

**TOWN OF BARNSTABLE  
TOWN COUNCIL MEETING  
September 3, 2009**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:05 PM, on Thursday, September 3, 2009, at the Barnstable Town Hall, 2<sup>nd</sup> Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

**PRESENT:** Richard Barry, Janice Barton, Ann Canedy (7:10), Frederick Chirigotis, James Crocker, Jr., Henry Farnham, Janet Joakim, J. Gregory Milne (7:30), James Munafo, Jr., Thomas Rugo (7:10), James M. Tinsley, Jr. and Harold Tobey.

President Chirigotis led the Council in the Pledge of Allegiance and a moment of silence.

- **Lifeguard Team Recognition** (See Exhibit A)

Patty Machado Assistant Director Recreation Division said the new recreation center is a wonderful opportunity for the youth of the town. She named the 2009 champions of the life guard competition. The team placed first even in the swimming competition. Many of the team members have returned to school and could not be present. She then presented the team captain and BHS teacher, Mark McLaughlin, with the 2009 Employee of the Year award. Mark introduced Demi Miskive, Senior at BHS, and Sophomore Tom Condiff from Sandwich. Brandon Estrella, a thirteen year life guard was representing all those life guards who could not compete because they worked at the town's beaches on competition day. It was a phenomenal team effort. He hopes to come before the council again with the whole team next year.

- **Jane Eshbaugh Community Service Award** (See Exhibit B)

Councilor Crocker was joined by Jaci Barton and Jeff Eshbaugh. Barton made the award to this year's nominee, David Doyle. She read the proclamation. She said the description of the recipient was a true description of Mr. Doyle. Doyle said an award like this belongs to all the volunteers not just one person. He named several key volunteers: Stu Goodwin and Amy Cates, Board of Directors, Fire Chiefs Paul Frasier and Chris Olson, Matt Brent, Raf and Rich at the Cotuit Fresh Market, as well as Mike and Steve at the Kettle-Ho

- **Proclamation for National Suicide Prevention Week** (See Exhibit C)

Councilor Barton introduced Maura Weir, Regional Coordinator of the Suicide Prevention Coalition and Initiative, recipient of the proclamation proclaiming Sept 6 – 12 Suicide Prevention Week.. Weir made a few comments and announced an educational event open to any interested parties. They need people on the ground to see what is or is not working and to make suggestions. She needs the help of the local community to be successful. Suicide is preventable and catching it early can save lives.

- **Coastal Resources Management Plan Presentation**

Bob Jones reviewed the status. The group has met over thirty times. It is a diverse group that worked together and accepted all opinions even if the individual was not in favor of the resolution for the issue. The input of many groups was sought in order to address all the specific needs. There is a great demand for docking space. He would like a workshop with the council to dissect the plan, which has an enormous amount of data, goals, strategies and polices. He will provide copies of the plan in November for review and hopeful approval.

He also addressed the agenda item which requests funding for the program (2010-003).

**PUBLIC COMMENT**

John Julius spoke to voters about voting no on the sewer issue on the October 13<sup>th</sup> ballot. The extra election on October 13 should have been on the regular November election ballot to save \$50,000. He suggested every councilor resign and said Councilors Barry and Munafo had the brains to vote 'no'. Julius's people will be out with an army to get the vote out.

Eric Schwaab stated that his house was vandalized by someone rubbing human excrement on his door and windows. He attributed this act on the fostering of and creating a climate of hate. Is this the kind of town you want? He said this special election, scheduled out of fear of holding the referendum on the same date as the regular town election, was a waste of \$50,000 in light of the pay freezes and job losses that have just occurred. Councilor Crocker asked him if he had reported the incident to the police. Schwaab said he had.

Bill Cronin spoke on the Steamship Authority's intention to demolish an existing slip and construction of two new slips, work to begin in the next month or two. He referred to a 1992 agreement between the SSA and the town that requires prior approval for changes costing over \$50,000. There has been no such vote. He also referred to a boardwalk which was never built as well as the number of allowable trips, which have been exceeded.

Rob Anderson appeals for more open communication between the council and residents. It would help avoid misunderstandings, etc. He will be launching an internet option to encourage open communication. He asked the council to help open the doors to communication.

Ernie Doody had a question about an upcoming sewer expansion at Hall's Creek, where he lives, that was recently mentioned by Mark Ells. The expansion is not mentioned in the CIP. He was also concerned about the reference to nutrient management planning in the CIP at a cost of \$150 M. Sewerage is sewerage not nutrient management planning. In addition he had concerns about the 2004 decision to pipe water from Schoolhouse Creek, the worse pond in Barnstable, to Stewart's Creek. Should he have to pay for that because he lives at Stewart's Creek?

Wayne Lampson, General Manager of the Steamship Authority, explained that in 2002 the "veto" in the 1992 enabling act was changed to "vote" and gave a Barnstable member voting power on the board.

- Councilor Canedy asked who authorized the change from veto to vote. Lampson said it was state legislation. There has been a vote on this project by the SSA Board which was unanimous and included a vote from the Barnstable representative.
- Councilor Milne asked if freight levels have gone back to the 1997 levels as agreed. Lampson said they had not, and explained some of the obstacles in accomplishing that goal. What should Milne say to constituents when signed agreements have not been honored? Lampson said there have been amendments relaxing those requirements and pointed out the transfer of the Hinckley building to the town as a *quid pro quo*. Milne suggested and Lampson agreed to participate in a meeting, if the council so desired.
- President Chirigotis said he would schedule a workshop to air and address all these issues publicly.
- Bob Jones said he was the member on the Steamship Authority Port Council. He gave some history based on his experiences. The SSA is lifeline to the islands and part of the National Highway System. The authority has that charge and all seven ports try to work with the people in each town because they consider themselves part of the town.

## **COUNCIL RESPONSE TO PUBLIC COMMENT**

Councilor Crocker said it was clear that there will be no rest until the October election. He is glad for the petition; however, this group does not seem to care about the people in the community who support the Stewart's Creek sewerage. He believes 20% of the people will come out for this special election. A \$30,000 election expense pales in comparison with the 160 households who will each realize \$15,000 in savings over the amortization period if the referendum passes.

Councilor Farnham agrees with Crocker. The first time the issue came out, the explanations were not as clear as they have been this time. A number of the current systems would be considerably more expensive to replace than the cost of the sewerage. He does not know how much longer the Board of

Health can give residents a 'pass.' He suggested the manager produce a bulleted document addressing all the issues as well as outlining the possible financing options for residents. This is the biggest vote to come before the town. It is not about wasting money but coming up with a one-time solution.

