

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
April 1, 2010**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:00 PM, on Thursday, April 1, 2010, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

PRESENT: Janice Barton, Richard Barry (7:15), Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Debra Dagwan, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafo, Jr., John Norman, Thomas Rugo and James M. Tinsley, Jr.

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

President Chirigotis took Late File 2010-120 out of order.

2010-120 GRANT ACCEPTANCE OF \$20,000 ELIZABETH B. MCGRAW FOUNDATION

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby accepts a gift to the Town of Barnstable Police Department in the amount of \$20,000 from the Elizabeth B. McGraw Foundation.

Police Chief Paul MacDonald gave the rationale.

Mrs. Lee McGraw spoke about her two charitable foundations within the town. When she learned that funding source for two leased motorcycles was cut, she decided to step up to the plate and provide funding so the motorcycles could be purchased outright. She is a motorcycle rider and didn't want the department to do without.

VOTE: Unanimous

Special guest Carey Murphy, Falmouth Selectman, brought the prize which the Council earned as a result of Barnstable Football Team's 2009 Thanksgiving Day victory. He brought organic certified cranberries and a bag of fresh oysters from Peter Chase's aquaculture farm. He congratulated the Red Raiders for their victory and said that "this is about sport, the kids and the communities that support them."

PUBLIC COMMENT

Kevin Howard, Treasurer of the Cape Cod Chamber of Commerce read a letter from the Chamber endorsing the airport renovations. (See Exhibit A)

Louise DeCecca was asked by Mark Ells to work on a FAQ sheet about sewer financing. She thanks him for his efforts. She is encouraged at the steps being taken in the right direction. Full disclosure makes for fewer enemies.

Meri Farnsworth also thanked Director Ells and the Town Manager for their help with sewer financing. She suggested casting the widest net to finance the project. If the public knew the entire issue an override would pass. She would also like her private road taken by the town so it could be improved.

Deborah Converse, President of the Hyannis Chamber of Commerce, thought the workshop was well presented and is looking forward to the workshop being viewed by other organizations. She also thanked the airport for their update on the renovation project. She feels it will provide much needed jobs.

Brian Wasser spoke about other technologies for wastewater including composting toilets, which are Title 5 approved. They reduce the volume of waste by 95% and the resulting material makes ideal fertilizer.

Laurie Brown also spoke on the sewerage stating that the funding is still not determined. Also on the issue of private roads, she said they will become worse if not addressed. The Town should operate as a town not 13 precincts. Funding issues need to be solved in an equitable and fair manner.

Annual Update - Paul Niedzweicki, Cape Cod Commission

Paul Niedzweicki, Executive Director of the Cape Cod Commission gave his annual update, mentioning some of the high points of 2009. The Cape is the only region receiving capital funds for a “technological bridge.” He listed other grants attracted to the Cape through the CEDS project. The Commission’s future goals involve addressing wind and wastewater issues. The wind project has been tortured and there is need for wind siting reform legislation. Wastewater is causing the degradation of embayments; nitrogen needs to be cleaned. A regional wastewater plan based on a cape-wide density map is needed. Two thirds of the Cape watersheds are shared among towns, which will require joint planning rather than a town-by-town approach.

- Councilor Barton asked if there were a link between the CAC and the Commission. It is Mark Ells.
- Councilor Barry said individual towns are attacking these issues. Chesapeake Bay is dead and Maryland has instituted a flush tax. The federal government has not been “in the game” for 30 years. Sen. O’Leary has been successful in getting 0% loans for addressing wastewater. Two acre zoning is more expensive for wastewater removal. He suggested the possibility that coordinated capital plans issuing a lot of debt might be able to negotiate lower interest rates.
- Councilor Milne asked how the Commission could take the lead role in organizing multi-town arrangements for such purposes. Niedzweicki said communities would have to consider shared watershed management plans along with shared financial responsibility; this has not happened and is not easy.
- Councilor Farnham asked about staffing and how it interacts with towns and other government entities; he was also interested in the budget. Niedzweicki explained that the Commission had its own staff and asked the County for fund assistance. Collaboration has allowed that assistance to end. There is a robust economic development department currently working in Yarmouth and Mashpee; Harwich will be next.
- Councilor Dagwan asked how the cluster system was working in Mashpee. It is working well for their density.

President Chirigotis suggested an additional workshop.

