

Town of Barnstable Town Council

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Councilors:

Frederick Chirigotis President

James H. Crocker Vice President

Richard G. Barry
Janice L. Barton
Ann B. Canedy
Debra S. Dagwan
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
John T. Norman
Tom Rugo
James M. Tinsley

Administrator: Donald M. Grissom

Administrative Assistant: Barbara A. Ford

TOWN COUNCIL MEETING AGENDA September 16, 2010 7:00 PM

- 1. ROLL CALL
- 2. PLEDGE OF ALLEGIANCE
- 3. MOMENT OF SILENCE
- 4. PUBLIC COMMENT (May be limited to 2 minutes)
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT
- 6. ACT ON MINUTES
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS
- 8. ORDERS OF THE DAY
 - A. Old Business
 - **B.** New Business
 - C. Town Manager Review
- 9. TOWN MANAGER COMMUNICATIONS
- 10. ADJOURNMENT

NEXT MEETING: October 7, 2010

A. OLD BUSINESS

2010-159	Amend Chapter 240, Art II, Zoning Ordinance & Map (Joint public hearing with the		
	Planning Board continued) (Roll-call, 2/3)		
2010-160	Amend Chapter 240, Article II, Zoning Ordinance & Map (Joint public hearing with the		
	Planning Board continued) (Roll-call, 2/3)		
В.	NEW BUSINESS		
2011-021	Acceptance of a gift from the Hyannis Yacht Club to benefit the JFK Sailing Program a youth		
2011 021	competitive sailing class Vanguard Club 420 sailboat (May be acted upon)		
2011-022	Acceptance of a \$400 gift from Dr. Richard H. Sadowski to the Natural Resources Program of		
	the Marine and Environmental Affairs Division for the purpose of continuing the education of		
	youth about the native turtle population (May be acted upon)		
2011-023	Appointment to a board/committee/commission (First reading)		
Minutes	— September 2, 2010		
	oeptomoor 2, 2010		

<u>Please Note</u>: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session.

The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Joint hearing with the Planning Board continued) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-159

INTRO: 06/17/10, 07/15/10, 09/16/10

2010-159 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

ORDERED:

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

Section 1

By amending the official zoning map of the Town of Barnstable as shown on a map on file with the Town Clerk entitled " **Proposed Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District Map** " dated June 17, 2010 and "Proposed Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010.

Section 2:

By deleting Section 240-37.1 and adding in its place new Section 240-37.1 **Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District** to the Zoning Ordinance of the Town of Barnstable, Chapter 240 of the General Ordinances of the Code of the Town of Barnstable, Article III, District Regulations to read as follows:

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers in mapped portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area
- **B. Establishment of district.** The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.
- C. Prohibition. Within the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District, the construction and/or installation of docks and piers is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.

- **D.** Re-establishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- **E. Expansion of existing docks or pier.** For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.

F. Definitions.

Dock and Pier. The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.

Seasonal. The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year. (*From Ch. 702 Private Docks and Piers, 703-2 Definitions*)

G. Enforcement. Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall be subject to penalty and fines pursuant to §240-123 of the Town of Barnstable Code

Section 3

Period of time shall remain in effect and extend to October 30, 2010.

SPONSORS: Councilors Rick Barry and Ann Canedy

DATE	ACTION TAKEN		
D 11.			
Read Item	11' 17 '		
Motion to Open Public Hearing			
Rationale			
Public Hearing			
Close public hearing			
Council discussion			
Move/vote			

SUMMARY

ITEM# 2010-159

INTRO: 06/17/10, 07/15/10, 09/16/10

TO: Town Council

FROM: Councilor Rick Barry

DATE: June 11, 2010

SUBJECT: Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

SUMMARY: This amendment to the Zoning Ordinance prohibits construction of new docks and piers and prohibits expansion of existing of docks and piers in the recreational shellfish area and shellfish relay areas.

BACKGROUND: This proposed amendment to the zoning ordinance would change the Temporary Recreational Shellfish Area and Shellfish Relay Overlay District to a permanent zoning district - the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District. This Overlay District will include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June 17, 2010, filed with the Town Clerk, up to and including the area seaward of the mean high water line. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers for motorized vessels and limiting the expansion of existing docks and piers for motorized vessels in these areas identified as significant habitat for recreational shellfishing and shellfish propagation.

The areas identified for inclusion in the overlay district are areas deemed to possess significant shellfish habitat by the Town's Natural Resource Department Shellfish Biologist. On April 18, 2007, the Barnstable Shellfish Committee voted unanimously to support the proposed Recreational Shellfish Area and Shellfish Relay Area Overlay District.

A. OLD BUSINESS (Joint hearing with the Planning Board continued) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-160

INTRO: 06/17/10, 07/15/10, 09/16/10

2010-160 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

Section 1

Recreational Shellfish Area and Shellfish Relay Area Overlay District Map

That the official zoning map of the Town of Barnstable is hereby amended by adding the Boundary of the Recreational Shellfish Area and Shellfish Relay Area Overlay District as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Proposed Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010.