Councilor Canedy also agrees and adds that the November date was avoided in favor of October, because it would be absolutely too late to capture stimulus money. She suggested considering one more workshop prior to the election to go over the issue one more time as well as better educating the public. She also pointed out that this same group complaining about the election cost is planning to initiate the recall of a councilor which will require another special election and another additional cost to the town.

## **ACT ON MINUTES**

Upon a motion duly made and seconded it was voted to accept the minutes as submitted.

**VOTE: Unanimous**

## **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**

Councilor Canedy announced, among a variety of other activities, that at the opening Red Raiders football game, the Quarterback Club will sponsor a tribute to former Red Raider Pvt. 1<sup>st</sup> Class Vincent Manion, Army 2<sup>nd</sup> Airborne Div., who was seriously injured in March 2007 in Iraq and, after much rehabilitation, is residing again on the Cape. He is striving to make a new life for himself and his family.

Councilor Barton and Milne also announced upcoming events.

Councilor Munafo spoke about safety at the new youth center. He looked at the lighting and sees a problem with the four light fixtures at the repositioned roundabout which do not appear to be useable and need to be corrected. Councilor Barry added that the new facility was wonderful.

Lynne Poyant spoke about the grand opening of the new Hyannis Youth and Community Center. She is compiling the invitation list which has 487 names at this time. Friday Sept. 25 is the official opening and Saturday Sept. 26 will be a free skate day. Information is on the HYCC website linked from the town website.

## **ORDERS OF THE DAY**

### **OLD BUSINESS**

President Chirigotis took Item 2010-012 out of order. There were no objections.

### **2010-012 DCPC IMPLEMENTING REGULATIONS – CRAIGVILLE BEACH DISTRICT**

(Public Hearing continued from August 6, 2009)

Councilor Joakim said this was a continuation of the public hearing and made a motion that the council would use the Substitute Text 2010-012 dated August 19, 2009. There was a second.

**VOTE: No objections.**

Councilor Crocker asked when it would be appropriate for him to make a Charter Objection on this item. Pres. Chirigotis said there will be a continued public hearing with the Planning Board, followed by councilor comments, followed by a vote. Councilor Munafo announced that he will be offering a second Charter Objection.

Joanne Buntich reviewed the substitute text and the DCPC process. This DCPC came from the members of the village and is enabled by the Cape Cod Commission Act. This handles issues that transcend traditional zoning and land use rules. She introduced a friendly amendment that includes some procedural items from the town attorney and the removal of some language that increases the comfort level with the document.

Councilor Joakim made a motion to amend Item 2010-012 Substitute Text Dated August 19, 2009 as follows:

**Section 240-131.3 Definitions:**

**Impervious Surface** – Remove the words “natural stone” from this definition.

**Lot Area** - For the purpose of determining Maximum Building Coverage and Maximum Lot Coverage Allowances the lot area for legally created lots developed and/or improved as of June 13, 2008 shall be the horizontal area of the lot defined by metes and bounds. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year.

**Add new Section 3**

Add to the Preamble

**Section 3** incorporates the DCPC implementing regulations into the Town of Barnstable Ordinances.

Add as Section 3

For the purpose of the Cape Cod Commission ACT, the implementing regulations shall be deemed incorporated into the ordinances of the Town of Barnstable upon the approval by the Cape Cod Commission.

**Add new Section 4**

Add to the Preamble

**Section 4** adds the DCPC implementing regulations for the Centerville Beach District to the Town of Barnstable Ordinance Article II, § 240-5 Establishment of Districts, Residential Districts.

Add as Section 4

Amend the Town of Barnstable Zoning Ordinance § 240-5 Establishment of Districts by adding the CBD – Centerville Beach District to the list of Residential Districts.

Joanne Buntich explained the reasons behind these changes.

Paul Niedzweicki, Executive Director of the Cape Cod Commission said the DCPC is a powerful planning tool that provides progressive protection. It is about preserving vital historic and natural resources, such as the barrier beach in Centerville. Proposition 2 ½ drives land use and may remove local control, yet it is important to try to protect certain areas. The commission is not against bigger homes *per se* and points to a house on Long Beach Road which uses creative architecture to break up the roof lines and blend the structure into the surrounding land. Niedzweicki is trying to extend the timeframe to benefit the town but he is constrained by the Act and time is running out. Good work has been started. Whether or not there is action tonight, the Cape Cod Commission will have to consider what happened here. It is about the resource and all need to act responsibly.

Raymond Lang, Planning Board and chair of the subcommittee, said it was a plan from the ground up not the top down. The board supports what was done which does not take away many rights from people and gives them some new ones.

Jack Driscoll, Pres. Long Beach Association, would like the charter objections reconsidered. People have worked hard and it is a reasonable solution. Some preferred the original text and no one wants mansionization, but some would like to do a little expansion. He feels the document is reasonable and urges support.

Meg Loughran, President of the Centerville Civic Association, said since the last meeting people have regrouped and reached consensus. The majority of the stake holders support it. If this does not pass it will say that the town cannot take care of its own zoning needs and she would be embarrassed by it. She would like to know why from any councilor who votes no.

William Rickman is the counsel to the attorneys retained by the Crane family. Why not revise the town's zoning ordinance? He feels that is all that is necessary. Zoning leaves in place protections of property owners when lots become non-conforming. A goal of the DCPC is to weaken those protections. If the DCPC is adopted the town loses control of the regulations. The town may wish to amend and CCC may not allow it.

Jim Lane feels the Trade Winds should be a "line in the sand." This DCPC is something the people really want. The Charter Objection should be dropped.

Fred Williams urges support of the proposal to protect resources for people in the future.

George Gringold spoke for the environment. He prefers the Aug 19 draft. His only objection is that it does not favor provisions for expansion of homes as a matter of right. Insurance companies raise rates when they sense risk and people build in fragile locations. Storms which may cause destruction of homes may also cause damage to the barrier beach. Rebuilding or enlargement needs some sort of an environmental process, not just a matter of right. Anything dealing with expansion needs to be stated clearly and in one place.

Roy Richardson said there needs to be a goal of keeping the beach from changing for another 85 years. He supports this item.

Kate Singeltary said it was about the resource and a higher responsibility. All need to get on the same page, which has happened over the last four weeks. This is the time to be heroes of the future. Do not honor the Charter Objection. Vote it tonight.

