



Town Council Meeting  
September 15, 2022



A quorum being duly present, President Matthew Levesque called the September 15, 2022, Town Council meeting to order at 7:00 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, Jessica Rapp Grassetti, Matthew Levesque, Jeffrey Mendes, Paul Neary, Paula Schnepf, Gordon Starr, Eric Steinhilber **Absent:** Tracy Shaughnessy

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

President Levesque recognized Alex Rodolakis for his 20 years of service on the Zoning Board of Appeals (ZBA). President Levesque spoke about working with Alex Rodolakis while on the ZBA. President Levesque thanked Alex Rodolakis for all his advice, knowledge and dedication to the Town of Barnstable. Alex Rodolakis thanked President Levesque and the Council for this honor. He thanked all the wonderful people who he worked with over the many years he served on the ZBA board.

President Levesque recognized Joseph O'Brien who served on the Recreation Commission for 40 years. President Levesque spoke about Joseph O'Brien and their time together working on the Barnstable Little League. Joseph O'Brien thanked President Levesque and the Council for the recognition. He said it was an honor to serve the Town and added Barnstable has the best Recreation Commission. Councilor Atsalis thanked Alex Rodolakis for his serve. He spoke about Joseph O'Brien setting the example for future town volunteers.

**PUBLIC COMMENT:**

Jessica Simms spoke about the low-cost housing crisis. She asked Council for a Comprehensive Housing Plan. She said the housing crisis is here now and Barnstable needs affordable low-cost housing for all people.

Close Public Comment

**COUNCILOR RESPONSE TO PUBLIC COMMENT:**

Vice President Schnepf mentioned on September 21<sup>st</sup> 6 pm at the Barnstable Adult Community Center - Community Housing Forum. She noted there were vacancies on the Housing Committee.

President Levesque recognized Council-Elect Paul Cusack who was in the audience. He said Council-Elect would be sworn-in on Monday September 19, 2022 and would be in attendance at the next Council meeting scheduled for October 6, 2022.

Councilor Rapp Grassetti noted the Housing Needs survey is available on our webpage.

**TOWN MANAGER’S COMMUNICATIONS:**

Ann Quirk, Town Clerk gave a recap of the September 6<sup>th</sup>, 2022 election day vault door mishap. She spoke about the amazing people who helped from the Police Department, Department of Public Works, and Lynne Poyant, Director of Communication and Town Clerks from other towns as well as many others. She discussed the three 911 calls out to public to let the public know about the 11:00 am paper ballots. She stressed that everyone had an opportunity to vote as the polls had extended hours from 8:00 pm to midnight. Ann Quirk said the vault was opened at 7:35 pm.

Councilor Cullum thanked the poll workers for working the long hours. Councilor Starr suggested Council write letters to the other Selectman Boards of those Town Clerks who helped in our election.

- Cape Cod has been declared at a Level 3 – Critical Drought. This is in effect until next declaration about mid-September. This is a ban on non-essential use of water.
- As reported on July 20, 2022 the federal district court dismissed the Clean Water Act lawsuit filed by Conservation Law Foundation (CLF). There will be a 30-day appeal period.
- Budget Fiscal year 2024 – School and Town will meet jointly on October 20<sup>th</sup>.
- Title 5 – the Massachusetts Department of Environmental Protection is developing strategies to restore and protect coastal estuaries.
- Harbormaster Division will be holding a lottery drawing for 3 of its closed mooring waitlists. Lottery opens September 15<sup>th</sup> and closes October 1<sup>st</sup> with the drawing on October 5<sup>th</sup> at 1:00pm.
- Planning and Development Department is hosting a Community Housing Forum on Wednesday September 21<sup>st</sup> at 6:00 pm.
- 55+ Community Safety Day – to be held at the Barnstable Adult community center on Thursday, September 22<sup>nd</sup>, 2022 from 11 am – 2 pm.

**Councilor questions and comments:**

Councilor Cullum asked when the vault door will be fixed. (Santos) It is in the works to be fixed. She felt the 55+ Community Safety Day is an awesome idea.

Vice President Schnepf asked for a correction to the water district website regarding the Level 3 Critical Drought and no lawn watering.

Councilor Rapp Grassetti reiterated during an emergency drought private wells are not under the ban but should the drought level rise to Level 4 then private watering is banned as well.

Dan Santos, Director Public Works gave an update on the Comprehensive Wastewater Management Plan. He spoke about: the ongoing sewer construction in the following streets Strawberry Hill Road, Craigville Beach Road, and Route 28 East. He mentioned Craigville Beach Road would be repaved either end of September or early October by Vineyard Winds. Dan Santos, Director of Public Works spoke about the Town’s 180 Ponds and 25 lakes. He

explained there was monitoring going since 2001 and data was available for 53 ponds. He added Shubael Pond and Long Pond are at the top of the list for a management plan and a water quality data. He noted the Town has contracted with University of Massachusetts Dartmouth to authenticate a diagnosis and create a management plan. He stressed the largest source of phosphorus is septic systems.