Royden Richardson, Barnstable’s Commission member, thanked Paul for his commitment. Richardson was pleased with the questions and the answers which give a taste of what the CCC is capable of accomplishing.

COUNCILOR RESPONSE

Councilor Munafo said composting toilets do a great job but are a problem to implement. He suggests the council receive more information and consider it in the future.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to accept the minutes of February 25, 2010 as written.

VOTE: Unanimous

Upon a motion duly made and seconded it was voted to accept the minutes of March 4, 2010 as written.

VOTE: Unanimous

Upon a motion duly made and seconded it was voted to accept the minutes of March 18, 2010 with the following corrections: under Council Response, Councilor Canedy, delete “On the bulkhead issue, Canedy sought town-wide payment for those repairs, but it didn’t go forward.” and under Item 2010-069, Councilor Canedy’s statements, delete “Can we give that to someone?” and replace it with “Can we refer this to staff or an independent consultant for study?”

VOTE: Unanimous as corrected.

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

Councilor Munafo said the light should be changed at Pitcher’s Way so there can be a crosswalk symbol. On taxes he asked how is the town is doing fiscally, and suggested an update after three quarters. On the residential exemption, he would like an update before another tax bill is sent.

Councilor Milne was pleased with the Cape Cod Mosquito Control project, which costs a total of \$1.6M throughout the Cape, for a year’s worth of work to eliminate EEE or the West Nile virus. He had a few questions on the workshop of March 17th. Apparently a quorum and executive session were mentioned in the newspaper. It was not a supposed to be a convened meeting. He was assured it was a workshop.

Councilor Tinsley thanked the BPD for finding his car. He has become involved with the Big Brothers/Big Sisters program. He met his “little brother” who had been on the waiting list for several years. He suggested people interested in participating contact him or contact the organization directly.

Councilor Joakim spoke about other women who are in the spotlight but don’t sing. Ally Morgan from Marstons Mills is a great engineer who has been recognized designed a sensing device.

President Chirigotis announced that Items 2010-087 and 2010-117 would be postponed to May 6, 2010.

ORDERS OF THE DAY

OLD BUSINESS

2008-163 ADOPTION OF THE TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2008

Joanne Buntich, Growth Management Director, said copies have been filed with the Town Clerk. She mentioned that the title and text still referred to the date of 2008 and suggested it be changed to 2010.

A motion was made and seconded to make a correction on the title and text changing the year from 2008 to 2010.

VOTE: Unanimous

2008-163 ADOPTION OF THE TOWN OF BARNSTABLE COMPREHENSIVE PLAN 2010

Upon motion duly made and seconded it was

RESOLVED AND ORDERED: That the Town Council hereby adopts the Town of Barnstable Comprehensive Plan 2010 and instructs the Town Clerk to submit the plan to the Clerk of the Cape Cod Commission for certification that it is consistent with the Regional Policy Plan.

VOTE: Unanimous

Pres Chirigotis recused himself at 8:10 PM from participation on the next article and left the chamber. Vice President James Crocker chaired the meeting.

2010-062 DCPC IMPLEMENTING REGULATIONS – CRAIGVILLE BEACH DISTRICT

Town Attorney Ruth Weil addressed the voting process. It is addressed in the Cape Cod Commission Act and could be a simple majority vote. However, she needed time to research in order to advise what the quantum vote would be, suggesting the item be postponed.

Councilor Joakim made a motion which included authorizing The Cape Cod Commission to give an opinion on the quantum vote. The issue arose of whether to let the Conservation Commission and the Board of Health vote on the DCPC first, and then have the council accept it prior to sending it to the CCC, or the have the council accept it tonight letting the other two boards consider it afterwards and then send it to the CCC.

Vice President Crocker announced a recess until this matter resulted in a motion whose language was satisfactory.

Recess at 8:15 – 8:59 PM

Councilor Joakim made the following motion which was seconded:
I move to amend 2010-062 by adding the following text before the preamble:

“The Town council votes to authorize the council administrator to forward to the Cape Cod Commission the proposed text contained in 2010-062, after consideration by the Barnstable Conservation and the Barnstable Board of Health. And, after review and approval by the Cape Cod Commission, to be returned to the Town Council for its approval. The Town Council requests that the Cape Cod Commission provide guidance as to the quantum vote necessary for the Town Council to pass a zoning DCPC implementing regulation.”

Vice President Crocker explained that this will be a recommendation from the Commission on the quantum vote and it will come back to council to pass it. Usually the council has the last vote after the boards have acted.