Nancy Soulette is stunned at the thought of a Charter Objection. She is a naturalist and is in favor of this. The serious areas of disagreement have been resolved with the amendments and she urges approval.

Lindsay Counsell thinks the DCPC effort is a good start. Critical planning is needed. The town promised the state they would address some of these issues and, if it doesn't, it may come back on the town when they apply to the state in the future.

Sarah Alger was part of the advisory committee, which she found frustrating, because people have been good stewards of the land. The process makes it seem otherwise. She believes the people who live there have a concern for the area and she is not sure the DCPC is the answer. Height regulation just doesn't work; the inability to rebuild in the event of fire makes no sense. She feels it is incorrect to say that the majority are in favor; it is the vocal minority who are present who support it. The DCPC addresses emotional reactions and she suggested voting it down.

Arlene Wilson has a number of clients in the affected area. She pointed out some flaws in the DCPC such as not prohibiting construction in velocity zones; prohibiting buildings from conforming to new flood elevation levels regulations; dealing with conflicts between the DCPC and conservation regulation, etc. She does not think it is quite there. If it is voted, she suggests continuing to amend it to address the ambiguities.

Steve Brown served on the Citizen's Advisory Committee. Shellfishing beds have become polluted and the tide must be stemmed. He asks the council to support this.

Sue Rohrbach read a letter she had sent to the council in favor of this item. (See Exhibit D)

Merillee Crain owns three homes in the DCPC area. She cares about the resources but it should be done carefully, reasonably and locally. Residents will lose the right to modify a home and the town lose the local power over zoning; these will be turned over to the CCC. Vote against it and keep the right local.

Tom Kirk owns three homes and urges support of the DCPC.

Rev. Joanne Hotunian is not sure if the sentiments to approve are a vocal minority, but it should be noted that great changes in history have been sparked by a vocal minority.

Barry Weiner, attorney for home owners in each area spoke in opposition of this draft. All meetings lacked meaningful discussion. Weiner felt proposals to facilitate the discussions, including submissions of other draft language, were thwarted by members of Growth Management, who were running the meetings. This was a sorry process which was unnecessary and unfair. Drafts are confusing, complex, inconsistent, poorly drafted and not thought through. Local zoning control will be lost forever if this is approved.

Peter Buffington spoke in support of the DCPC, not because it meets every owner's wish, but in order to push it forward. If the town does not act, residents may be subject to state and the Cape Cod Commission regulations of which they will have had no say.

Avis Strong Park said the area is suffering and urges passage of the item as soon as possible, especially to take advantage of funding.

Alice Brown wants to preserve the special character of the area, including the wonderful unique homes. She also urges support of the DCPC.

Christina Whelton said people put time, money, sweat and tears into crafting this agreement. No one is fully satisfied but that is what compromise is. She feels the process is being sandbagged. The process has caused divisions in the community. She also believes the Cape Cod Commission has a draft which is significantly different and which will cause many residents to lose even more property rights.

Roger Hansen feels the document is a good balance between the issues to be addressed and property rights.

Bob Angelo has come around to understand the better good fostered by this DCPC. He liked the Aug 6<sup>th</sup> document better but is comfortable with this version. He suggested amendments be considered immediately to improve it. Leaving this to the CCC is foolhardy. He urges passage.

Anne Gingold spoke of past problems with townspeople's rights to the water and the barrier beaches. She asks that all be respectful as good citizens.

Upon a motion duly made and seconded, the Planning Board voted to close the public hearing at 9:28 PM.

**VOTE: Unanimous**

Upon a motion duly made and seconded the Town Council voted to close the public hearing at 9:28 PM.

**VOTE: Unanimous**

### **Recess 9: 30 – 9:42 PM**

Chairman Lang reported that the Planning Board recommends approval of the Centerville DCPC Item 2010-012, by a unanimous vote.

Councilor Joakim said the Conservation Commission and the Board of Health are in full support of the document.

Councilor Rugo wanted a clarification regarding the suggested inability to rebuild a house in the event of a fire. In addition he wanted confirmation of his understanding that if this passes, there would be little likelihood that the Commission would change it. And, if it does not pass, the Commission will be able to structure their own DCPC which would become law. Buntich said repair of damaged property occurs now and would occur if the DCPC passes. Attorney Ruth Weil addressed the process for Cape Cod Commission involvement. If it passes, the Commission staff does a consistency analysis and makes a recommendation to the full Commission, which is scheduled to vote on Sept 10<sup>th</sup>. If it fails or there is no vote, the Commission may propose and send to the Assembly of Delegates its own version, which will become law if the Assembly approves or fails to act within a 75 day window.

Councilor Milne asked about making the ZBA the Special Permit Granting Board. Buntich said this keeps the permitting environment stable and the ZBA does most of them. Milne asked for explanations of several other sections: exempt uses allowable by a majority vote; setback allowances; roof decks; hardship exemptions; types of ownership; seasonal vs. year-round uses. She responded satisfactorily to his concerns.

Councilor Barry feels if this dies on the vine it will have wasted 18 months of time. If this does die on the vine he asked Niedzweicki not to let it die at the CCC. Use it as a platform to make changes.

Councilor Canedy said this requires a two-thirds vote so if four councilors object it is defeated despite the positive interest from the audience. She does not want the public to be defeated if this item is defeated. She also asked Niedzweicki to give the council enough time to digest the document, especially with the flurry of amendments that have come the last few weeks. She is disappointed with the suggestion of a Charter Objection feeling the item should get an up or down vote out of respect.

Councilor Farnham asked if this does not pass would there be an option for the town to take control of this in another effort or a re-nomination. Attorney Weil said the town can always pass a zoning amendment. If the DCPC fails and the Commission chooses not to act, the current DCPC dies on September 25.

President Chirigotis said the DCPC has occurred and if regulations have not been implemented and the Commission has not acted, the DCPC is done. The district can be re-nominated after its current life fails.

Weil clarified the remaining time frame: September 10 is the last day for the Commission to act on this item and September 24<sup>th</sup> is the last day for the Commission to submit the plan to the Assembly of Delegates.

Councilor Crocker feels there are at least 3 or 4 more opportunities. He will vote for another DCPC but not this one because he feels it is not good zoning. It is not a good document and needs to go another round. Teams of people went out to get their own support – from handshakes and deals. He feels the town can do better work than this.

