



Town Council Meeting
January 20, 2022



A quorum being duly present, President Matthew Levesque called the January 20, 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: (On Zoom) Nikolas Atsalis, David Bogan, Kristine Clark, Jennifer Cullum, Jessica Rapp Grassetti, Paul Hebert, Matthew Levesque, Jeffrey Mendes, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber **ABSENT:** Paul Neary

The Pledge of Allegiance was led by Councilor Hebert, followed by a moment of silence.

PUBLIC COMMENT:

Cheryl Powell spoke in support of the Local Comprehensive Plan (LCP). She added the Historic Commission was the only Town historic board that represented all seven villages. She felt a representative from this board would be an asset to the LCP Committee.

Betty Ludtke thanked Council for approving Pearl Street housing. She urged Council to expand the discussion regarding 200 Main Street and possibly make that property housing. She added the Cascade Motel could also be a great site for as well future housing.

Henry Ramage discussed the need for cleanliness of the Town's sidewalks. He spoke about the problems for people walking on foot with fallen tree limbs and overhead branches. He mentioned he has been in touch with Dan Santos, Director of Public Works and Councilor Gordon Starr regarding his sidewalk concerns.

Response to Public Comment:

(Bogan) Thanked Betty Ludtke and agreed about the need for creative ways to address the housing issue.

(Rapp Grassetti) mentioned the Public Works Report a Problem webpage. This is a valuable tool to help report issues in the town. She added Public Works was very responsive to this report.

(Clark) agreed with Cheryl Powell's idea that the Historic Commission represented all seven villages and supported Ms Powell's point of view regarding representation on the LCP Committee.

(Starr) Please discuss the Twin Brooks petition.

(Levesque) The petition creator has expressed the desire to let the redevelopment of the Town Brooks golf course go through the Cape Cod Commission's regulatory process. After which they then will decide their next step regarding their petition and any other actions.

(Rapp Grassetti) What petition?

(Levesque) Save the Twin Brooks petition which has approximately 600 plus signatures. The petition is requesting a special meeting regarding the proposed 35 Scudder Road property. The redevelopment of the Town Brooks golf course is currently going through the Cape Cod Commission's approval process. The special meeting would be scheduled before it comes before Council but after the Cape Cod Commission's meeting.

(Nober) explained the meeting of voter pursuant to charter.

Town Manager's Report (Exhibit A)

- Regarding Cheryl Powell's comments – we are looking at Boards and Committees along with any and all resident applications to be part of the LCP Committee.
- Regarding Betty Ludtke's comments - Steamship has first right of refusal on the 200 Main Street property, Steamship is interested. We may look at dual usage.
- Regarding Henry Ramage's comments - we have approximately 500 miles of roads in Barnstable it is very helpful when citizens/residents let us know about issues in Town. Report a Problem is on our main Town of Barnstable web page.
- Barnstable athletics for all teams opening up on January 21, 2022.
- Budget Fiscal Year 2023
- Fiscal Year 2022 Real Estate and Personal Property Taxes Abatement application must be checked in by the Assessor's Office by 4:30 pm on February 1st, 2022.
- LCP (LCP Committee) final memorandum will accept applications from now until February 21st, 2022.
- Continue evaluation and design of the Cape Cod Rail Trail expansion for phase 4.
- Comprehensive Wastewater Management Plan (CWWMP) the dedicated fund with Mass Clean Water Trust solely benefits communities with counties in Barnstable, Dukes and Nantucket.

Councilor Questions and Comments:

(Starr) Any update on the opioid settlement?

(Nober) opted in through outside counsel. We are part of the settlement if there is a settlement.

- Dan Santos, Director of Public Works provided and update on the CWWMP utilizing a Power Point presentation.

Councilor Questions and Comments:

(Atsalis) the road closures on Strawberry Hill Road to the school have not affected commuters during school hours and any school events. (Ells) the duration of the detour will be finished in the off-peak season. (Santos) It will be through March 2022.

ACT ON MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of January 6, 2022 as presented.

VOTE: PASSES 12 YES

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

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

(Cullum) Please look on the Town Council's webpage, look under Committee Vacancies for our board and committee vacancies.

(Levesque) If you are interested in a board and committee which does not have a vacancy please apply; applications are kept on file.

(Clark) Thank you Jim Benoit for all the work you have done on the Geographic Information Systems (GIS) maps.

