



Town Council Meeting
September 2, 2021



A quorum being duly present, President Matthew Levesque called the September 2, 2021, Town Council meeting to order at 7:04 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, David Bogan, Kristine Clark, Jennifer Cullum, Debra Dagwan, Jessica Rapp Grassetti (video portion of her attendance was not working) Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr Eric Steinhilber.

The Pledge of Allegiance was led by Councilor Hebert followed by a moment of silence. President Levesque asked for thoughts and prayers for those military and civilian who have been injured and or killed by the actions of the terrorists after the recent Taliban takeover of Afghanistan.

Patti Machado, Recreation Director explained the water rescue which happened at Hathaway Pond on August 11th, 2021. She spoke about the near drowning victim and how Courtney Briggs Town of Barnstable Lifeguard was able to revive the unresponsive victim. She added Jason Merrill and Caitlin Hatch both Town of Barnstable Lifeguards assisted in the rescue. She also mentioned John Gleason and Tim McGrath who were responsible for the well-trained staff and proper equipment. President Levesque presented the three Lifeguards each with a certificate of recognition for their great efforts. Courtney Briggs thanked the President and Council for the certificates. She thanked the Town for their support and equipment. Jaxon Merrill thanked the Council for the certificates and Town for the complete support. Caitlin Hatch thanked Council and the close-knit group of employees and how they came together for this incident. She said she felt very much supported by the Town of Barnstable. Vice-President Schnepf thanked the lifeguards for watching our beaches. Councilor Cullum thanked the lifeguards and noted the importance of the swimming area. Councilor Clark thanked the lifeguard and the resident who helped Courtney Briggs bring the unresponsive victim to the surface of water. Councilor Shaughnessy thanked the lifeguards and felt this was a proud moment. Madelyn Noonan, Community Services Director thanked Patti Machado for her leadership and the emotional support given to the staff. President Levesque thanked Patti Machado for the comfort and support for her well-trained staff.

PUBLIC COMMENT:

Open Public Comment

Tina Carey spoke about removing the Main Street barriers from the street. She felt the barriers were a deterrent to safety due to the issues with traffic. She discussed the

Hyannis News online paper had comments against the barriers.

Steve Lipman agreed with the idea of workforce affordable housing. He felt all towns on the cape should have affordable housing as it was difficult to afford housing on the Cape. People are being priced out of living in Barnstable and the surrounding area.

Betty Luedtke questioned what was the housing market based on in Barnstable? She felt the Town needs workforce and affordable housing. She asked Council to slow down the acceptance process for the 35 Scudder parcel. She wondered how someone who worked on Main Street Hyannis could afford to live in the area.

John Lipman explained he had served 9 years as a Chief Planner on the Cape Cod Commission. He discussed that the 35 Scudder parcel process. He said this was needed and urged Council to accept it.

Leslie Wilker-Manfredonia asked for a delay in this project. She mentioned the three issues: Zoning Issues, what were the taxes and what would the rental units look like?

Wellesley Marsh asked if the Cape Cod Healthcare does not need the property to make it a green space.

Linda Edison said she supports the Attucks Way extension as Barnstable needs apartments and housing.

Carla Cabral asked Council to accept the municipal single use water bottle ban. This ban would prohibit Barnstable from using single use water bottles except those utilized by the Recreation Department.

Meagan Mort Felt the Town needed housing and asked for residential zoning in these areas.

Michael Blanten supported the housing project and felt it was a great project for Barnstable.

Bud Berkstrom questioned the development on Wilkes Way. He had questions regarding the size of the development; and the small amount of affordable housing in this project. He noted the monetary burden of the Comprehensive Wastewater Treatment Plan (CWWMP). He was opposed to this project.

Brian Hughes felt the Twin Brooks would best support the community as a conservation land.

Hilda Haye favored rezoning for the property with the Cape Cod Healthcare. She suggested other communities should share the cost for it.

Lana Shufelt supported the zoning changes with one amendment to add language regarding affordability.

Response to Public Comment:

(Bogan) Appreciated views presented and felt the concerns were legitimate on both sides.