Councilor Barton agrees with Councilor Barry to vote on it tonight.

Councilor Munafo feels he has been “brought to the wire” with last-minute substantial changes. Everyone has good intentions but he feels the DCPC process will hurt them. All the objectionable houses recently built are within the rights of the owners. This will be a loss of grandfathering. When the whole town becomes a DCPC there will be no representation of the people in the process because the council will have given its authority over to staff. This weakens the people’s representation. He will probably not find any reason for voting on a DCPC.

Councilor Milne said the voters voted for the Cape Cod Commission, which is not a foreign entity. The people who serve on the Commission are local entities: Niedzweicki, Richardson and Lynch are all citizens of the town. Lynch controls more vote by population than anyone else. Milne is confident that the Commission and the Assembly will do the right thing to carry forward the town’s sentiments.

Councilor Rugo was a sponsor of this DCPC. It was just a remarkable grass-roots effort and not a result of hand-shakes and deals. The handshakes were a meeting of the minds. There was nothing underhanded and he feels it is a good piece of legislation. Rugo explained that he was going to file a Charter Objection at the August meeting to get it out of the way while there was still time to act on this item, but the Precinct 3 councilor said he would not file a charter objection on this item. That allowed the public hearing to remain open and continue this evening. Now, the Precinct 3 councilor is planning to file the Charter Objection.

Councilor Joakim said that the councilor from Precinct 3 made the arguments for this DCPC when he pointed out that the elevator house and the Trade Winds were done within the law. This is an opportunity to create our own regulations, not the much stricter regulations that the Commission will enact. Craigville Beach is a place people go to be at the ocean. The problem is not the ZBA that makes the

decision based on zoning. The problem is the zoning. She said the people in Centerville want this. There is a large silent majority

Councilor Rugo made a motion to adopt the amendments put forward by Councilor Joakim.

Councilor Crocker asked for a ruling on the timing of a Charter Objection relative to this amendment. Attorney Weil said this vote would amend the item but this vote would not trigger the Charter Objection. The trigger would be the vote on the item. The Charter Objection would be made after it was voted to move the question.

The motion to adopt the amendments was second.

**VOTE: 11 Yes, 1 No (Munafu)**

Councilor Barry moved the question which was seconded.

Councilor Crocker filed a Charter Objection.

Councilor Milne objected explaining that in the past, he had made a Charter Objection in this manner and it was called out of order. Milne felt there was prejudicial treatment.

Councilor Crocker asked for a ruling on the Charter Objection. There was a motion to move the question and a second, then there was a Charter Objection. Councilor Joakim pointed out that the council never actually voted to move the question.

Attorney Weil said there would have to be a vote to move that question, which is not debatable, before the filing of a Charter Objection would be timely. The Charter Objection was premature.

President Chirigotis put the seconded motion to move the question on the floor.

**VOTE: 11 Yes, 1 No (Joakim)**

## **2010-012 DCPC IMPLEMENTING REGULATIONS – CRAIGVILLE BEACH DISTRICT**

Upon a motion duly made and seconded it was

### **ORDERED:**

Preamble: This ordinance is adopted as a zoning implementing regulation of the Craigville Beach portion of the Craigville Beach District of Critical Planning Concern (DCPC). Included in this order in **Section 1** amends the zoning map to create the Craigville Beach District; **Section 2** adopts the Craigville Village Implementing Regulations. **Section 3** incorporates the DCPC implementing regulations into the Town of Barnstable Ordinances; **Section 4** adds the DCPC implementing regulations for the Centerville Beach District to the Town of Barnstable Ordinance Article II, § 240-5 Establishment of Districts, Residential Districts.

### **Section 1**

#### **Craigville Beach District Map**

That the official zoning map of the Town of Barnstable is hereby amended by adding the Boundary of the Craigville Beach District replacing portions of the RB, RC, RD and RD-1 district as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Craigville Beach District" dated July 16, 2009 and "Proposed Amendment to the Town Zoning Map Hyannis Sheet 3 of 7 and Centerville Zoning Map Zoning Map 4 of 7 creating the Craigville Beach District" dated July 16, 2009

### **Section 2**

#### **Craigville Beach District Implementing Regulations**

That Chapter 240, The Zoning Ordinance is hereby amended by adding a new Article XIV District of Critical Planning Concern Implementing Regulations and adding Craigville Beach District Implementing Regulations:

#### **§240- 131 Authority**

This Article is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

#### **§240-131.1 Purposes and Intent**

- A. The purpose and intent of this section is to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 08-06 to ensure that development and redevelopment:
- (1.) Contributes to and respects the character and historic development patterns of the area; lessens inconsistent development and redevelopment impacts to the historic and community character resources in this area;
  - (2.) Protects and preserves scenic views and vistas and ways to the water;
  - (3.) Protects and improves natural resources including but not limited to the barrier beach and groundwater and coastal water quality; lessen development and redevelopment impacts to the natural resources and ecosystems in this district;
  - (4.) Protects human life and property from the hazards of periodic flooding,
  - (5.) Preserves the natural flood control characteristics and the flood control function of the flood plain,
  - (6.) Preserves and maintains the ground water table and water recharge areas within the floodplain.
- As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection.

### **Section 3**

For the purpose of the Cape Cod Commission ACT, the implementing regulations shall be deemed incorporated into the ordinances of the Town of Barnstable upon the approval by the Cape Cod Commission.

### **Section 4**

Amend the Town of Barnstable Zoning Ordinance § 240-5 Establishment of Districts by adding the CBD – Centerville Beach District to the list of Residential Districts.

### **240-131.2 District Boundaries**

A. The provisions of this ordinance shall apply within the Craigville Beach District (CBD), as shown on the Barnstable Zoning Map, July 16, 2009.

#### **A. Neighborhood Overlays.**

For the purpose of this ordinance the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Barnstable Zoning Map, July 16, 2009.

LBSB: Long Beach/Short Beach

CB: Craigville Beach

CRNB: Centerville River North Bank

CV: Craigville Village

### **§ 240-131.3 Definitions**

**Accessory Use or Building--** A use or structure which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal use or structure.

**Base Flood Elevation (BFE) –** The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**Beach Club --** A membership establishment legally in existence at the time of the adoption of this ordinance, not open to the general public, located in close proximity to a beach and providing recreational and social activities, including food service, to members.

**Building Coverage -** The percentage of a lot covered by principal and accessory buildings or structures. For the purposes of this section, this definition does not include uncovered swimming pools and tennis courts, and decks not exceeding 100 square feet or 10 feet in length.