Councilor Tinsley asked if this was just an approval to send forward, not a final vote. Yes. Councilor Munafo asked if this is usually how it works – the town gives final approval after the Commission gives approval. Niedzweicki said adopting this tonight would not be deemed final action. If there is no vote, the CCC will get it eventually. Giving the Commission the ability to ask their questions first is preferable to giving them the final document.

Councilor Farnham had some amendments to the current document and wanted to know the proper time to make them. Attorney Weil said it could be amended after the public hearing, or any other time prior to the final vote.

On Joakim’s amendment

VOTE: 9 Yes, 3 No (Crocker, Munafo, Norman)

Councilor Farnham made the following two amendments:

#1

Amend Section 240-131.4(F)(1)(e) by adding the following sentence at the end of subsection (e): “If the structure is in the floodplain, any design or architectural changes associated solely with flood-proofing the reconstructed structure shall not require compliance with the design guidelines.” This section will state in its entirety:

“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. If the structure is in the floodplain, any design or architectural changes associated solely with flood-proofing the reconstructed structure shall not require compliance with the design guidelines.”

#2

Amend Section 240-131.8.A. by deleting “240-53.B through E” and substituting in place thereof “Section 240-53.B through .F”.

Attorney Eliza Cox gave the rationale for the amendments. She is representing the Beach Club. The older buildings do not comply with FEMA regulations and if one of them had to be reconstructed, the first amendment insures it would still not have to apply to keep the existing structure. The second amendment deals with parking lots that now exist but do not conform to the newly proposed landscape requirements.

Councilor Joakim asked the town staff to respond to the amendments. Growth Management Director Joanne Buntich said they are comfortable with the first amendment. The second amendment would apply to all parking lots allowing everything that is there to continue. Joakim added that the reason “F” was left out is exactly because it would apply to all parking lots in the district. Maybe it could apply to the area just where the beach clubs are.

Councilor Crocker asked if this were added today would the town be able to make changes after the Commission has voted. Joakim said the Commission has public hearings, and the amendment could be made there. Att’y. Weil will study the CCC act.

Councilor Farnham feels grandfathering the parking is important. He does not want to decrease the parking and if not protected it will be lost.

Councilor Rugo suggested a friendly amendment to limit the amendment to the Craigville Beach area. Councilor Farnham worked on a revised amendment. He suggested adding “which section F as delimited only in the Craigville Beach neighborhood.”

Councilor Milne stated that town lots are exempt but those leased by the town are not. He supports a DCPC over a Chapter 40A. It is more flexible.

Councilor Farnham proposed adding the following to amendment #2: “which section F as delimited only in the Craigville Beach neighborhood.”

On amendment 1:

Upon a motion duly made and seconded it was voted to

Amend Section 240-131.4(F)(1)(e) by adding the following sentence at the end of subsection (e): “If the structure is in the floodplain, any design or architectural changes associated solely with flood-proofing the reconstructed structure shall not require compliance with the design guidelines.” This section will state in its entirety:

“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. If the structure is in the floodplain, any design or architectural changes associated solely with flood-proofing the reconstructed structure shall not require compliance with the design guidelines.”

VOTE: 11 Yes, 1 No (Canedy)

On amendment 2:

Upon a motion duly made and seconded it was voted to Amend Section 240-131.8.A. by deleting “240-53.B through E” and substituting in place thereof “Section 240-53.B through .F which section F as delimited only in the Craigville Beach neighborhood.

VOTE: Unanimous

Upon a motion duly made and seconded the continued public hearing was resumed at 9:45 PM

VOTE: Unanimous

Meg Loughran said controlling development will mean less stress in this area. She reviewed the history of the DCPC process. The Town and the Growth Management Department created this with specialists and the desire of Centerville residents who care about the area. If councilors do not support it, she would like to know why.

Jack Driscoll felt it should be a zoning ordinance. As property owners they do not want to give up their rights and prefer that to a DCPC - 65 families live there in summer. He has 30 letters from people in the area who agree. (see Exhibit B)

Jim Lang owns only one home of the 94 homes affected. There have been houses and hotels built out of scale. He agrees the DCPC should be supported.

Felicia Penn, member of the Planning Board, supports the document. The implementing regulations are what is on the table, she explained; the DCPC has already been accepted. This is the guts.