(Starr) Felt there should be more affordable housing but less density. (Schnepp) felt there is a need for more housing but the devil is in the details. (Dagwan) said the comments were great and she was supportive of affordable housing. (Shaughnessy) Regarding the barrier discussion – we are casting the widest net possible to listen to what Main Street wants for their area. She felt that Industrial Park was a good place for needed housing and affordability market place. (Atsalis) felt there needed to be due diligence with the Scudder parcel he hoped if this project was approved the Cape Cod Commission then they would vet this project. (Cullum) discussed more housing and now lower enrollment of students. She felt the Cape Cod Commission could flush out opportunities. She hoped they would share the upcoming burden of housing with other communities. (Ells) We are planning to remove the barriers on Main Street Hyannis - week of September 13th. He added that surveys and polls were available to the public and anyone can reach out to the Town Manager personally.

Close Public Comment

TOWN MANAGER COMMUNICATIONS (update Exhibit A)

Brian Florence Building Commissioner discussed the Rental Registration Host Compliance Platform. He explained the rental registration program went live on June 14th. This is a passive notification to property owners sent to 700 units. On August 4th 50 letters were sent out to noncompliant owners which garnered 19 responses. Lastly on September 1st 292 letters were sent to noncompliant owners. September 6th first batch of noncompliant owners need enforcement October 1 second batch will be notified of their noncompliance. The compliant hotline was live June 9th. We have 1000 complaints with 28 complaints by phone. (Starr) Were there 1000 complaints but only 28 by the hotline? (Florence) Rental Registration 3000 rentals with long-term 1000-1500 calls, yes 28 Short term rental (STR) complaint calls with 16 substantiated. Andy Clyburn, Assistant Town Manager we encourage people to contact the Health and Inspectional Services if you have questions about rentals or about a certain property. (Neary) Point of Information Host Complainant Software what will that encompass? (Florence) It will monitor language regarding rentals from 80 online platforms. (Rapp Grasseti) Is there enforcement action for not registering? (Florence) Chapter 70 provision ticketing per law – we would like voluntary compliance and will ticket if we cannot get compliance. Fee is \$300 a day. (Rapp Grasseti) How about Accessory Dwelling Units (ADU) as rentals? (Florence) Yes, we will look into that for compliance. (Bogan) Will you publicize compliance outline? (Florence) It is on the Health Division webpage – rental registration link. (Shaughnessy) Are we receiving the STR fees? (Clyburn) The Department of Revenue (DOR) collects the tax and distributes a town's portion. We received \$2 million dollars. We let the DOR know when an STR is not in compliance.

- Budget Fiscal Year 2023 – expanded action items (October 7th2021 School Board and Council joint meeting)
- Beach Erosion Happened at Fortes, Ropes and Sandy Neck beaches. Will be reopening shell fishing.
- Beach operations – all staff doing a great job Lifeguards only at Craigville Beach
- Summer leisure – 7 weeks of summer camp wrapped up August 20th.
- Per- and Polyfluoroalkyl Substances (PFAS) Water filter in place no detection of PFAS in Hyannis water.
- Community Development Block Grant Program

- Sewer Construction September 20th on by Vineyard Wind for Craigville Beach Road, Strawberry Hill Road, Wequaquet Lane and Phinney's Lane starting installation of duct bank and associated utility relocations

Questions and comments:

(Starr) What about visits to homes before sewer hookups? Dan Santos, Director of Public Works explained yes, every home will be visited in this area. Any questions please call the Town Engineer (508) 790-6400.

David Anthony, Director of property and Risk Management discussed the buildings located at: 200 Main Street, the Amory and the Old Town Hall. He stated the building and the land at 200 Main Street is worth in current condition \$2.2 million dollars. Steamship Authority has first right of refusal for the 200 Main Street property. (Hebert) Please preserve Village of Hyannis and not turn this parcel into a parking lot. (Nober) We will look into affordable housing not considered a multiple use. Amory building is over 60 years old and the building is not in the National Historic Registry. Town Hall built in 1926 in March 2016 it was leased to the JFK Museum for twenty-year lease. (Ells) Most staff is here in Town Hall with 20 percent remaining remote. (Rapp Grasseti) What about a feasibility study? (Levesque) Properties not being utilized are disintegrating.