**Building Height –** The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys or flagpoles, as approved by the Building Commissioner.

**Common Driveway –** A form of access which is not a street but extends from a street and provides common vehicular access to more than one (1) lot. For the purposes of calculating Lot Coverage, the common driveway's Impervious Surfaces shall be equally allocated among the lots served and/or benefited by the common driveway in proportion to the sizes of the lots.

**Conference Center** – A non-profit religious and educational use legally in existence at the time of the adoption of this ordinance comprised of guest houses and cottages, single family residences, recreational areas, lodging for guests, meeting spaces, and summer recreational opportunities.

**Cottage Colony** – A group of three or more detached dwellings, under one ownership, legally in existence at the time of the adoption of this ordinance located on a single lot, which are customarily rented out to the transient public by day, week, month, or season and occupied on a seasonal basis only. Cottage colonies shall not be used year round. Cottage colony structures shall not exceed one and one-half stories and 800 s.f. GFA.

**Elevated Structure** - A structure elevated for the purpose of Barnstable Code, Section 240-34, Flood Area provisions whose lowest structural member is 1' above BFE in A zones and 2' above BFE in V zones.

**FEMA** – Federal Emergency Management Agency.

**FEMA Flood Zones** - Geographic areas susceptible to inundation by water that FEMA has mapped according to varying levels of flood risk, as defined and delineated on a community's Flood Insurance Rate Map.

**FIRM** – Flood Insurance Rate Map

**Grade** – The referenced plane of the average of all finished ground levels adjoining the building or structure for a distance of 6 feet from all exterior walls. Retaining walls for mounded septic systems mandated by the Board of Health are not included in the calculation of grade.

**Gross Floor Area** – The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

**Half Story** – That space above the plate line but below the ridgeline in an area commonly called the “attic space”, provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.

**Impervious Surface** A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, sidewalks, etc. Any area designed for vehicle use or vehicle parking covered with porous pavers which may become impervious over time may, at the discretion of the Building Commissioner, be considered impervious surface.

**Lot Area** - For the purpose of determining Maximum Building Coverage and Maximum Lot Coverage Allowances the lot area for legally created lots developed and/or improved as of June 13, 2008 shall be the horizontal area of the lot defined by metes and bounds. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year.

**Lot Coverage** - The percentage of a lot covered by Impervious Surfaces. For the purposes of this section, paved driveways and parking areas, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious shall be included in the definition of lot coverage.

**Non-Profit Educational Use** – An educational use conducted by a not for profit corporation whose articles of incorporation permit it to engage educational activities and “educational purposes” as its principal permitted use within the meaning of Massachusetts General Laws, Chapter 40A, sec. 3, including but not limited to libraries and museums.

**Open Foundation:** A pile or column foundation designed for structures in flood zones that minimizes the foundation area subject to lateral flood loads. Open foundations are intended to prevent flotation, collapse, and lateral movement of a building during a flood-event.

**Religious Institution** – An institution engaged in “religious purposes” within the meaning of Massachusetts General Laws, Chapter 40A, Section 3.

**Seasonal Use** – A use carried on for only a part of the year. Typical seasonal uses are outdoor recreational activities such as swimming and boating both motorized and non-motorized; impermanent use of cottages, motels, hotels, letting of rooms in a residential structure and letting an entire residential structure.

**Seasonal Use Structure** – Any structure designed or used as temporary seasonal living quarters that is not used as a primary, permanent residence. Seasonal use structures may have heat and other amenities but do not deposit wastewater into wastewater treatment systems on a regular year round basis and do not withdraw water for consumption or other activities on a regular year round basis.

**Single Family Residence** - A detached residential building designed for and occupied by a single family.

**Small-Scale Food Service** – An establishment legally in existence at the time of the adoption of this ordinance where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

**Special Permit Granting Authority (SPGA)** - The Zoning Board of Appeals shall be the special permit granting authority within the Craigville Beach District.

**Story** - The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**Upland** – All lands not defined herein as wetlands.

**V (Velocity) Zone**—The area extending from mean low water to the inland limit 100 year floodplain supporting waves greater than three (3) feet in height. V-zones are mapped on the FEMA FIRM.

**Wetland** – The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune, or other shifting sand formation.

### **Section 240-131.4 Craigville Beach District Use Regulations**

Municipal uses are exempt from these regulations.

**A. Principal Permitted Uses.** See 240-131.7 (Neighborhood Overlay Regulations) herein.

#### **B. Use Limitations**

- (1.) Any use not expressly allowed herein is prohibited.
- (2.) The conversion of any building or structure from seasonal use to year round use is prohibited, except that Single Family Residences are not subject to this use limitation. The conversion of a building, or buildings, constituting a cottage colony, hotel, inn or rooming house, or of a facility required to be licensed as a recreational camp, overnight camp or cabin, or motel under S. 32A to I of Chapter 140 of the General Laws, to condominium-type ownership, shall be deemed to be a change in use from seasonal to year-round use, and is prohibited.
- (3.) Permitted business and retail uses shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than fourteen (14) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

#### **C. Exempt Uses**

- (1.) Religious institutions, accessory day care centers, and Non-Profit Educational uses are permitted as exempt uses within the Craigville Beach District. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the Craigville Beach District as set forth in Sections 240-131.1 Purposes and Intent, § 240-131.5 Dimensional, Bulk and Other Regulations, § 240-131.7 Neighborhood Overlay Regulations.
- (2.) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use, provided however that the relief granted will not create a public safety hazard along adjacent roadways and will not adversely impact natural resources or create a nuisance or adverse impacts to other surrounding properties. A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

**D. Continuation.** Any lawfully established lot, structure or use existing at the time of the adoption of this ordinance that does not conform to the provisions of the CBD shall be allowed to continue.

#### **E. Change, Expansion or Alteration of Uses and Structures**

Existing conforming or non-conforming uses and structures lawfully existing at the time of the adoption of this ordinance may continue subject to the following:

##### **(1) As of right**

- (a.) The normal and customary repair and maintenance of a building or structure and the conversion of existing floor area to habitable space is permitted as of right.
- (b.) The alteration and expansion of a building or structure is permitted as of right provided that the alteration or expansion shall conform to following criteria:

- [1.] Conforms to applicable height requirements of § 240-131.5.
- [2.] Does not exceed the Coverage Limitations set forth in § 240-131.6
- [3.] Complies with applicable neighborhood performance standards.