Dom Gautreau said people agreed to the individual pieces of the document. He would prefer a zoning ordinance and keep the control of the document, now that the pieces are defined. Zoning could do this with tougher restrictions.

Christina Welton supports the implementation of the guts of the DCPC by local zoning regulations. Why put the control outside the town? She strongly opposes passing the control to the Cape Cod Commission.

Mark Goldberg has been a resident since 1964. The interaction at this meeting is why local zoning makes sense. The DCPC has brought people together and the dialogue should continue as a local government.

Shirley Fisher supports the DCPC. It boils down to whether each counselor believes that the local resource, which is more than a group of homes, can be preserved via a DCPC. It is about all summer people and residents who enjoy the beach. Present zoning has not worked. Limiting overdevelopment will improve water quality. Would someone go to the Commission to question a zoning decision, she asked. Niedzweicki said zoning decisions will remain under local control. Fisher urges support.

William Rickman, is counsel to the Crane family and also a professor of Land Use Law at BU, who drafted Chapter 40A. The end product is a good zoning amendment – not substantive but procedurally. If adopted as a DCPC, who will call the shots in the future? As a zoning amendment, the town will be in control. This says that the Commission is better at dealing with this zoning than the town. He finds it unacceptable. The paperwork to make that change is not complicated.

Barry Weinert also represents the Crane family. Crane’s objection is not substantive but that it is not a zoning amendment. The content of zoning, health and conservation regulations are under the control of the CCC. This is ceding the local authority on zoning so the local boards are not the final word. There is strong objection even from those who have worked hard on it. Vote it down and put this on a fast-track to be passed as a zoning matter, retaining control for the people who elect you.

David Munsell pointed out that this is a DCPC now and there is a need to discuss the nuts and bolts of it. It does not remove local total control; issues will be handled locally by the same boards. It is too late to talk about zoning now. The Planning Board would never yield control to the Cape Cod Commission.

Sue Rohrbach stated that the issue is that it's time to vote on this. The DCPC exists by substantial vote twice. Grandfathering and zoning need a 2/3 vote but this does not. If this does not pass the Commission will do it. The Town will be giving up control because not voting to pass the regulations gives control to CCC. "Vote yes now and yes later, or control goes to the Cape Cod Commission."

Sarah Alger also represents the Crane family. She had several procedural questions, such as a question of the vote – majority or 2/3s. She pointed out that changes to the regulations must have the approval of the CCC. The DCPC designation does terminate if no action is taken. She suggests the council consider zoning regulations. In addition, the council should wait to vote until the quantum of the vote is known.

John Pendergast Jr. said it is time to move forward with the DCPC.

Pete Fisher said the regulations are a result of much input. It is a highly sensitive area – barrier beach and river area – and it must be protected. Respect the hard work of volunteers by adopting the regulations tonight.

Arnold Mason, a resident over 40 years, pointed out some of the improvements such as the beach having been re-nourished. The people have been good stewards of the area. He suggests not putting in a layer of bureaucracy where zoning will work.

Matthew Clark is in favor of the regulations for the DCPC.

Tom Kirk supports the DCPC.

Hazel Ward asked that the beach be preserved.

Upon a motion duly made and seconded the public hearing was closed at 10:40 PM.

VOTE: Unanimous

2010-062 DCPC IMPLEMENTING REGULATIONS – CRAIGVILLE BEACH DISTRICT

Upon a motion duly made and seconded it was

ORDERED:

The Town council votes to authorize the council administrator to forward to the Cape Cod Commission the proposed text contained in 2010-062, after consideration by the Barnstable Conservation and the Barnstable Board of Health. And, after review and approval by the Cape Cod Commission, to be returned to the Town Council for its approval. The Town Council requests that the Cape Cod Commission provide guidance as to the quantum vote necessary for the Town Council to pass a zoning DCPC implementing regulation

Preamble: This section 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: **Section 1** amends the Zoning Map to create the Craigville Beach District; **Section 2** adopts the Craigville Beach District Implementing Regulations. **Section 3** incorporates the DCPC implementing regulations into the Town of Barnstable Zoning Ordinances upon approval by the Cape Cod Commission and **Section 4** adds 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 Zoning Map of the Town of Barnstable is hereby amended by rezoning portions of the RB, RC, RD and RD-1 zoning districts in Centerville and a small portion of western Hyannis to the Craigville Beach 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 Index Sheets Hyannis Sheet 3 of 7 and Centerville Map 4 of 7 creating the Craigville Beach District".