**Councilor questions and comments:**

Councilor Mendes asked about possible state or local incentives for home owners who utilize innovative systems. Dan Santos said he was not aware of any incentives.

Vice President Schnepf asked if there were new sources of water. Dan Santos explained there were alternative sources and we we have multi locations available.

**ACT ON MINUTES:**

Upon a motion duly made and seconded it was to accept the minutes of September 1, 2022 as presented.

**VOTE: PASSES 8 YES 2 ABSTAIN (Rapp Grasseti and Steinhilber)**

**Roll Call: Atsalis, Clark, Cullum, Levesque, Mendes, Neary, Schnepf, Starr.**

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

Councilor Cullum discussed the Hyannis Open Streets on Sunday September 18<sup>th</sup> 12 – 4 pm.

Break 8:45 pm

<b>2022-159</b>	<b>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</b>
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President Levesque asked about the business owners and how continuing this item would affect them. Councilor Mendes asked about attempted outreach from the Town. Elizabeth Jenkins, Director of Planning and Development explained notice was provided with newspaper ads and emails. Councilor Mendes asked the number of abutters that were contacted? Elizabeth Jenkins said 10 property owners were contacted. Councilor Mendes felt by only reaching out to 10 property owners we have failed again. This incompetence has marginalized the minority community.

Karen Nober, Town Attorney you can open and continue this to October 6<sup>th</sup>, 2022.

President Levesque suggested following up with churches in the area. He said it was appropriate to continue and allow for more outreach. Councilor Cullum felt collaboration is very important as we need more representation from people being affected.

Upon a motion duly made and seconded to open and continue this item to the October 6, 2022 council meeting

**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:

“Separation requirements. 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.”

**VOTE: TO OPEN AND CONTINUE THIS ITEM TO THE OCTOBER 6, 2022 COUNCIL MEETING - PASSES UNANIMOUS**

**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, 09/15/2022**

James Kupfer, Senior Planner, Planning and Development gave the rationale. He said there was one amendment to manage home occupations by impact not by location.

Brian Florence Building Commissioner discussed home occupation. He noted the banks are requiring home occupation registration for small businesses. This agenda item balances home occupations lets it be merit based which is fairer. Chapter 240 Article V Section 46 currently prohibits home occupation in west side of Town.

Councilor Atsalis had concerns with the landscaping companies storing equipment on properties. Brian Florence explained a landscaping company with a home occupation was allowed to have one Ford 350 and one trailer at the residence. Councilor Atsalis asked if home occupation businesses were checked on to see if they were in compliance. Brian Florence explained there were only 4 inspectors to investigate and it was complaint driven. He noted of the 2000 – 3000 complaints the least complaints came from home occupation businesses.

Open public hearing seeing no public close public hearing

Upon a motion was made and duly seconded to amend SECTION 1 of Item No. 2023-011 as follows: By deleting subsection (15)(c) and footnote 2 in their entirety from Section B of § 240-46 and inserting the following new subsection (15)(c) in place thereof:

“(15)(c) Offices which provide public access; provided that offices that are used only for administrative purposes shall be permitted.”

**VOTE: AS AMENDED PASSES 10 YES**

**Roll Call: Atsalis, Clark, Cullum, Rapp Grassetto, Levesque, Mendes, Neary, Schnepf, Starr, Steinhilber.**

Upon a motion duly made and seconded to approve to amend

**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 kennels<sup>1</sup>.
- (c) Offices which provide public access; provided that offices that are used only for administrative purposes shall be permitted.
- (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.

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<sup>1</sup> 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.

- 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 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: PASSES 10 YES**

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

2023-022	APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO:
09/01/2022, 09/15/2022	

Upon a motion duly made and seconded to

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission:** Mark Guidod, as a regular member, to a term expiring 06/2025; **Human Services Committee:** Kimberly Crocker Crowther as a representative member to a term expiring 06/2025; **Land Acquisition and Preservation Committee:** Katherine Gulliver, as a regular member to a term expiring 06/2025

**VOTE: PASSES UNANIMOUS**

**2023-024 APPROPRIATION ORDER IN THE AMOUNT OF \$75,000 FOR THE PURPOSE OF FUNDING THE LOCAL MATCH REQUIREMENT FOR A FEDERAL GRANT FROM THE U.S. DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE IN THE AMOUNT OF \$200,000 FOR DESIGN AND CONSTRUCTION OF STORMWATER IMPROVEMENTS AT OLD SHORE ROAD, COTUIT AND AUTHORIZATION TO EXPEND SAID GRANT INTRO: 09/01/2022, 09/15/2022**

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

Councilor Rapp Grasseti said generally the area is private property. Dan Santos explained in the design phase we will understand the process better.