## **(2) By Special Permit**

(a) The alteration or expansion of an existing conforming or non-conforming lawfully established building or structure that does not qualify under the “as of right” provisions above shall be permitted only by a special permit from the SPGA. In granting such special permit, the SPGA shall find that the proposed alterations and/or expansions:

- [1.] Are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure;
- [2.] Comply with Section 240-131.1 Purposes and Intent and with the Performance Standards for the neighborhood district where the development is located, in accordance with Section 240-131.7 Neighborhood District Overlay Regulations with the exception of the dimensional requirements of Section 240-131.7 D (1);
- [3.] Do not exceed 25% of the Gross Floor Area of structures in existence as of July 1, 1989 or 10% of the Gross Floor Area of structures in existence as of June 13, 2008.
- [4.] Do not increase Lot Coverage over what is allowed under § 240-131.6 Coverage Limitations or by more than 10% over what was existing on June 13, 2008, whichever is greater.
- [5.] Do not increase flood hazards in the neighborhood.
- [6.] Maintain or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with Section 240-131.5, note 4;
- [7.] In V-zones does not increase south facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of flood waters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way.

## **F. Special Permit for Dimensional Relief**

The SPGA may provide relief from minimum yard setbacks when such relief ensures that the proposed development:

- (1.) Is consistent with § 240-131.I Purposes and Intent;
- (2.) Is consistent with the Performance Standards for the neighborhood district where the development is located in accordance with Section 240-131.7 Neighborhood Overlay Regulations; and
- (3.) The applicant demonstrates undue hardship without desired relief.

## **G. Re-establishment of damaged or destroyed use, building or structure.**

(1.) The re-establishment of a lawfully established conforming or non-conforming use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:

- (a.) The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade; except that buildings in the flood plain that existed prior to June 13, 2008 may be elevated 2 feet above BFE or as required by the applicable law regardless of the resulting building height provided the building complied with building height regulations at the time of its construction.
- (b.) If the building’s location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations and with performance standards regarding building orientation.
- (c.) The reconstruction or repair will not constitute an expansion or intensification of any use.
- (d.) In the case of any use in which it would otherwise be required, the site plan review process has been followed.
- (e.) Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner

finds that the structure is to be rebuilt to replicate what existed before the damage or destruction the design guidelines in this chapter do not apply.

(2.) Any previously established use or structure which no longer complies with the provisions of the CBD shall be discontinued unless a building permit has been applied for within two years from the date of damage or destruction, and construction is continuously pursued to completion.

**H. Voluntary Demolition and Reconstruction of Single Family Residences:** Lawfully established Single Family Residences may be demolished and reconstructed in accordance with §240-131.4 G. This provision shall not be construed to supersede local, state or federal regulations pertaining to the demolition of historic structures.

**240-131.5 Dimensional, Bulk, and Other Requirements:** The following requirements apply to all development and redevelopment in the Craigville Beach Zoning District.

<b>Neighborhood Overlays</b>				
	<b>Craigville Village</b>	<b>Craigville Beach</b>	<b>Long Beach/Short Beach</b>	<b>Centerville River North Bank</b>
<b>Requirements</b>	For all legally created and/or legally developed lots that were in existence as of June, 13 2008 and conformed to the existing zoning when legally created, the existing lot area, lot frontage, front, side and rear setbacks and building height dimensions may be used in lieu of the following dimensional requirements.			
Minimum Lot Area (s.f.)	87, 120	87, 120	87,120	87,120
Minimum Lot Frontage (feet)	75	100	125	125
Min. Front Yard Setback (feet)	15	20	20	20
Min. Side Yard Setback (feet) <sup>4</sup>	10	15	15 <sup>4</sup>	15
Min. Rear Yard Setback (feet)	10	15	15	15
Maximum Building Height <sup>1,2,3</sup>	30	26	30	30
Maximum number of stories <sup>3</sup>	2	2	2	2
Maximum Building Coverage	See Section 240-131-6			
Maximum Lot Coverage	See Section 240-131-6			

**Dimensional table notes:**

- (1.) Maximum Building Height allowances vary depending upon the roof pitch of the structure, with gable roofs having a slope of 7/12 or greater allowed the maximum building height, hip and other sloped roofs with a slope of 4/12 or greater are allowed 5 feet less than the maximum building height, and flat roofs prohibited except on one-story additions totaling less than 300 square feet per parcel.
- (2.) Buildings in the flood plain that existed prior to June 13, 2008 may be elevated 2 feet above BFE or as required by the applicable law provided the building complied with building height regulations at the time of its construction.
- (3.) The second story must be set back at least 2 feet from the façade line of the floor below on two of the building’s facades and the second story floor area shall not exceed 80% area of floor area immediately below it.
- (4.) In the Long Beach/Short Beach Neighborhood, to preserve and enhance views of Craigville Beach and the Centerville River, a view corridor shall be preserved using 20 feet of either side setback or, where side yard setbacks are less than 20 feet, the greater of either side yard setback existing on June 13, 2008. The view corridor shall remain free of view obstructing buildings, structures, site improvements or landscaping other than low growing plant material or existing natural vegetation for the entire depth of the property from the street to the river or beach.

**240-131.6 Coverage Limitations:** The following limitations apply to all development and redevelopment in the Craigville Beach Zoning District.

Lot Size	Maximum Building Coverage (footprint) Allowance	Maximum Lot Coverage Allowance
1,300-4,999 s.f.	1,100 s.f. plus 10.8% of lot area over 1,300 s.f.	50%
5,000-7,499	1,500 s.f. plus 6% of lot area over 5,000	50%, but no more than 3,200 s.f.
7,500-9,999	1,650 s.f. plus 6% of lot area over 7,500	3,200 s.f.
10,000-14,999	1,800 s.f. plus 4% of lot area over 10,000	3,300 s.f.
15,000-19,999	2,000 s.f. plus 6% of lot area over 15,000	3,400 s.f.
20,000-34,999	2,300 s.f. plus 4% of lot area over 20,000	3,600 s.f.
35,000-44,999	2,900 s.f. plus 4% of lot area over 35,000	3,600 s.f. or 10%, whichever is greater.
45,000 and above	3,300 s.f. plus 3% of lot area over 45,000	10%

**Section 240-131.7 Neighborhood Overlay Regulations**

**A. Purpose:** The Neighborhood Overlay regulations establish uses, dimensional requirements and design guidelines to preserve the distinctive character; allow continued use and enjoyment of properties and structures; make provisions for changes, expansions; protect and preserve scenic views and vistas; protect and improve natural resources; and to limit damage from periodic flood events for each neighborhood within the Craigville Beach District.

