the Developer shall provide a letter of credit or cash escrow in an amount equivalent to 150% of the total scope of the landscape plan proposed. Said letter of credit or cash to be expended on the replacement of landscape materials if such replacement becomes necessary. The letter of credit or cash escrow shall be approved by the Planning and Development Director, said letter of credit or cash escrow to be expended to replace landscape materials if such replacement becomes necessary because of the failure of Developer or its tenants to do so. An "acceptable" letter of credit is a letter of credit issued by a bank incorporated in the Commonwealth of Massachusetts or currently licensed to do business in the Commonwealth, and having at the time of issue of the letter of credit a Standard & Poor ("S&P") Rating of "BBB+" or better and/or a Bankrate.com rating of 4-star or better. Further, an acceptable letter of credit shall be approved as to issuer by the Treasurer of the Town of Barnstable and as to form by the Office of the Town Attorney. Any unexpended portion of said letter of credit or cash escrow shall be released by the Planning Board to the Developer or its successor(s), as directed by the Developer, after three years from the date of the landscape installation, such date to be determined by the Building Commissioner, upon the request of the Developer.

9. Developer is responsible for obtaining all applicable permits and licenses.

10. No Certificate of Occupancy shall be issued until all conditions of this Agreement have been met and Design and Infrastructure Plan approval has been issued.

This Agreement is transferable to a person or entity other than the Applicant (hereafter, the "Transferee") with prior written notice to the Town Manager and contingent upon the Applicant being in compliance with all the requirements of this Agreement. However, no such notice to the Town shall be effective unless it includes a written acknowledgement by the Transferee that they have read this Regulatory Agreement, and any amendments thereto, and they agree to be bound by the terms and conditions set forth herein, in which event after such assignment the transferor shall be relieved of liability from and after the date of transfer. Upon receipt of such written notice of transfer, and subject to a determination by the Town Manager that that the Applicant is in compliance with all the then applicable requirements of the Agreement, the Transferee and the Town Manager shall execute a minor amendment of this Regulatory Agreement acknowledging the Transferee is a signatory of this Regulatory Agreement, agreeing to be bound by the terms and conditions set forth herein, and any subsequent amendments hereto, and assuming liability as of the date of transfer. No Planning Board or Town Council approval is required for such a minor amendment acknowledging such a transfer in ownership.

11. The development rights granted hereunder shall be exercised and development permits needed to commence construction may be obtained hereunder for a period of five (5) years from the effective date of this Agreement, provided, however, that prior to the expiration of said five year period, the Developer may request an extension to obtain development permits necessary to commence construction, said extension shall not exceed two years. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed two years from receipt of necessary development permits. In the event that this Agreement and/or any necessary development permits for the Project are appealed, the timeframes set forth in this section shall be tolled for the length of any such appeals.

12. Construction and demolition debris from the Project shall be removed and reused or recycled to the maximum extent possible.

13. No uses shall use, store, generate, treat or dispose of hazardous waste or hazardous materials and shall not generate hazardous waste as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353, except in compliance with all applicable laws.

14. To the extent that the Redevelopment Plans referenced in this Agreement do not depict all the findings and conditions set forth in this Agreement, revised plans and/or notations shall be provided in the final site plan. The Redevelopment shall remain in substantial conformance with the Site Plan Review approval dated May 10, 2021 and all conditions thereof and any modifications thereto as reflected in the final approved site plan.

15. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Barnstable Code Section 240-104(G)). This document shall be submitted before the issuance of the final certificate of occupancy.

16. The term of this Agreement shall be five (5) years from the effective date of the Agreement (the "Term"), and the development rights authorized herein must be exercised prior to expiration of the Term or this Agreement shall be null and void, subject to the potential tolling due to litigation referenced in paragraph 12. Once the development rights authorized herein have been timely exercised, all terms and conditions of this Agreement shall remain in effect until the Property is no longer used in accordance with the Redevelopment Plans.