Upon a motion duly made and seconded to

**ORDERED:** That the amount of **\$75,000** be appropriated for the purpose of funding permitting and construction expenses for the implementation of Stormwater Improvements at Old Shore Road, Cotuit, 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 **\$200,000**, and that to meet this appropriation, that \$75,000 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 design, permitting, and construction of Storm water Improvements at Old Shore Road in Cotuit, including the payment of costs incidental or related thereto.

**VOTE: PASSES 10 YES**

**Roll Call: Atsalis, Clark, Cullum, Rapp Grasseti, Levesque, Mendes, Neary, Schnepf, Starr, Steinhilber.**

**2023-025 APPROPRIATION ORDER IN THE AMOUNT OF \$145,000 FOR THE PURPOSE OF FUNDING STORMWATER IMPROVEMENTS AT SHUBAEL POND, MARSTONS MILLS INTRO: 09/01/2022, 09/15/2022**

Dan Santos, Director of Public Works gave the rationale. He spoke about the diagnostic assessment and finance management plan which has been negatively impacted by phosphorus.

Open public hearing seeing no public close public hearing

Upon a motion duly made and seconded to

**ORDERED:** That the amount of **\$145,000** be appropriated for the purpose of funding stormwater improvements at Shubael Pond, Marstons Mills, including the payment of costs incidental or related thereto; and that to meet this appropriation, that \$145,000 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 made available for these purposes.

**VOTE: PASSES 10 YES**



**Roll Call: Atsalis, Clark, Cullum, Rapp Grasseti, Levesque, Mendes, Neary, Schnepf, Starr, Steinhilber.**

**2023-026                    APPROPRIATION ORDER IN THE AMOUNT OF \$95,000 FOR THE PURPOSE OF FUNDING AN ALUM TREATMENT FOR SHUBAEL POND, MARSTONS MILLS INTRO: 09/01/2022, 09/15/2022**

Dan Santos, Director of Public Works gave the rationale. He spoke about Shubael Pond and the alum treatment. It will improve the water quality but will not eliminate the phosphorus. This treatment needs to be done every 3 to 7 years.

Open public hearing seeing no public close public hearing

Upon a motion duly made and seconded to

**ORDERED:** That the amount of **\$95,000** be appropriated for the purpose of funding an alum treatment for Shubael Pond, Marstons Mills including the payment of costs incidental or related thereto; and that to meet this appropriation, that \$95,000 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 made available for these purposes.

**VOTE: PASSES 10 YES**

**Roll Call: Atsalis, Clark, Cullum, Rapp Grasseti, Levesque, Mendes, Neary, Schnepf, 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**

Open public hearing seeing no public close public hearing

Upon a motion duly made and seconded to

**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 A PUBLIC HEARING ON 10/06/2022 - PASSES UNANIMOUS**

**2023-031                    RESOLVE APPROVING AND ADOPTING THE TOWN OF BARNSTABLE 2022 HAZARD MITIGATION PLAN UPDATE, DATED APRIL 2022 INTRO: 09/15/2022**

James Kupfer, Senior Planner, Planning and Development Department gave the rationale. He spoke about the Barnstable Hazardous Mitigation Plan Update.

Open public hearing seeing no public close public hearing

Upon a motion duly made and seconded to

**WHEREAS,** the Town of Barnstable established a Hazard Mitigation Planning Team to prepare the Town's 2010 Hazard Mitigation Plan; and

**WHEREAS**, the Town of Barnstable Hazard Mitigation Planning Team and other stakeholders participated in the development of the Town of Barnstable 2022 Hazard Mitigation Plan Update to the Town's 2010 Hazard Mitigation Plan; and

**WHEREAS**, the Town of Barnstable 2022 Hazard Mitigation Plan Update contains several potential future projects to mitigate potential impacts from natural hazards in the Town of Barnstable; and

**WHEREAS**, a draft of the 2022 Hazard Mitigation Plan Update was made available for public review on the Town website on February 22, 2022, and a public comment period was open through March 21, 2022; and

**WHEREAS**, the Town of Barnstable Hazard Mitigation Planning Team presented the draft 2022 Hazard Mitigation Plan Update to the Town's Planning Board at a duly noticed public meeting held on March 14, 2022;

**NOW, THEREFORE, BE IT RESOLVED:** That the Barnstable Town Council hereby approves and adopts the Town of Barnstable 2022 Hazard Mitigation Plan Update, dated April 2022, in the form as provided to the Town Council, and directs the Town Manager to take such steps as he deems necessary to implement the Plan Update.

**VOTE: PASSES UNANIMOUS**

**VOTE: ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED TO ADJOURN:**

**VOTE: PASSES UNANIMOUS**

**Meeting adjourned by Councilor Hebert**

**Adjourned at 9:50 PM**

Respectfully submitted,

Janet E. Murphy

Barnstable Assistant Town Clerk

NEXT MEETING: October 6, 2022