(Shaughnessy) Virtual Public Meeting - Community Update on Downtown Hyannis Zoning Revisions on January 25th, 2022 at 6:00 PM

2022-066 APPROPRIATION ORDER IN THE AMOUNT OF \$214,240 FOR THE HYANNIS YOUTH AND COMMUNITY CENTER ENTERPRISE FUND FISCAL YEAR 2022 OPERATING EXPENSE BUDGET INTRO: 01/06/2022, 01/20/2022

Mark Milne, Director of Finance gave the rationale. He explained the utility budget from last year was reduced due to COVID pandemic. He mentioned the Recreation Department was now providing 2 ice sheets for the ice rinks. (Levesque) felt the recreation center was a valuable asset for Barnstable.

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$214,240** be appropriated for the purpose of funding the Hyannis Youth and Community Center's Fiscal Year 2022 Operating Expense Budget and that to fund the appropriation, that \$214,240 be provided from the Hyannis Youth and Community Center Enterprise Fund Surplus.

VOTE: PASSES 12 YES

Roll Call: Atsalis, Bogan, Clark, Cullum, Rapp Grassetti, Hebert, Mendes, Levesque, Schnepf, Shaughnessy, Starr, Steinhilber

2022-072 APPROPRIATION REQUEST OF \$156,849 FOR THE BARNSTABLE POLICE DEPARTMENT FISCAL YEAR 2022 OPERATING EXPENSE BUDGET FOR THE PURPOSE OF FUNDING THE COSTS ASSOCIATED WITH THE HIRING OF TEN PATROL OFFICERS TO FILL CURRENTLY VACANT POSITIONS INTRO: 01/20/2022

Open Public Hearing seeing no one close Public Hearing
No public comment at this time

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$156,849** be added to the Fiscal Year 2022 Police Department General Fund Operating Expense Budget for the purpose of funding the initial expenses related to hiring, training, uniform, ammunition and equipment purchases for 8 new police recruits and 2 transfer officers, and to fund this appropriation, that the amount of \$156,849 be provided from the General Fund Reserve.

VOTE: REFER TO PUBLIC HEARING 02/03/2022 - PASSES 12 YES

Roll Call: Atsalis, Bogan, Clark, Cullum, Rapp Grassetti, Hebert, Mendes, Levesque, Schnepf, Shaughnessy, Starr, Steinhilber

2022-073 Amending chapter 240 ZONING, ARTICLE III, § 240-34 TO COMPLY WITH NATIONAL FLOOD INSURANCE PROGRAM (NFIP) REQUIREMENTS INTRO: 01/20/2022

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, Article III, § 240-34 Floodplain District be amended by deleting § 240-34 in its entirety and inserting the following new § 240-34 in its place:

"§ 240-34. Floodplain District.

A Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Barnstable designated as Zone A, AE, AO, AH, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) dated July 16, 2014 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations (one-hundred-year flood) shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Commissioner, and Conservation Commission.

The purpose of the Floodplain Overlay District is to:

1. Ensure public safety through reducing the threats to life and personal injury
2. Eliminate new hazards to emergency response officials
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
5. Eliminate costs associated with the response and cleanup of flooding conditions
6. Reduce damage to public and private property resulting from flooding waters

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

The degree of flood protection required by this ordinance is considered reasonable but does not imply total flood protection.

If any section, provision or portion of this ordinance is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

The Town of Barnstable hereby designates the position of the Building Commissioner to be the official floodplain administrator for the Town.

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:
Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

Permits are required for all proposed construction or other development in the floodplain overlay district, including new construction, alteration of existing structures, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities, drilling or other development that might increase flooding or adversely impact flood risks to other properties (any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations).