17. The Town hereby grants the following waivers from the Town of Barnstable Zoning Ordinance for the Redevelopment, as requested by the Developer:

- a. Section 240-24. 1.11(A)(3), Site Development Standard prohibits drive-through windows in the Hyannis Village Zoning Districts.
 - i. Redevelopment proposes one drive through window for restaurant use.
- b. Section 240-24.1.3(D) (2) (a) and Section 240-56, Schedule of Parking Spaces.
 - ii. Redevelopment proposes 33 parking spaces and Ordinance requires 34 parking spaces.
- c. Sections 240-24.1.11(A) (6); 240-71; and 240-65 Signage.
 - iii. Section 240-71A limits maximum height of all signs on buildings to 12 feet. The project proposes two signs on the South elevation of the building ("Tenant Sign" and "Dunkin" sign) and one sign on the North elevation ("DD" sign) which exceed the height limitation.
 - iv. Section 240-71 B limits the maximum square footage of all signs to the lesser of 50 square feet or 10% of the building face. The project proposes 71.84 square feet of signage.

v. Section 240-71C provides that the maximum size of any freestanding sign shall be 12 square feet. The project proposes two freestanding signs which exceed 12 square feet; the Monument Sign (14.27 sq. ft.) and the Menu Board (24.16 sq. ft.).

vi. Section 240-65A limits each business to two signs. The project proposes seven (7) signs for the Dunkin store as follows:

Monument Sign	14.27 sq. ft.
South Elevation	8.69 sq. ft. ("Dunkin")
South Elevation	3.14 sq. ft. ("DD")
East Elevation	2.00 sq. ft. ("DD")
East Elevation	2.00 sq. ft. ("DD")
North Elevation	17.58 sq. ft. ("DD")
Menu Board	24.16 sq. ft.

The project also proposes one additional sign for a Tenant (South Elevation 8.69 sq. ft.). Further Tenant signage may be requested at a future date.

vii. Section 240-65D allows one freestanding sign per business, which may not exceed half the allowable size as permitted. The project proposes two freestanding signs for the Dunkin restaurant (Monument Sign on North Street and Menu Board).

viii. Section 240-65J limits the size of a menu sign or board to three square feet. The project proposes a menu sign containing 24.16 square feet.

ix. Section 240-75A allows for directional signs provided such signs do not exceed one square foot in area or be more than three feet high. The project proposes five directional signs each containing 2.75 square feet, and each being 4 feet 10 inches tall.

x. Section 240-75 B allows a total of four directional signs. The project proposes five directional signs.

18. The failure of this agreement to address a particular permit, condition, term, or restrictions shall not relieve the qualified applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;
19. This Regulatory Agreement may not be used to prevent the Town of Barnstable or other governmental agency from requiring the qualified applicant to comply with the laws, rules and regulations and policies enacted after the date of the regulatory agreement, if the Town of Barnstable or governmental agency determines that the imposition of and compliance with the newly effective laws and regulations are essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction.
20. The failure of this Agreement to address a particular permit, condition, term, or restrictions shall not relieve the qualified applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;

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IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the day and year first above written.

Applicant:

Town of Barnstable:

Signature: _____

Signature: _____

Print: _____

Print: _____

Date: _____

Date: _____

**EXHIBIT A
REDEVELOPMENT PLANS**

VOTE: REFER TO PUBLIC HEARING ON 08/18/2022 - PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grasseti, Hebert, Levesque, Mendes, Neary, Schnep, Shaughnessy, Starr, Steinhilber.

2023-014 APPROPRIATION ORDER IN THE AMOUNT OF \$150,000 FOR THE PURPOSE OF FUNDING THE LOCAL MATCH REQUIREMENT FOR A FEDERAL GRANT FROM THE NATURAL RESOURCES CONSERVATION SERVICE IN THE AMOUNT OF \$1,529,333 FOR THE UPPER MARSTONS MILLS FISHWAY PROJECT AND AUTHORIZATION TO EXPEND SAID GRANT INTRO: 07/21/2022

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$150,000** be appropriated and added to the amount appropriated under Town Council Order 2014-108, resulting in a revised appropriation amount of \$543,500, representing the local match requirement for the acceptance of a grant from the U.S. Department of Agriculture Natural Resources Conservation Service in the amount of \$1,529,333, and that to meet this appropriation, that \$150,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and grant for the purpose of funding the Upper Marstons Mills Fishway Design, Permitting and Construction Project, including the payment of costs incidental or related thereto.