ACT ON MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of August 19, 2021 as presented.

VOTE: PASSES 12 YES Abstain 1 Cullum

Roll Call: Atsalis, Bogan, Clark, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber. Abstain: Cullum

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

(Dagwan) Hyannis Open Streets – Sunday September 19 with rain date on September 26th we are planning to hold an open street event in October as well.

(Shaughnessy) Arts and Crafts event will be held this weekend on Village Green.

5-minute break (10:20 PM)

2022-007 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING by adding a MIXED-USE SUB ZONE OF THE MEDICAL SERVICES OVERLAY DISTRICT INTRO: 07/15/2021, 09/02/2021

Elizabeth Jenkins Director of Planning and Development gave the rationale. She discussed amendment to zoning map and ordinance. Area being discussed is 35 Wilkes Land and 0 Wilkes Lane proposal is from New England Development and Cape Cod Healthcare. The current zoning allows for multi-family dwellings but the increase to the density and height will be reviewed by the Cape Cod Commission. The Barnstable Planning Board unanimously approved the new zoning at their August 9th meeting. Eliza Cox, representing Cape Cod Hospital explained the hospital currently operates the Wilkins Outpatient and Medical Complex. She said the balance of the land can be developed 32

acres New England Development will provide Cape Cod Hospital with the much-needed funding. Mike Ford, representing New England Development discussed the proposed property is currently part of a development agreement within the medical services overlay district and the industrial district and mentioned housing is allowed as well as other concession. Once completed their will be \$560,000 annual tax and the residential development will increase and help address the Town's affordable housing need. If there is a future development of entire parcel the tax benefit to Town to be \$1,000,000 per year. We can increase the affordable housing element if Council will entertain continuing this Public Hearing to another meeting. (Levesque) Continue conversation and Open Public Hearing.

Upon a motion duly made and seconded it was to go past eleven o'clock pm

VOTE: PASSES 13 YES

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

Cynthia Cole was happy to see Mike Ford's offer to include more affordable housing. My concern is there is not enough affordable housing or below market rate pricing. Council should not move forward until there is a guarantee of more affordable housing and understanding what is market value.

Betty Luedke Thank you attorney Mike Ford for the addition of the workforce housing and affordable housing.

Questions and comments:

(Bogan) Concerns with zoning decision which seem Ad Hoc. (Starr) Please give clarification regarding definitions of the words workforce housing and affordable housing. (Jenkins) In regulatory charter workforce housing is noted as 80 percent to 120 percent AMI. (Shaughnessy) Current Area Median Income (AMI) equals 80 percent is \$72,000 per individual. (Hebert) The two additional parcel owned by Stu Bornstein that he would add into area located on Perservance Way are not being concerned as part of this item? (Jenkins) Correct. (Ford) these 40 acres are subject to the Cape Cod Commission and need the Cape Cod Commission approval we cannot simply change zoning.

(Bogan) Is this enough time to make suggested changes? (Ford) We will be happy to work with additional language regarding affordable housing. (Schnepf) Is staff okay with this date? (Jenkins) Yes, we will prioritize and speak with New England Development if we cannot meet deadline we will provide update at meeting.

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

SECTION 1

By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add a Mixed-Use Sub Zone of the Medical Services Overlay District, as shown on maps dated July 7, 2021, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

- Proposed Amendment to the Hyannis Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District
- Proposed Amendment to the Barnstable Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

SECTION 2

By amending Article II, Section 240-5, Establishment of districts, by inserting the term “Mixed-Use Sub Zone of the Medical Services Overlay District” immediately below the term “Medical Services Overlay District” as it appears under the heading “Overlay Districts”.

section 3

By inserting in Article III, the following new Section 240-38.1:

“§ 240-38.1 Mixed-Use Sub Zone of the Medical Services Overlay District

A. Purpose.

- (1) The purpose of this section is to permit the development and relocation of medical and healthcare services, together with commercial, retail and residential uses, on a site with convenient regional access. The Mixed-Use Sub Zone is established as a special district of the Medical Services Overlay District which overlays in majority part the Industrial Zoning District, and, in part, the Groundwater Protection and Wellhead Protection Overlay Districts.
- (2) Provisions of this section are designed to ensure that all development activities associated with the Mixed-Use Sub Zone will be carried out so as to provide for and maintain protection of neighboring properties, convenient and safe access for vehicular and pedestrian movement, fire-fighting and emergency rescue vehicles, satisfactory methods of stormwater management, groundwater recharge and handling and disposal of sewage and waste and adequate off-street parking. To the extent anything contained in this Section 240-38.1 conflicts with any other provisions of this zoning ordinance, this Section 240-38.1 shall govern.