Section 2

Craigville Beach District Implementing Regulations

That Chapter 240, The Zoning Ordinance is hereby amended by adding to Article XIV District of Critical Planning Concern Implementing Regulations a new § 240-131 adding Craigville Beach District Implementing Regulations as follows:

§240- 131 Authority

This section 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.

240-131.2 District Boundaries

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

B. **Neighborhood Overlays.** For the purpose of this section the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Zoning Map and identified as: .

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, flagpoles or other similar appurtenances 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 section 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 section 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 as may be amended from time to time.

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 that are vacant or developed and/or improved as of November 6, 2009 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 section 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.

Structure- Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, sheds, swimming pools and towers, but shall exclude fences of 6 feet or less in height and flag poles.

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.

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

A. 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.

B. 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 including General Performance Standards and applicable Neighborhood Performance Standards
- (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.

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

D. 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 General and 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 Overlay area in which 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 November 6, 2009.
- [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 November 6, 2009, 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.

E. 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.

F. 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 other than grades required for installation or upgrade of onsite septic systems; except that buildings in the flood

plain that existed prior to November 6, 2009 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. If the structure is in the floodplain, any design or architectural changes associated solely with flood-proofing the reconstructed structure shall not require compliance with the design guidelines.

(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.

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.

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Requirements	For all legally created vacant lots the frontage and area in existence as of November 6, 2009 and/or legally developed lots that were in existence as of November 6, 2009 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) ⁴	10	15	15 ⁴	15
Min. Rear Yard Setback (feet)	10	15	15	15
Maximum Building Height ^{1,2,3}	30	26	30	30
Maximum number of stories ³	2	2	2	2
Maximum Building	See Section 240-131-6			

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Coverage				
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 November 6, 2009 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 November 6, 2009. 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) Neighborhood 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 section 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) Neighborhood 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) Neighborhood 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) Neighborhood Performance Standards: All development and redevelopment shall meet the following Design Guidelines:

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.

(a.) 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.

(b.) Application:

The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of this section, 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).

(c.) 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 .F, which section F as delimited only in the Craigville Beach neighborhood; 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; and § 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.

Section 3

For the purposes of the Cape Cod Commission Act, the implementing regulations shall be deemed incorporated into the Zoning 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

VOTE: 8 Yes, 4 No (Roll Call) (Crocker, Farnham, Munafo, Norman) (Chrigotis recused)

President Chirigotis returned to the hall.

2010-094 ACCEPTANCE OF THE FISH WEIR APPLICATION FOR NANTUCKET SOUND FISH WEIRS, INC.

Upon motion duly made and seconded it was

RESOLVED: The Barnstable Town Council does hereby approve the Application of Nantucket Sound Fish Weirs, Inc. to renew permits for two (2) fish weir sites in the coastal waters of the Town of Barnstable in Nantucket Sound. The permit renewal request is for a period of five (5) years. (Full application on file in Council office)

Manager Klimm gave the rationale.

Lynn Poyant, Director of Community Services Department, Dan Horn, Director of Marine and Environmental Affairs Division and Kurt Martin, President of Nantucket Fish Weirs, Inc., the applicant, were present. The Waterways Committee has discussed this and has no objection. It is subject to same lighting conditions of 3 lights per weir.

A motion was duly made and seconded to amend the item by adding “subject to the same terms and conditions.”

VOTE: Unanimous

On Item 2010-094 as amended

RESOLVED: The Barnstable Town Council does hereby approve the Application of Nantucket Sound Fish Weirs, Inc. to renew permits for two (2) fish weir sites in the coastal waters of the Town of Barnstable in Nantucket Sound. The permit renewal request is for a period of five (5) years and subject to the same terms and conditions.

VOTE: Unanimous.

A motion duly made and seconded to extend the meeting beyond 11 PM.

VOTE: 12 Yes, 1 No (Tinsley)

2010-088 ACCEPTANCE OF SUPPLEMENTAL GRANT OF \$1,647,786 FROM FAA

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept a supplemental grant award in the amount of \$1,647,786 from the Federal Aviation Administration and that the Barnstable Municipal Airport Commission is authorized to enter into contracts and to expend the grant monies for the purposes specified therein.