Section 2

Recreational Shellfish Area and Shellfish Relay Area Overlay District

That Chapter 240, Zoning Ordinance is hereby amended by deleting § 240-37.1 and adding in its place new § 240-37.1 Recreational Shellfish Area and Shellfish Relay Area Overlay District.

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers for motorized vessels in portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area
 - (c) To implement recommended actions 4.3.3.1 regarding public shellfish propagation, and 7.2.3.2.1 regarding amending the regulatory framework for docks and piers, of the Town of Barnstable Coastal Resource Management Plan: Three Bays and Centerville River Systems (November 2009).
- **B. Establishment of district.** The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map Sheet 1 of 7, Cotuit Zoning Map Sheet X of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet X of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

- C. Prohibition. Within the Recreational Shellfish Area and Shellfish Relay Area Overlay District, the construction and/or installation of docks and piers for motorized vessels is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited. Seasonal piers for non-motorized vessels may be constructed or installed within the Recreational Shellfish Area and Shellfish Relay Area Overlay District subject to review and approval in accordance with Chapter 703 of the Town of Barnstable Code, Private Docks and Piers.
- **D.** Re-establishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- **E. Expansion of existing docks or pier.** For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.
- F. Definitions.

Dock and Pier. The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.

Motorized boat. A vessel at any time entirely or partly propelled by power other than muscular or wind power.

Non-motorized boat. - a vessel at all times entirely propelled by muscular or wind power.

Seasonal. The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year.

(From Ch. 702 Private Docks and Piers, 703-2 Definitions)

G. Enforcement. Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Overlay District, such as use of a dock or pier by a motorized vessel if said dock is permitted for use by non-motorized vessels, shall be subject to penalty and fines pursuant to §240-123 of the Town of Barnstable Code

Section 3

Period of time shall remain in effect and extend to October 30, 2010.

SPONSOR: Council	or Janet Joakim	
DATE	ACTION TAKEN	
Read Item Motion to open pu Rationale Public Hearing	blic hearing	Close public hearing Council discussion Move/vote

SUMMARY

ITEM# 2010-160 INTRO: 06/17/10, 07/15/10, 09/16/10

TO: Town Council

FROM: Councilor Janet Joakim

DATE: June 11, 2010

SUBJECT: Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

SUMMARY: This proposed amendment to the zoning ordinance would change the Temporary Recreational Shellfish Area and Shellfish Relay Overlay District to a permanent zoning district - the Recreational Shellfish Area and Shellfish Relay Area Overlay District. This Overlay District will include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June 17, 2010, filed with the Town Clerk, up to and including the area seaward of the mean high water line. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers for motorized vessels and limiting the expansion of existing docks and piers for motorized vessels in these areas identified as significant habitat for recreational shellfishing and shellfish propagation.

The areas identified for inclusion in the overlay district are areas deemed to possess significant shellfish habitat by the Town's Natural Resource Department Shellfish Biologist. On April 18, 2007, the Barnstable Shellfish Committee voted unanimously to support the proposed Recreational Shellfish Area and Shellfish Relay Area Overlay District.

BACKGROUND/ANALYSIS/RATIONALE: The Coastal Resources Management Committee (CRMC) was created by Town Council action to address the issues raised during the 2007 Recreational Shellfish and Shellfish Relay Overlay District zoning ordinance hearings. The CRMC began their work as soon as the committee was constituted. Their task from the Town Council was to update the 1990 Camp Dresser McKee Coastal Resources Management Plan which included the Three Bays, Easy Bay and the Centerville River coastal areas. This group led by the Chair, Bob Jones, met twice a month from May 2008 to November 2009 and completed the November 2009 "Coastal Resource Management Plan: Three Bays and Centerville River Systems (CRMP)." The CRMC submitted the final copy of the updated plan to the Council in December 2009. The CRMC participated in a workshop to discuss the details of the CRMP with Town Council at a workshop meeting in February of 2010. This plan includes strategies and recommendations to address coastal use issues examined by the committee during their extensive and deliberative public process. This legislation is a priority action for implementation of the CRMP in recognition of the current moratorium which expires on August 31, 2010.

STAFF ASSISTANCE: Carole Ridley, GMD Consultant

Jo Anne Miller Buntich, Director of Growth Management

B. NEW BUSINESS (May be acted upon)

SPONSOR:

BARNSTABLE TOWN COUNCIL

ITEM# 2011-021 INTRO: 09/16/10

2011-021 ACCEPTANCE OF GIFT FROM THE HYANNIS YACHT CLUB A VANGUARD CLUB 420 SAILBOAT FOR THE JFK SAILING PROGRAM

RESOLVED: That the Town Council does hereby accept a gift of a Vanguard Club 420 sailboat designed for the youth competitive sailing class from the Hyannis Yacht Club for the Town's JFK Sailing Program.