B. District established. A "Mixed-Use Sub Zone of the Medical Services Overlay District" is hereby established and shall be considered superimposed over any other districts established by this chapter and is shown as an overlay on the Official Zoning Map established pursuant to §240-6, Zoning Map, herein.

C. Principal permitted uses. The principal permitted uses allowed in the Mixed-Use Sub Zone shall include all uses permitted in the Medical Services Overlay District, which include all uses permitted in the underlying IND District (including, without limitation, any use permitted in the B and S&D Districts). Additionally, multifamily dwellings (apartments) on a lot within 1,000 feet of Kidd’s Hill Road within the Mixed-Use Sub Zone shall be permitted subject to the following provisions in lieu of the requirements set forth in Sections 240-21.A(9)(a)-(i) or 240.38(F), or any other provisions as may be set forth in this Zoning Ordinance:

- (1) The minimum lot area ratio shall be 1,500 square feet of lot area per each apartment unit for new multifamily structures.
- (2) The maximum lot coverage shall be 25%.

- (3) The maximum height shall not exceed 35 feet¹.
- (4) The minimum front yard setback shall be 60 feet.
- (5) The minimum side and rear yard setbacks shall be 30 feet.
- (6) The maximum floor area ratio shall be 0.75.
- (7) A perimeter green space of not less than 20 feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.
- (8) No living units shall be constructed or used below the ground level.

D. Accessory uses. Within the Mixed-Use Sub Zone, accessory uses or accessory buildings are permitted, including, without limitation, parking garages, pools, parking areas and offices, provided that any such use or building is customarily incidental to, subordinate to and on the same lot as the principal use it serves.

E. Conditional uses. The conditional uses allowed in the Mixed-Use Sub Zone shall include all conditional uses permitted in the Medical Services Overlay District, the IND District, the S&D District, and the B District.

F. Special Permit uses. The special permit uses allowed in the Mixed-Use Sub Zone shall include all special permit uses permitted in the Medical Services Overlay District, the IND District and the B District, 'Senior Living, Assisted Living'², 'Senior Living, Nursing Homes'², independent living facilities, memory care facilities, and long-term care facilities. Additionally, multifamily dwellings (apartments) on a lot, any portion of which is set back greater than 1,000 feet from Kidd's Hill Road within the Mixed-Use Sub Zone, shall be allowed by special permit, subject to the provisions of Section 240-38.1(C) above in lieu of the requirements set forth in Sections 240-21(A) (9) (a)-(i) or 240.38(F), or any other provisions as may be set forth in this Zoning Ordinance.

G. Bulk regulations (dimensional requirements) for all uses other than multifamily dwellings (apartments):

- (1) Minimum lot area: 90,000 square feet.
- (2) Minimum lot frontage: 200 feet.
- (3) Minimum setback, front: 60 feet.
- (4) Side/rear yard: 30 feet minimum.
- (5) Building height:³ 35 feet⁴.
- (6) Front yard landscape buffer: 45 feet.
- (7) Landscape buffer, rear and side yard: 30 feet.
- (8) Maximum lot coverage: 25%.
- (9) Maximum floor area ratio: 0.40.

¹ Except that for multifamily structures on a lot not less than 10 acres, the maximum building height shall be not more than 4 stories which shall not be more than 55 feet in height measured to the highest point on the roof (not including antennas or similar roof structures).

² As such term is defined in Section 240-25(F).

³ Skylights, mechanical penthouses and architectural features not designed for human occupancy shall be excluded in determining the height of any building in the Mixed-Use Sub Zone.