**B. Historic and Community Character.** These regulations will ensure that development and redevelopment in the CBD contributes to and does not detract from the historic character of the Craigville Beach area; that any proposed additions to historic structures shall be consistent with the historic structure and shall be consistent with the character of the surrounding neighborhood, including elements such as building height, mass and orientation; and preserves views and ways to the water from public spaces, streets and ways.

**C. Applicability:** Development and redevelopment shall be subject to the following additional requirements and regulations based upon the applicable Neighborhood Overlay.

**D. General Performance Standards**

- 1) The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it unless relief has been granted by the SPGA in accordance with Sections 240-131.4(E) and (F).
- 2) The development complies with the height limitations set forth herein.

- 3) Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials.
- 4) Stormwater management and erosion control for non-residential uses comply with best management practices through Low Impact Development or other adaptive management practice.
- 5) Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within.

#### **E. Long Beach/Short Beach Neighborhood**

**(1) Permitted Principal Uses:** The following principal uses are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

**(2) Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

**(3) Performance Standards** All development and redevelopment shall meet the following standards:

(a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.

(b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. Any proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

(c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(d.) **Transitional Provision** Any development that has obtained a hardship approval from the Cape Cod Commission for a building permit prior to the effective date of this ordinance shall not be subject to these regulations for the development authorized by said hardship exemption.

#### **F. Craigville Beach Neighborhood**

**(1) Permitted Principal Uses:** The following principal uses are permitted in the Craigville Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(b.) Small-scale food service

(c.) Beach club

(d.) Cottage colony

(e.) Hotel or motel in existence as of July 16, 2008 that is lawfully established

**(2) Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Craigville Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

**(3) Performance Standards:** All development and redevelopment shall meet the following standards:

(a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited.

(b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject

site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

(c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

#### **(4) Beach Club Design Guidelines**

**Purpose:** To maintain public views to the water and to maintain the neighborhood's existing character with small scale building masses and natural or traditional building materials.

(a.) **Building Height and Massing:** New construction on Beach Club properties shall have modest massings to relate to the small scale of most structures in the beachfront neighborhood. Any structure with a footprint of 3000 square feet or more shall incorporate significant changes in massing to break up the facade, and should integrate one-story massings into the design to relate the building to the surrounding smaller structures.

(b.) **Building Orientation:** Buildings shall be oriented with the narrow end facing the street and the water to maximize public views of the water across the site. New buildings or complexes should not extend over more than 150 feet of the lot frontage, and efforts should be made to limit the expansion of existing buildings.

(c.) **Maintaining Views to Water:** Multiple buildings on one lot should be clustered close together to limit obstructed views of the water, or shall be separated from each other by 100 feet or more of road frontage to allow broad unobstructed views across the lot to the water.

(d.) **Fences:** Fences shall be of open construction and low profile (such as split rail and low picket fencing) to maintain public views to the water. Fences over 3 feet in height should be limited to screening loading and delivery areas adjacent to buildings, or modest trash collection areas. Screening fences should not extend farther than necessary beyond the building footprint to maintain public views.

(e.) **Building Materials:** Exterior building materials shall be those traditionally used in the region or other naturally weathering materials, such as wood shingle, wood clapboard, or board and batten siding.

#### **G. Centerville River North Bank Neighborhood**

**(1) Permitted Principal Uses:** The following principal uses are permitted in the Centerville River North Bank Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

**(2) Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Centerville River North Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

**(3) Performance Standards:** All development and redevelopment shall meet the following standards:

(a.) Tree removal or vista pruning shall not interrupt the treeline as viewed from the south looking northward to the treeline.

(b.) No land area designated as V-zone of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zone which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.

(c.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

(d.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

## H. Craigville Village Neighborhood

**(1) Permitted Principal Uses:** The following principal uses are permitted in the Craigville Village Neighborhood Overlay area subject to the performance standards listed below.

- (a) Single Family Residence
- (b) Conference Center

**(2) Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Craigville Village Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

**(3) Performance Standards:** All development and redevelopment shall meet the following standards:

**(4) Design Guidelines**

(a.) **Purpose:** Most buildings in the Craigville Village Neighborhood date from the late 1800s and early 1900s when the neighborhood developed as a Christian Camp Meeting Association. The neighborhood is still defined by its historic structures and their configuration around a central green, small street grid, and communal paths.

(b.) **Objectives:**

(1.) To preserve the character-defining features of the original camp meeting neighborhood including its small lots, modest scale structures, and orientation of buildings to public areas.

(2.) To ensure that additions and alterations to structures are compatible with the existing scale and character of the building and preserve the original massing and unique architectural features of its historic buildings.

(c.) **Application:** The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of this ordinance, but shall apply to all new development, to any additions to existing structures, and to all reconstruction projects except as provided for in Section 240-131 (G)(1)(e).

(d.) **Building Design.** The guidelines shall apply to construction of new structures and expansions and alterations of existing structures.

(1.) Preserve the original massing of historic structures (pre-1945):

(2.) Additions should be attached to secondary or less prominent facades of the building (the side or rear facades), and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.

(3.) Work with modest massings: Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline than the original structure to maintain the prominence of the original building, though some additions may be slightly taller than the original structure if attached to the original structure with a smaller connecting mass.

(4.) Roof forms: The roof pitch on new construction and additions should complement the roof pitch of the original historic structure and should maintain a pitch of at least 6 over 12.

(5.) Retain Original Architectural Details and Unique Forms: Additions should be placed so as to limit the removal of distinctive architectural trim and features that are unique to the building. Additions and alterations should not interfere with character-defining features such as open porches, steeply pitched roof forms, unique windows, and carpenter gothic trim along eaves and entries. Siding materials used on the original structure should be retained, though other regional siding materials may be appropriate on additions.