- A. Any new construction or substantial improvement to be under taken within the floodplain overlay district shall be in accordance with Massachusetts State Building Code 780 CMR and 310 CMR- Department of Environmental Protection. The Building Commissioner shall review all proposed development within the floodplain overlay district upon confirmation from the property owner or his/her representative that all necessary permits have been received and certified from those governmental agencies from which approval is required by local, federal and state law, in order to carry out the proposed development in the floodplain overlay district including but not limited to Sec. 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. § 1334. The Building Commissioner shall obtain and maintain records of elevation and floodproofing levels for new construction or substantial improvement within the floodplain overlay district.
- B. All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is lesser, shall include within such proposals technical data, provided by the proponent, to determine base flood elevation data for each developable parcel shown on the design plans.
- C. All subdivision and development proposals, including utility and drainage systems, in the floodplain overlay district, shall be reviewed to assure that they are located and designed to be consistent with the following:
 - a) Such proposals minimize flood damage.
 - b) Public utilities and facilities are located and constructed so as to minimize flood damage.
 - c) Adequate drainage is provided.
- D. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- E. Regulations pertaining to mapped floodways as defined in US Code of Federal Regulations, Title 44, Part 59.1 have been removed from this ordinance because the Town of Barnstable does not have any mapped floodways and is a coastal community where floodways do not apply.
- F. In a riverine situation, the Conservation Administrator or designee shall notify the following of any alteration or relocation of a watercourse: (a) Adjacent Communities, especially upstream and downstream, (b) bordering States, if affected, (c) the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, 8th floor, Boston, MA 02114-2104, and (d) the NFIP Program Specialist, Federal Emergency Management Agency, Region I at 99 High Street, 6th Floor, Boston, MA 02110.
- G. Within Zones AO and AH on the FEMA Flood Insurance Rate Maps, adequate drainage paths must be provided around structures on slopes to guide floodwaters around and away from proposed structures.
- H. No land within areas designated as V (Velocity) Zones on the FEMA Flood Insurance Rate Maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. All new construction and substantial improvement within the V Zones shall be in full compliance with the

State Building Code and shall be certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.

- I. The following shall be prohibited within flood areas designated as V Zones:
 1. Use of fill.
 2. Mobile homes.
- J. If the State issues variances to the flood-resistant standards as found in the state building code, Barnstable will use the following text for local adoption:

Barnstable will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

Barnstable shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

- K. A variance from this floodplain ordinance, related to community compliance with the National Flood Insurance Program (NFIP), must meet the requirements set out by State law and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief. This does not apply to the building code.
- L. In A, AO, AH, AE Zones, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- M. In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

The following definitions apply to the interpretation of this chapter:

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY

The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE

Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior or
 2. Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE

A vehicle which is:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or permanently towable by a light duty truck; and
- d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

SPECIAL FLOOD HAZARD AREA

The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION

The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION

When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE

A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION

The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONE A

Area of special flood hazard without water surface elevations determined.

ZONE AE

Area of special flood hazard with water surface elevations determined.

ZONE AH

Areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO

Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

ZONE A99

Area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONE X

Areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

ZONE V

Area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

ZONE VE

(For new and revised maps) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)."

VOTE: REFER TO PLANNING BOARD - PASSES 12 YES

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

2022-074 APPROPRIATION ORDER IN THE AMOUNT OF \$10,000 FOR THE PURPOSE OF ACQUIRING AN EASEMENT OVER REAL PROPERTY LOCATED AT 195 PHINNEY'S LANE, BARNSTABLE (CENTERVILLE) SHOWN ON ASSESSOR'S MAP 209 AS PARCEL 020 TO BE ASSOCIATED WITH THE CONSTRUCTION OF NEW SEWER INFRASTRUCTURE INTRO: 01/20/2022

Open Public Hearing seeing no one close Public Hearing
No public comment at this time

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under chapter 79 of the General Laws of Massachusetts, or otherwise acquire for sewer, infrastructure, and related purposes, an easement over a parcel of land located at 195 Phinney's Lane, Barnstable (Centerville) Massachusetts, shown on Town of Barnstable Assessors' Map 209, Parcel 020 and described in a deed recorded with Barnstable County Registry of Deeds in Book 33594, Page 345, and that the sum of **\$10,000** be appropriated for the purpose of funding this acquisition, and to fund the appropriation that \$10,000 be provided from the available resources in the Town's Sewer Construction and Private Way Maintenance and Improvement Special Revenue Fund; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: REFER TO PUBLIC HEARING 02/03/2022 - PASSES 12 YES

Roll Call: Atsalis, Bogan, Clark, Cullum, Rapp Grassetto, Hebert, Mendes, Levesque, Schnepf, Shaughnessy, Starr, Steinhilber

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

VOTE: PASSES 12 YES

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

Adjourned at 8:25 PM

Respectfully submitted,

Janet E. Murphy
Assistant Town Clerk/Town of Barnstable

NEXT MEETING: February 3, 2022

Exhibits:

A Town Manager update