⁴ Except that for structures containing 'Senior Living, Assisted Living', 'Senior Living, Nursing Homes', independent living facilities, memory care facilities and/or long-term care facilities, on a lot not less than 10 acres, the maximum building height shall not be more than 4 stories which shall not be more than 55 feet measured to the highest point on the roof (not including antennas or similar roof structures).

H. Parking Regulations.

- (1) For multifamily dwellings, off-street parking shall be provided at a ratio of 1.3 spaces per dwelling unit, and 1 guest space per 10 dwelling unit spaces
- (2) For retail uses, off-street parking shall be provided at a ratio of 1 space per 250 retail sf.
- (3) For medical uses, off-street parking shall be provided at a ratio of 1 space per 250 sf.

I. Design and Screening Standards. Notwithstanding anything contained in Section 240-52, or any other provisions as may be set forth in this Zoning Ordinance, each off-street parking space in the Mixed-Use Sub Zone shall have minimum dimensions of 9 feet by 18 feet excluding the driveway to such space.

J. Incidental Storage of Hazardous Materials and Impervious Coverage.

Hazardous Materials may be stored and offered for sale in connection with retail use or incidental to multifamily use in the Mixed-Use Sub Zone, except as prohibited by the WP Wellhead Protection Overlay District.

In the Mixed-Use Sub Zone, compliance with the lot coverage requirements set forth in Sections 240-35(F)(3) and 240-35(G)(3) may be determined across multiple lots located within the district if the owners of such lots agree to do so in a written agreement provided to the building department. Additionally, for purposes of Sections 240-35(F) (3) and 240-35(G) (3), porous pavement shall not be considered paved surface.

K. Signage. Notwithstanding the provisions of Sections 240-64, 65 and 66 herein, (i) on lots with not less than 10 acres in the Mixed-Use Sub Zone, an aggregate sign area of up to 400 square feet shall be allowed, provided that the sign area of any single sign does not exceed 200 square feet, and (ii) one free-standing sign of up to 200 square feet shall be allowed in the Mixed-Use Sub Zone, provided that such free-standing sign identifies at least two commercial, retail and/or medical uses within the Mixed-Use Sub Zone.”

L. Exemption. The uses described in this Section 240-38.1 shall be exempt from the residential building permitting limitations established by Article XI, Sections 240-110 through 240-122.”

VOTE: TO A PUBLIC HEARING on 9/16/2021 PASSES 13 YES

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

2022-014 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 08/19/2021, 09/02/2021

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Disability Commission:** Warren Rutherford as a regular member to a term expiring 6/2024; **Human Services Committee:** Liz Rabideau as a regular member to a term expiring 6/2024; **Zoning Board of Appeals:** Mark Hansen from the associate position to the full member position to a term expiring 6/2023

VOTE: PASSES 13 YES

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

2022- 015 ACCEPTANCE OF FEDERAL FISCAL YEAR 2020 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) IN THE AMOUNT OF \$28,094 FROM THE U. S. DEPARTMENT OF JUSTICE INTRO: 09/02/2021

Chief Sonnabend gave the rationale. We usually share this grant with the Town of Yarmouth.

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept the Federal Fiscal Year 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation award from the U. S. Department of Justice in the amount of **\$28,094** for the purpose of funding specific policing services and programs under a disparate certification grant that includes the Towns of Barnstable and Yarmouth, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSES 13 YES

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

2022-016 ACCEPTANCE OF A FISCAL YEAR 2022 GRANT IN THE AMOUNT OF \$59,802 FROM THE MASSACHUSETTS DEPARTMENT OF MENTAL HEALTH INTRO: 09/02/2021

Chief Sonnabend gave the rationale. He explained this was a reoccurring grant.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept a Fiscal Year 2022 grant in the amount of **\$59,802** from the Massachusetts Department of Mental Health for the purpose of funding a Component Jail/Arrest Diversion Project under the Massachusetts Jail/Arrest Diversion Project, and that the Town Manager is authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSES 13 YES

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

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

VOTE: PASSES 13 YES

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

Adjourned at 11:40 PM

Respectfully submitted,

Town Clerk/Town of Barnstable

NEXT MEETING: September 16, 2021

Exhibits:

A Town Manager Update