VOTE: REFER TO PUBLIC HEARING ON 08/18/2022 - PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grasseti, Hebert, Levesque, Mendes, Neary, Schnep, Shaughnessy, Starr, Steinhilber.

2023-015 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION APPROVING THE GRANT OF EASEMENT TO PARK CITY WIND LLC IN CERTAIN PARCELS OF LAND, NAMELY THAT PORTION OF CRAIGVILLE BEACH KNOWN AS ASSESSORS' PARCEL 206-013 AND THAT PORTION OF 20 SOUTH MAIN STREET KNOWN AS ASSESSORS' PARCEL 228-138, SUPERSEDING TOWN COUNCIL ORDER 2022-191 INTRO: 07/21/2022

Karen Nober, Town Attorney introduced Charlie Mclaughlin, Senior Attorney, who gave the rationale. He explained a legislative approval was needed for the grant easement to Park City Wind. Karen Nober, Town Attorney noted the proposed amendment was the next item 2023-016 on the agenda.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby directs the Town Manager to submit a petition to the General Court of the Commonwealth for a special act approving the grant of an easement to Park City Wind LLC, as follows; provided that this Order shall supersede and replace Order No. 2022-191 approved by the Town Council on June 2, 2022:

“AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO GRANT AN EASEMENT TO PARK CITY WIND LLC

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town council of the city known as the town of Barnstable may grant to Park City Wind LLC, and its successors and assigns, permanent easements in parcels of land, namely a portion of Craigville Beach known as town of Barnstable assessors’ parcel 206-013 and a portion of 20 South Main Street known as town of Barnstable assessors’ parcel 228-138, for the purpose of constructing, installing, inspecting, operating, maintaining, repairing and replacing, subsurface high voltage electric power transmission lines, along with associated subsurface appurtenances including but not limited to subsurface telecommunications lines, conduits, duct banks, bays and vaults, and together with surface appurtenances for access, in connection with the wind generating facility to be developed by Park City Wind LLC in federal waters south of Martha’s Vineyard.

SECTION 2. Park City Wind LLC shall provide mitigation for the granting of such an easement pursuant to the host community agreement entered into between the city known as the town of Barnstable and Park City Wind LLC and dated May 6, 2022; provided, that such mitigation shall consist of a \$100,000 payment to the town of Barnstable to be used for the benefit of and improvements to Craigville Beach or to purchase or improve other Article 97 protected land located in the city known as the town of Barnstable, as determined by the city known as the town of Barnstable.

SECTION 3. The town manager of the city known as the town of Barnstable may execute and record any instruments necessary on behalf of the city known as the town of Barnstable to effectuate the transfer described in section 1 upon the passage of this act.

SECTION 4. This act shall take effect upon its passage.”

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grasseti, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-016	ORDER TO APPROVE AN AMENDMENT TO THE HOST COMMUNITY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND PARK CITY WIND LLC (“HCA 2”) AMENDING THE SPECIAL MITIGATION PROVISIONS INTRO: 07/21/2022
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Upon a motion duly made and seconded it was

ORDERED: To authorize and direct the Town Manager to execute an amendment to the Host Community Agreement between the Town of Barnstable and Park City Wind LLC, dated May 6,

2022 (“HCA 2”), deleting in the second paragraph of Section 9(d) of the Agreement the words “for the purpose of making improvements to public facilities on the route selected by PCW for cable installation or to an area within reasonable proximity of the cable route” and inserting the following words in their place: “to be used for the benefit of and improvements to Craigville Beach or to purchase or improve other Article 97 protected land located in the Town of Barnstable, as determined by the Town of Barnstable.”

VOTE: REFER TO SECOND READING ON 08/18/2022 - PASSES 11 YES

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

2023-017 RESOLVE AUTHORIZING THE TOWN MANAGER TO COMMENCE NEGOTIATIONS WITH COMMONWEALTH WIND LLC FOR A NEW HOST COMMUNITY AGREEMENT INTRO: 07/21/2022

Council president Levesque called for a possible meeting.

Mark Ells, Town Manager explained the Dowse Beach landing is not a time sensitive item.

This will be brought back before Council.