DATE	ACTION TAKEN	_
		_
Read I Ration		
Counc	il discussion	Move / vote

Town Manager John C. Klimm

ITEM# 2011-021 INTRO: 09/16/10

SUMMARY

TO: Town Council

FROM: John C. Klimm, Town Manager

THROUGH: Lynne M. Poyant, Director of Community Services

DATE: September 7, 2010

BACKGROUND: Through the generosity of the Hyannis Yacht Club, a Club 420 sailboat is being donated to the JFK Sailing Program. The JFK Sailing Program, run through the Recreation Division, has provided our youth with a competitive sailing program that does not allow for actual racing because of lack of equipment. During the John F. Kennedy Memorial Trust Fund Committee's Annual Meeting, discussion took place that the while competitive sailing participants are now taught about racing, they are not able to race as the "Hunters" that are currently used are not considered in any racing class.

RATIONALE: Twenty years ago Vanguard developed the Club 420 in response to the growing need for a more durable, high performance, double-handed racing dinghy that could stand up to the rigors of club and collegiate programs. Ideal for crews ranging in size from 220-310 lbs., the Club 420 is manageable for sailors coming out of beginner's classes and enables young sailors to learn teamwork, trapeze and spinnaker techniques. The Club 420 is simple and safe for beginning sailors and yet quick enough to keep collegiate All-Americans interested. The Club 420 is a two- person boat that is commonly used by yacht clubs, sailing clubs, high schools and colleges. They are 13'9" in length with a 5'5" beam. The sailing program needs these boats for our young sailors to build the skills to sail competitively in races with the Hyannis Yacht Club, Town of Yarmouth Sailing Program and other area clubs. The targeted youth are between the ages of 12 to 18 years. This program would allow the youth of the Town of Barnstable an opportunity that many otherwise would not have.

Why we need these boats:

- It will give participants in JFK Memorial a level playing field when they enter Barnstable High School's sailing program as all sailing programs use Vanguard 420's to race.
- Our participant's will have the opportunity to learn what it takes to compete in a boat designed for racing.
- The 420's will enable the Advance Class to be eligible to compete in sailing races within the Barnstable Community.
- The JFK Memorial Sailing program will become competitive and credible within the sailing world.

Sailing and racing builds communication, cooperation and team work skills. It is confidence building. Our youth, many of whom are underprivileged, do not have the means to belong to a yacht club sailing program and yet they are surrounded by water. The young people who have demonstrated a passion and desire to be a competitive sailor would actually be able to compete outside the program and be given an opportunity not typically available to the less fortunate.

As these young adults enter high school join the Sailing Team, they will have the social exposure, knowledge and experience to be part of a team with confidence. The potential to positively impact children's lives with this program is great.

FISCAL IMPACT: The on-going maintenance of the vessel will be covered through the John F. Kennedy Memorial Trust Fund.

BOARD/COMMITTEE ACTION: The John F. Kennedy Memorial Trust Fund Committee unanimously supports the gift acceptance.

STAFF ASSISTANCE: Debra Blanchette, Treasurer

David Curley, Recreation Director

Patti Machado, Assistant Director of Recreation Patricia Otto, Recreation Financial Coordinator

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-022 INTRO: 09/16/10

2011-022 ACCEPTANCE OF A \$400 DONATION FROM DR. RICHARD H. SADOWSKI TO THE NATURAL RESOURCES PROGRAM CONTINUING YOUTH EDUCATION

RESOLVED: That the Town of Barnstable hereby accepts a donation of \$400 from Dr. Richard H. Sadowski of Sandwich to the Natural Resources Program of the Marine and Environmental Affairs Division for the purpose of continuing the education of youth about the native turtle population.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN				
Read Item	1				
Rationale					
Council discussion					
Move / vo	ote				

ITEM# 2011-022 INTRO: 09/16/10

SUMMARY

TO: Town Council

FROM: John C. Klimm, Town Manager

THROUGH: Lynne M. Poyant, Director of Community Services

DATE: September 7, 2010

SUBJECT: Acceptance of a \$400 donation from Dr. Richard H. Sadowski to the Natural

Resources Program of the Marine and Environmental Affairs Division for the purpose

of continuing the education of youth about the native turtle population.

BACKGROUND: The Natural Resource Program, through Natural Resource Officer Russ Keyes, has been reaching out to area schools to teach them about the ecology of our fragile environment. Among the programs is a turtle incubation program. In a letter from Dr. Richard Sadowski, he states, "I am extremely supportive of the work Russ Keyes has been doing educating the children of Sandwich about the native turtle population...I hope to continue supporting his projects in the future in order that children will learn more about our native ecology." This program is also brought to Barnstable Public Schools.

The Community Services Department and the Marine and Environmental Affairs Division are extremely thankful to Dr. Sadowski for his support.

FISCAL IMPACT: None

STAFF ASSISTANCE: Daniel J. Horn, Marine & Environmental Affairs Director /Harbormaster

Doug Kalweit, Natural Resource Program Russ Keyes, Natural Resource Officer

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-023 INTRO: 09/16/10

2011-023 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED, that the Town Council appoints the following individual to a multiple-member board/committee/commission:

COMMUNITY PRESERVATION COMMITTEE

Rene M. King, 192 Zeno Crocker Road, Centerville, as a Recreation Commission representative member to a term expiring 6/30/2013

SPONSOR: Appointments Committee

DATE	ACTION TAKEN	
Read item Council discussion		
Move/vote		