Airport Manager Bud Breault said there has been years of effort on this project. He believes they have satisfied the 19 points. This will improve safety, security, and the environment. There will be numerous jobs created both during the construction and after completion. This is a regionally important airport and the third busiest in the state. Place trust in the work done by numerous talented individuals. He would like to break ground in July.

Councilor Canedy complemented the Airport Commission, Asst. Airport Manager Frank Sanchez and Manager Breault for their work to bring the project under budget. Although she was unsure whether she could support this project at first, she is now satisfied.

VOTE: 11 Yes, 2 No (Roll Call) (Milne, Tinsley)

2010-093 CAPITAL EXPENSE APPROPRIATION TRANSFER & LOAN FOR BARNSTABLE MUNICIPAL AIRPORT TERMINAL OF \$21,430,851

Upon a motion duly made and seconded a public hearing was opened at 10:55 PM.

VOTE: no objection

Bob Doane, CFO of Cape Air - Nantucket Airlines read a letter from Daniel Wolf, President. (See Exhibit C)

Upon a motion duly made and seconded the public hearing was closed at 10:56 PM.

VOTE: No objection

Councilor Tinsley asked why not pay up front from the surplus. Breault said they could afford to take the \$1.7M out of reserve but there would be a very minimum of funds left as a rainy day fund.

Counselor Munafo confirmed that the airport was not looking to expand operations to fund this. Breault stated he was correct.

Councilor Milne asked about the green quality of the building. Breault said the architect reviewed what was done, given the funds available. Milne feels there is a risk factor with Retrix on the fuel charge, and asked about the availability of income from properties that are owned. Breault said there are 120 acres that could be approved by the FAA as surplus and sold.

A motion was made and seconded to move the question.

VOTE: One opposed. (Milne)

2010-093 CAPITAL EXPENSE APPROPRIATION TRANSFER & LOAN FOR BARNSTABLE MUNICIPAL AIRPORT TERMINAL OF \$21,430,851

ORDERED: That the sum of \$21,430,851 be appropriated for the Barnstable Municipal Airport's capital expense budgets and be added to Appropriation Order #0586A for the purposes of funding additional contracted architectural and engineering design costs, and costs associated with the construction and outfitting of the new Airport Passenger Terminal and the new Airport Access Road; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$18,213,851; and to further meet this appropriation that \$3,217,000 be transferred from the Airport's Reserve Fund; and furthermore that the Barnstable Municipal Airport Commission 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.

VOTE: 12 Yes, 1 No (Roll Call 2/3 vote) (Milne)

NEW BUSINESS

Upon motion duly made and seconded it was voted to refer the following Capital items to public hearings to be held on April 15, 2010:

2010-095 APPROPRIATE \$75,000 AIRPORT ENTERPRISE FUND CIP-CLEARING THE VISUAL ZONE OF THE AIRPORT'S RUNWAY 15

2010-096 APPROPRIATION & LOAN - \$1,365,000 SANDY NECK ENTERPRISE FUND CIP-SANDY NECK BEACH HOUSE RENOVATIONS & ADDITIONS

2010-097 APPROPRIATE & LOAN - \$1,050,000 WATER SUPPLY ENTERPRISE FUND CIP-PIPE REPLACEMENT & UPGRADE PROGRAM FOR HYANNIS WATER SYSTEM

2010-098 APPROPRIATE \$32,000 WATER SUPPLY ENTERPRISE FUND CIP-REPAIRS TO MARY DUNN 1 WATER STORAGE TANK

2010-099 APPROPRIATE \$110,000 WATER SUPPLY ENTERPRISE FUND CIP-DESIGN FOR UPGRADING & LENGTHENING WATER MAIN

2010-100 APPROPRIATION & LOAN - \$4,082,000 WATER SUPPLY ENTERPRISE FUND CIP-NEW WATER STORAGE TANK FOR HYANNIS WATER SYSTEM

2010-101 APPROPRIATE \$185,000 SEWER ENTERPRISE FUND CIP-REPLACE CHLORINE TANK AT HYANNIS SEWER TREATMENT PLANT

2010-102 APPROPRIATE \$150,000 SEWER ENTERPRISE FUND CIP-SEWER PUMP STATION ALARMS

2010-104 APPROPRIATE \$3,250,000 CAPITAL TRUST FUND CIP-REPAIR PUBLIC ROADS & DRAINAGE SYSTEMS

2010-105 APPROPRIATE \$67,500 CAPITAL TRUST FUND CIP-DESIGNING & RECONSTRUCTION OF HERRING RUNS

2010-106 APPROPRIATE \$30,000 CAPITAL TRUST FUND CIP-COASTAL DISCHARGE MITIGATION

2010-107 APPROPRIATE \$65,000 CAPITAL TRUST FUND CIP-TO TREAT HYDRILLA & FANWORT

2010-108 APPROPRIATION & LOAN - \$250,000 CAPITAL TRUST FUND CIP-REPAIRS TO BARNSTABLE WEST BARNSTABLE & CENTERVILLE ELEMENTARY SCHOOL PARKING LOTS