Upon a motion duly made and seconded it was to withdraw item 2022-017

RESOLVED: That the Town Council does hereby authorize the Town Manager to commence negotiations with Commonwealth Wind LLC, a wholly owned subsidiary of Avangrid Renewables LLC, for a new Host Community Agreement (“HCA 3”) between the Town of Barnstable and Commonwealth Wind LLC, which agreement is designed to mitigate the impacts of the Commonwealth Wind Project selected by the Commonwealth of Massachusetts and Electric Distribution Companies within Massachusetts under M.G.L. c. 83C on December 17, 2021, as described in section S-4.1.6 of the June update of the federal Construction and Operation Plan filed at the Bureau of Ocean Energy Management, which project includes cable landings in Osterville and underground cables connecting the landfall with a substation and with Eversource’s existing West Barnstable substation.

Karen Nober, Town Attorney explained it was withdrawn by Mark Ells and there is no need for a roll call vote.

2023-018 AUTHORIZATION TO EXPEND A SHARED STREETS AND SPACES GRANT FROM THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$ \$419,739.55 FOR THE IMPLEMENTATION OF A PLACEMAKING AND TRANSIT PARKLET PROJECT AND TRAFFIC CALMING AND PEDESTRIAN IMPROVEMENTS ON HYANNIS MAIN STREET INTRO: 07/21/2022

Elizabeth Jenkins, Planning and Development Director gave the rationale. She discussed the need for installation public access to the trolley. Councilor Rapp Grassetti asked if these installations are temporary? Jenkins answered yes there are temporary.

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 Shared Streets and Spaces Grant in the amount of **\$419,739.55** from the Massachusetts Department of Transportation for the purpose of public infrastructure and transit improvements to sidewalks, curbs, streets, transit stops, and other public spaces that are quick to implement and support public health, safe mobility, and strengthened commerce. Funds will be used to support the installation of combined public parklets/trolley stops with adjacent bike racks, as well as improvements to pedestrian safety to provide traffic calming measures and safe crossings for pedestrians on Hyannis Main Street.

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

2023-019 RESOLVE ACCEPTING THE PROVISIONS OF M.G.L. CHAPTER 59, SECTION 5, CLAUSE TWENTY-SECOND H TO PROVIDE A PROPERTY TAX EXEMPTION UP TO THE FULL AMOUNT OF THE TAXABLE VALUATION FOR SO-CALLED GOLD STAR FAMILIES INTRO: 07/21/2022

Mark Milne, Finance Director gave the rationale. He spoke about the Gold Star families and how they will receive the property tax exemption. Councilor Atsalis asked if the Coast Guard was included in the tax exemption. Mark Milne, Finance Director initially answered he don't believe so but was later updated that Coast Guard is included in the tax exemption.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept the provisions of Massachusetts General Laws Chapter 59, § 5, Clause Twenty-second H, which provides a property tax exemption up to the full amount of the taxable valuation for certain surviving parents or guardians of soldiers and sailors, members of the National Guard and veterans as described therein.

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

Break (10:20 – 10:22)

Private Road Policy Workshop

Mark Ells, Town Manager gave an overview of the PowerPoint presentation. He discussed the background referring to the 700 public roads and 1100 private roads. He noted the Comprehensive Wastewater Management Plan (CWMP) possible need for easements and he began the discussion on the future policy of private roads. He discussed the CIP, Operating and Highway funding available for public roads. He spoke about the Public Works Department bringing forward authorizations to opening up roads, installing utilities, sewers and waterlines. Due to the CWMP the town will need to establish policy regarding post construction management of said pavement to maximize the assets. We will need to discuss roads policy as we move forward with the CWMP. There will be years of discussions regarding: private roads identified in CWMP, primary and collective private roads, private roads that have had necessary repairs done by town and all other private roads.

Councilor Rapp Grassetto should we have a roads committee?

Council President Levesque great suggestion.

Mark Ells, Town Manager open to whatever the Council decides but just remember this is not just about sewers because there could be utilities needed to be done in the roads.

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

VOTE: PASSES 11 YES

Roll Call: Atsalis, Clark, Rapp Grassetto, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.

Adjourned at 10:53 PM:

Respectfully submitted,

Janet E. Murphy
Barnstable Assistant Town Clerk NEXT MEETING: August 18, 2022