## Section 240-131.8 Additional Provisions

### **A. Other regulations**

The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7 Application of District Regulations; § 240-9.C & D; § 240-10 Prohibited Uses; § 240-34 Flood Area Provisions; § 240-43 Accessory Uses; § 240-46.A & B Home Occupations; Article VI Off Street Parking Sections 240-52, 240-53.B through .E ; and Sign Regulations § 240-59 through 63; Article XI Growth Management Sections 240-110 through 122; Article IX Site Plan Review; Article XII Administration and Enforcement § 240-123 – 240-124; § 240-125 C Special Permit Provisions as these provisions of the Barnstable Code cited in this section may be amended from time to time

### **B. Conflicts**

Unless otherwise stated, the requirements of the Craigville Beach District shall apply to uses and structures within the Craigville Beach District. In the event of a conflict, these regulations shall apply.

### **C. Severability**

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

President Chirigotis asked for a vote by roll call for this item.

Councilor Crocker filed a Charter Objection. President Chirigotis called it out of order since there had been one Charter Objection filed in this item and there can be only one Charter Objection filed.

Attorney Weil asked for a brief recess.

### **Recess 10:37 PM – 10:45 PM**

President Chirigotis said he does not challenge the charter objection. He passed the gavel to Vice President Harold Tobey who took control of the meeting.

President Chirigotis made the following motion:

“I move the council require the town manager to re-nominate this district as a district of critical planning concern tonight.” The motion was seconded by Councilor Crocker.

Councilor Rugo asked for an explanation of what this means. Chirigotis said this will initiate another DCPC for this area, keep the moratorium in effect and extend the period of time for the town to act up to another two years. Weil explained that the re-nomination requires going through the process of hearings by the Commission; once accepted, it then gives a year plus a three-month extension for completion.

**VOTE: 10 Yes, 2 No (Canedy, Munafo)**

**NOTE: No vote was taken relative the amended version of 2010-012.**

Councilor Tobey made a motion which was seconded to extend the meeting past the 11 PM hour.

**VOTE: 11 Yes, 1 No (Barry)**

### **Substitute Text September 3, 2009.**

**2010-011 APPROPRIATION & LOAN ORDER – WIND TURBINE & PHOTOVOLTAIC  
INSTALLATION AT HYANNIS WPC FACILITY**  
(Public Hearing continued from August 6, 2009)

Town Manager John Klimm gave the rationale.

Present: Richard Elrick, Town Energy Consultant; Peter Doyle, Supervisor WPC; Tom Michaelman, WIN Consultant; Tom Devine, Stearns & Wheeler Project Manager; and Dale Saad.

Mr. Elrick made a PowerPoint presentation. (See Exhibit E).

Councilor Canedy asked why the amount of money in the substitute motion was \$2 M less. Elrick explained the photovoltaic components will cost less than originally thought.

Councilor Tinsley asked about the savings per household. That determination has not been done as yet.

Councilor Munafo asked questions about flickering and shadow models at the site locations, costs for service and maintenance contracts; potential vandalism; life of the equipment and energy credits. Tom Devine and Tom Michaelman provided the answers. Flickering should be insignificant. They have budgeted \$10,000 per turbine for maintenance and, once the turbines are selected, it will be part of the contract. Vandalism does not appear to be a problem elsewhere; the facility is fully fenced. The minimum life if the equipment is of 20 years and often longer than that. The turbine energy would feed into a meter which reads a credit and networked to the usage meters in order to realize the reduction, anticipated at 78%. Elrick discussed the benefits. Projects like this will continue to make sense and be a huge benefit to the town and rate payers

Councilor Farnham made a motion to move the question which was seconded.

**VOTE: Unanimous**

#### **Substitute Text**

#### **2010-011 APPROPRIATION & LOAN ORDER – WIND TURBINE & PHOTOVOLTAIC INSTALLATION AT HYANNIS WPC FACILITY**

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of \$7,650,000 be appropriated for the purpose of funding the energy efficiency, wind turbine and photovoltaic installation at the Hyannis Water Pollution Control Facility; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$7,650,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council.

**VOTE: 12 Yes, (Roll Call)**

#### **2010-003 APPROPRIATION & TRANSFER ORDER TO FINALIZE COASTAL RESOURCES MANAGEMENT PLAN**

A motion was made and seconded to move the question on this item.

**VOTE: Unanimous.**

#### **2010-003 APPROPRIATION & TRANSFER ORDER TO FINALIZE COASTAL RESOURCES MANAGEMENT PLAN**

Upon a motion duly made and seconded it was

**ORDERED:** that the sum of \$14,000 be appropriated from reserve funds for the purpose of finalizing the Coastal Resources Management Committee update of the 1990 Camp, Dresser & McKee Coastal Resources Management Plan as follows: \$13,000 for personnel; \$1,000 for final document preparation, printing and distribution; and that the Town manager is authorized to contract for and expend the Appropriation made available for this purpose.

**VOTE: 11 Yes, 1 No (Canedy) (Roll Call)**

#### **2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET ASIDE FOR OPEN SPACE**

Upon a motion duly made and seconded it was voted to postpone the public hearing to September 17, 2009.

**VOTE: Unanimous**

#### **LATE FILES**

**2010-019 REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE & 46 NORTH STREET, LLC**

Upon a motion duly made and seconded this item was referred to a public hearing on October 1, 2009.

**VOTE: Unanimous**

**2010-021 BALLOT QUESTION - CAPITAL EXPENDITURE EXCLUSION- BULKHEAD IN BARNSTABLE HARBOR**

Upon a motion duly made and seconded this item was referred to a public hearing on September 17, 2009.

**VOTE: 10 Yes, 2 No (Crocker, Chirigotis)**

**2010-022 CONTINGENT APPROPRIATION ORDER - REPLACEMENT OF THE BARNSTABLE MARINA BULKHEAD**

Upon a motion duly made and seconded this item was referred to a public hearing on October 1, 2009.

**VOTE: 11 Yes, 1 No (Crocker)**

**2010-023 APPROPRIATION AND TRANSFER ORDER \$25,000.00 CAPITAL TRUST FUND 296 NORTH STREET HYANNIS (ZION MUSEUM)**

Upon a motion duly made and seconded this item was referred to a public hearing on October 1, 2009.

**VOTE: Unanimous (Tobey absent)**

**TOWN MANAGER COMMUNICATIONS**

Town Manager Klimm recognized the entire DPW staff for their work on the wind turbine and photovoltaic installation at the Water Pollution Control facility.

Manager Klimm also requested some time in executive session for a serious employee matter. The executive session will occur at the September 17<sup>th</sup> meeting at 6:30 PM.

Upon a motion duly made and seconded the meeting was adjourned at 11:32 PM.

Respectfully submitted,

Lucia Fulco  
Assistant Town Clerk