2010-109 APPROPRIATION & LOAN - \$680,000 CAPITAL TRUST FUND CIP-SCHOOL BUILDING IMPROVEMENTS & EQUIPMENT UPGRADES

2010-110 APPROPRIATION & LOAN - \$300,000 CAPITAL TRUST FUND CIP-MUNICIPAL FACILITY IMPROVEMENTS

2010-111 APPROPRIATION & LOAN - \$650,000 CAPITAL TRUST FUND CIP-WEST BAY BRIDGE REPAIRS

2010-112 APPROPRIATION & LOAN - \$250,000 CAPITAL TRUST FUND CIP-BOAT RAMP RENOVATION PROGRAM

2010-113 APPROPRIATION & LOAN - \$600,000 CAPITAL TRUST FUND CIP-COMPREHENSIVE WASTEWATER PLAN

2010-114 TRANSFER ORDER - \$473,000 CAPITAL TRUST FUND CIP-FUNDING THE SIDEWALK IMPROVEMENT PROGRAM

One the motion stated above,
VOTE: Unanimous

2010-115 TO VOTE ON THE MERITS OF THE FREE PETITION SUBMITTED IN ACCORDANCE WITH THE TOWN CHARTER, SECTION 8-7, FREE PETITION (b)
Upon a motion duly made and seconded this item was referred to a public hearing on April 15, 2010.
VOTE: Unanimous

Upon a motion duly made and seconded it was voted to waive the rules for **Items 2010-116 and 2010-119 APPOINTMENTS** in order to vote on these appointments this evening.
VOTE: Unanimous

2010-116 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded it was

RESOLVED, that the Town appoint the following individuals to a multiple-member board/committee/commission:

BARNSTABLE YOUTH COMMISSION

Elizabeth Ells, 744 West Main Street, Hyannis, to a term expiring 06/30/2011

HUMAN SERVICES COMMITTEE

Reverend John E. Holt, 334 Old Oyster Road, Cotuit to a term expiring 06/30/12

VOTE: Unanimous

2010-119 APPOINTMENTS

Upon a motion duly made and seconded it was

RESOLVED, that the Town appoint the following individuals to a multiple-member board/committee/commission:

RENEWABLE ENERGY COMMISSION

Douglas Hempel, 170 Cape’s Trail, West Barnstable, to a term expiring 06/30/2011

Wallace Johnson, 26 Jilliann’s Way, Marstons Mills, to a term expiring 06/30/2011

Jan Rapp, 64 Old Shore Road, Cotuit, to a term expiring 06/30/2011

Robert Franey, Jr., 100 Alderbrook Lane, West Barnstable, to a term expiring 06/30/2012

Vanessa Lavoie, 244 Megan Road, Hyannis, to a term expiring 06/30/2012

Jeffrey Pimental, 20 Bell Road, Hyannis, to a term expiring 06/30/2012

Alison Alessi, 120 Chase Street, Hyannis, to a term expiring 06/30/2013

Amanda Converse, 558 Lumbert Mill Road, Centerville, to a term expiring 06/30/2013

James Ruberti, 30 Wedgewood Drive, Centerville, to a term expiring 06/30/2013

VOTE: Unanimous

2010-118 EXTEND THE TEMPORARY RECREATIONAL SHELLFISH AREA & SHELLFISH RELAY OVERLAY DISTRICT TO REMAIN IN EFFECT UNTIL JUNE 30, 2010

Upon motion duly made and seconded, it was voted to refer this item to a joint hearing with the Planning Board to be held on April 15, 2010.

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS

In response to question of residential exemptions, Manager Klimm said Finance Director Mark Milne will report at the next meeting. The engineering staff is evaluating the cross-walk and a light is needed. The State Of The Town is next Thursday.

Upon a motion duly made and seconded the meeting was adjourned at 11:22 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk