

**TOWN COUNCIL MEETING
OCTOBER 7, 2010**

A quorum being duly present, Council President Frederick Chirigotis called the October 7, 2010, Town Council meeting to order at 7:05 p.m. in the 2nd Floor Hearing Room of Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Janice Barton, 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 Tinsley.

President Chirigotis led the hall in the Pledge of Allegiance, followed by a Moment of Silence.

- **Peace Week Proclamation- Councilor Barton**
- 4th Annual Peace Week – Councilor Barton read the proclamation on behalf of the Council that stated The No Place for Hate Committee is sponsoring Peace Week. Councilor Barton acknowledged the efforts of many on this endeavor. (Copy of proclamation attached as Exhibit A).

PUBLIC COMMENT

- Donna DeFlorio of Marstons Mills noted that there are beautiful signs on Route 149 and she wanted to know who placed them there, because she wanted to thank them.
- Matt Ostrowski, a commercial fisherman, noted specific problems with the boat ramps, and parking areas at Blish Point and the Town ramp. You can't get a boat out. He said it is the Town's responsibility. He went to a number of departments, attended hearings, and spoke to individuals for assistance.
- Steve Scannell from Baybridge was concerned about bedbugs. We need to be educated. He wants to get this brainstormed out with the town and county.
- John Julius from Hyannis wanted to clear up untruths. Leach fields and leach pits do reduce nitrogen. He addressed the unfunded mandate. Why don't we wait to see where the CLF lawsuit goes? We will be in debt over our eyeballs.
- Debra Converse thanked everyone who attended the Hyannis Chamber of Commerce meeting. Deb and Ralph Krau won the Kennedy award.
- John Alden from Precinct 8 reminded folks that the Charter originally passed by 1 vote. There will be some changes this fall.
- Robert Tucker from Hyannis said people are parking on the sidewalks. These people know they are parking there. Wheelchairs can't get by. They are still parking 6 or 7 cars on front lawns. There are nice people working for this town.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Canedy stated that as far as the boat ramps she has passed on the concerns and noted that plans are being drawn to reconstruct these areas. She asked for an update by DPW Director Ells.

Mark Ells, Director of Public Works updated the council on the ramps. He explained the various phases and that they have gone out for bid on the parking lot. They are working on maintenance, sand management, dredge and other issues.

President Chirigotis asked about leaching and Title 5 systems. Ells noted that there are a lot of places where people can look for information such as the county website.

Councilor Barry talked about having a plan for the entire town and feels we should look at the regional issues. This is an issue that he believes he agrees in part with Mr. Julius.

Town Manager said that Lindsay Counsell and others with monies from the CPA were involved with the signs on Route 149.

President Chirigotis pointed out that education and understanding is important when it comes to the ballot questions.

ACT ON MINUTES

Upon motion duly made and seconded, it was voted to approve the minutes of September 2, 2010. .

VOTE: Unanimous – Milne and Barry recused from the vote

Upon motion duly made and seconded, it was voted to approve the minutes of September 16, 2010.

VOTE: Unanimous in favor – Crocker and Farnham recused from the vote

2011-021 ACCEPTANCE OF GIFT FROM THE HYANNIS YACHT CLUB A VANGUARD CLUB 420 SAILBOAT FOR THE JFK SAILING PROGRAM - INTRO: 09/16/10, 10/07/10
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Lynne Poyant, Director of Community Services, explained the gift and introduced Commodore Lincoln Baxter of the Hyannis Yacht Club. Mr. Baxter said we are pleased to offer the children of the town the opportunity to learn to sail. We show our support for the sailing program.

Upon motion duly made and seconded that

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

VOTE: Unanimous in favor

ORDERS OF THE DAY

A. OLD BUSINESS

2010-159 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP INTRO: 06/17/10, 07/15/10, 09/16/10, 10/07/10
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2010-160 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP INTRO: 06/17/10, 07/15/10, 09/16/10, 10/07/10
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Upon motion duly made and seconded by the Town Council and the Planning Board it was voted by both bodies to go in to a continued joint public hearing for the purpose of discussing this item – 2010-159.

VOTE: by Town Council – unanimous by consent

VOTE: by Planning Board - 4

Upon motion duly made and seconded by the Town Council and the Planning Board it was voted by both bodies to go in to a continued joint public hearing for the purpose of discussing this item – 2010-160.

VOTE: by Town Council – unanimous by consent

VOTE: by Planning Board - 4

- One of the members of BARS read a memo written by Robb Gatewood in 2007 (see Exhibit B). He said it is déjà vu. Gatewood said that he supported the proposal of an overlay district that will save time and expense from litigation.
- Ken Malloy said there are over 3,300 recreational shell fishermen. This is a service to many residents – support this.
- Ryan Romano, a student from Barnstable stated he lives in Hyannis and is out clamming and fishing all the time. If the piers are built he won't be able to clam and fish. Now the Centerville River is polluted. When I grow up there won't be as many opportunities. He likes the outdoors.
- Linda Romano said she grew up on South Main Street and she used to bring home so many clams. The area is now polluted. Resources are drying up.
- Donna DeFlorio noted that there are about 48 people who are involved with the piers – and 5,000 shell fishermen. We many times use this to feed ourselves. Think about those who live here.
- Camille Boullie read a statement (attached as Exhibit C) lives in Hyannis and wants to protect the shellfish. Consider the majority of the constituents.
- Bruce Sandberg from Centerville said the council is concerned about clean water – clams and shellfish clean the water. The entire Cape has the problem and nitrogen loading is the major problem along with loss of habitat.
- Don Bell is a long time shellfisherman and teaches a class on gathering and cooking seafood. He is a member of BARS.

- Bob Lawsen brought a jar of murky water...then he showed a jar of water with a quahog in it that was clear. A quahog cleans about 2 quarts an hour. We need to protect the propagation areas. He had handouts (see Exhibit D). Do something that is positive. Pass 159.
- John Ferene, also a member of BARS, showed photos of a dock on the Centerville River which was in the paper. There were 28 pylons times the number of piers makes about 11,000 pylons imbedded in the coastline. Support 159.
- Andre Sampou reviewed Town studies from 1990, 1998, 2006 and then in 2008-9 which all basically sought restriction of piers. During that time the number of piers has doubled. It costs nothing to restrict. We now have 410 piers – please pass 159 and end this situation.
- Matt Ostrowsky said that our relay areas are the backbone of the shellfish program. Some are nurseries, some are cleansing areas.
- Paul Caruso is a marine biologist and has been involved professionally on this issue. We have an important resource to protect.
- Dennis Houle has been a chair of Conservation. The definitions were written 3 years ago. He recommended prohibiting motorized short outhauls. He feels without this 160 better meets the standard.
- Gary Ostrom said there are fewer than 50 commercial fishermen. He showed photos of outhauls. (see Exhibit E attached) The outhauls were not far enough out – the boats are not in high enough water. These areas have to be saved.
- Derrick Mills sees no reason for the docks to be there. It is a right to the Wampanoags to fish. He has been threatened by folks who own the piers. We need to come together and work together.
- Marion Scolles is a shellfisherwoman. We subsidize our households through this. Don't sacrifice the many for the few.
- Jeff Daluz is a commercial shellfisherman. The bays are destroyed. It is a triple threat with the grass, the piers and the boats. You have to stop the dockage.
- Bob Jones chair of Coastal Management Committee. Believes that many of the speakers are correct but some figures were not correct. The thing that will clean the area is the shellfish but why give out so many licenses to remove them. We have to consider private property rights as well as the public domain and how they can work together.
- Mark Lazari is a commercial fisherman who said that many of us make our livings from the shellfish – save it.
- Stewart Rapp chairs the Shellfish Committee. The committee believes that there should be no structures in relay areas – please keep them out. He recommends

adding the outhauls to 159. He defined ownership of property vs. ownership of the water. We need to balance in favor of the public interest not a few property owners.

- Pete Sampou has a PHD in marine biology. It would behoove you to have good shellfish. Don't lose the bays to nitrification. Conservation has a challenge in the legal system. We lose a fair amount of things in court. We do our best but the courts of law don't always turn a good decision for the town's resources.
- Robert Tucker said these people have done a good job – try to go with them.
- Ward Nickerson said we are watching how you vote. One real estate person spoke in favor of the piers at another hearing and you favored him. Watch how you vote.

Upon motion duly made and seconded by the Town Council and the Planning Board it was voted by both bodies to go out of the joint public hearing on 159 and 160 at 8:45 p.m.

VOTE: by Town Council – unanimous consent

VOTE: by Planning Board - 4 yes, unanimous

Recess for deliberation by planning board. 9:08 pm reconvened.

The Planning Board returned with a recommendation (see Exhibit F) on 2010-159 that had a unanimous vote to adopt.

On 2010-159 a motion was made and seconded to amend this by striking Section 3.

VOTE: Unanimous to strike.

- ✓ Councilor Barry gave the history of his involvement on this issue from the initial draft to now. He noted that items like this are frustrating. He thanked the audience for filling the room. You showed your passion and it is an important issue and I hope it is important to everyone else. We are the voice of the people. You vote for 159 not 160 because many people think they can do what they want. There are no clam cops running around. It is a question of enforcement. A dinghy dock in Cotuit went from a dinghy to a 37 foot boat with two large horsepower engines. We need to protect the shoreline.
- ✓ Vice President Crocker said the people present were passionate about their shellfishing. A demonstration of democracy is in process. Thank you for your activity. We know we limit the piers because of the temperature of the water. Construction of the dock is not the problem. Docks alone have not killed the shellfishing. The relays are placed in front of docks.
- ✓ Councilor Joakim supports 159 and not 160. She is concerned about policing the dinghy dock. It is hard to stop people from coming to your dock and pulling up with a boat. This is a legitimate reason to limit docks.
- ✓ Councilor Rugo said we do not have the resources to enforce the dinghy docks. It would be unenforceable.
- ✓ Councilor Dagwan noted that she grew up at the mouth of the Chesapeake Bay and saw the decline. She has lived here for 30 years and does not want to see what

happened with the Chesapeake happen here. It will take many years to improve it – so she will support 159.

- ✓ Councilor Farnham is a member of BARS and stated that it is one of the most productive groups of volunteers. He gave thanks to all of them for their work. He is a property rights person basically – but then did research on the enforcement. We are not doing a good job on enforcement. How are we going to enforce more when we can't enforce what we have now. We might need to study the preservation of shellfishing by looking at the way some of the commercial fishermen harvest.
- ✓ Councilor Canedy is supporting 159. She is supporting it because when the tides go out on the north side – it goes out all the way and boats sit on the bottom and would smother the beds.
- ✓ Councilor Milne thanked the attendees who made many good points. The basic element is about rights and privileges. Property rights are frustrating. Zoning exists as a community asset. A shellfisherman has to get a license, so it is a privilege. A dock or a pier is also a privilege.

A motion was made and seconded to move the question.

VOTE: 10 Yes 3 No

Upon motion duly made and seconded it was:

ORDERED:

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

Section 1

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

Section 2:

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

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.

(b) Prohibiting docks and piers in mapped portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area

- B. Establishment of district.** The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled " Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.
- C. Prohibition.** Within the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District, the construction and/or installation of docks and piers is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.
- D. Re-establishment of damaged or destroyed nonconforming docks or piers.** The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- E. Expansion of existing docks or pier.** For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.
- F. Definitions.**
- Dock and Pier.** The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these

regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.

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

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

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

VOTE: 10 Yes, 3 No (Crocker, Munafo, Norman)

Councilor Joakim, proponent of item 2010-160, withdrew same for consideration.

2011-027 – AUTHORIZATION – STATEMENT OF INTEREST – BARNSTABLE-WEST BARNSTABLE ELEMENTARY SCHOOL

Maureen McKay – gave the summary and asked to submit a statement of interest. Attorney Houghton said this is not a measure and may be voted on.

Upon motion duly made and seconded it was

RESOLVED: Having convened in an open meeting on October 7, 2010, the Town Council of the Town of Barnstable, in accordance with its charter, by-laws and ordinances, authorizes the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest dated September 22, 2010, for the Barnstable-West Barnstable Elementary School located at 2463 Main Street, West Barnstable, MA 02668, which describes and explains the following deficiencies and the priority category for which the Town of Barnstable may be invited to apply to the Massachusetts School Building Authority in the future: replacement of 53-year old windows at an elementary school, which is a Priority 5 project (replacement, renovation or modernization of the heating system in any schoolhouse to increase energy conservation and decrease energy related costs in said schoolhouse); and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance of the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Town of Barnstable to filing an application for funding with the Massachusetts School Building Authority.

VOTE: Unanimous

2011-006 AMENDMENT-ZONING ORDINANCE – CHAPTER 240

INTRO: 08/05/10, 10/07/10

Town Manager John Klimm gave the overview and summary as submitted in the agenda. He said the planning board has recommended this to go forward. (See Exhibits F & G). Manager Klimm said we might be looking for more areas. He feels this is step one in the process.

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing this item.

VOTE: Unanimous consent

Jan Rapp read a statement by Amanda Converse from the Renewable Energy Commission. This will bring us one more step forward as a green community.

Upon motion duly made and seconded it was voted to go out of the public hearing at: 9:59 p.m.

VOTE: Unanimous consent

- Councilor Munafo asked about the circle including Yarmouth on the map. Joanne Buntich of Growth Management said the circle was just highlighting the sections within the yellow that are cross hatched.
- Councilor Farnham noted a typo on page 10 site control, (f) says subsection Q – should be N3. Attorney Houghton said it was ok, especially since there is no Q.
- **Unanimous consent to correct a scrivener’s error and change it to N3.**
- Attorney McLaughlin asked for consideration in deleting E(1) (e) on page 10. McLaughlin said it should not exist in zoning.
- Councilor Farnham said when you start telling private property owners what to do, it is not appropriate.
- President Chirigotis asked about referring to site plan review. This is an administrative function and is important in by right uses.
- Vice President Crocker asked if these were on the ground and could they go to the sidelines. The building commissioner makes sure they adhere to the other laws. He wants the as of right siting looked at. Attorney Houghton is comfortable with it.
- Councilor Munafo had another question on how sure is our surety. Attorney McLaughlin would like to get away from the bond process as well and deal with an escrow account.
- Councilor Milne asked why you would need to bring up special permits and waiver – when you look at them as of right. Attorney McLaughlin said they can go for special permits. He finds it confusing too.
- Richard Elrick said the state, in its effort to establish locations where you can create projects, wanted towns to be comfortable that they would not be giving up control over these. This language has been adopted by about 35 other communities. You should have a level of being comfortable.
- Councilor Milne said these sites are small and limited. There are some other areas where they could go.
- Town Manager Klimm said we have to have at least one location. They came up with these sites – there is a lot of open space in Independence Park and also our landfill. We are planning and looking at additional areas. This accomplishes a number of first steps.
- Councilor Canedy feels the public loses control with no hearings, and no opportunity for the abutters to raise concerns. We have a good wind farm ordinance – I feel we could craft one for these.
- Town Manager Klimm says it is obvious why we picked the two sites – we have as of right use all over the place. If we can’t get the approval for solar it won’t show us as being a green community.

- Councilor Farnham on the financial surety, noted that a bond is expensive. Setting up an escrow fund that would be pledged to the town is better. Possibly bond could be eliminated and escrow account substituted.
- Councilor Rugo said this was drawn by professionals and is recommended – he has full confidence.

Upon motion duly made and seconded it was voted to move the question

VOTE: 12 yes 1 no – (Norman)

A further issue came up to be discussed and thought was to withdraw motion instead.

Upon motion duly made and seconded it was voted to reconsider the motion to move.

VOTE: 1 no – 12 YES – (Norman the no)

A motion was made and seconded to amend to by deleting E1 e. Then f will become e.

VOTE: 12 yes 1 no – Norman

A motion was made and seconded to add words “and approved” – last sentence in As-of-Right Siting.

VOTE – 12 yes 1 No (Canedy)

Upon motion duly made and seconded it was voted to move the question as amended.

VOTE: 11 Yes 2 No (Munaf0 and Norman).

Upon motion duly made and seconded it was

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

Section 1

Ground Mounted Solar Photovoltaic Overlay District Map

The official zoning map of the Town of Barnstable is hereby amended by adding the Ground Mounted Solar Photovoltaic Overlay District as shown on a map on file with the Town Clerk entitled Ground Mounted Solar Photovoltaic Overlay District.

Section 2

Ground Mounted Solar Photovoltaic Overlay District

That Chapter 240, Zoning Ordinance is hereby amended by adding Section 240-44.2 Ground Mounted Solar Photovoltaic Overlay District.

A. Purpose. This ordinance promotes the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. This ordinance is adopted pursuant to the Commonwealth of Massachusetts Green Communities Act.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

B. Applicability This section applies to large-scale (250 kW) ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section.

This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

C. District Established. A Ground Mounted Solar Photovoltaic Overlay District (GMSPOD) is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6 Zoning Map

D. Definitions. These definitions shall apply to Section 240-44.2 exclusively:

As-Of-Right Siting - As-of-Right Siting shall mean that the ground-mounted solar photovoltaic installation may proceed without the need for a special permit, variance, amendment, waiver, or other local discretionary approval. As-of-right development is subject to Article IX Site Plan Review. As-of-right solar photovoltaic installations that are consistent with the zoning ordinance and applicable state and federal law can be reasonably regulated and approved by the Building Commissioner.

Ground Mounted Solar Photovoltaic Installation - A large scale solar photovoltaic (PV) system that is structurally mounted on the ground, not roof-mounted, and has a nameplate capacity of at least 250 kW DC.

Off Grid System – A solar photovoltaic installation where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.

Rated Nameplate Capacity - The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

E. Application and Review. Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo Site Plan Review pursuant to Article IX Site Plan Review, prior to construction, installation or modification as provided in this section. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

(1) **Required Documents.** In addition to the requirements of § 240-102 Site Plan Review, the project proponent shall provide the following documents:

(a) A site plan showing:

- [1] Property lines and physical features, including roads, for the project site;
- [2] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- [3] Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
- [4] One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- [5] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- [6] Name, address, and contact information for proposed system installer;
- [7] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

- [8] The name, contact information and signature of any agents representing the project proponent; and
- (b) Documentation of actual or prospective access and control of the project site (see also Subsection G below);
 - (c) An operation and maintenance plan (see also Subsection H below);
 - (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
 - (e) Description of financial surety that satisfies Subsection N3 below.

F. Site Control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

G. Operation & Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the ground mounted solar photovoltaic installation, which shall include specific measures for maintaining safe access to the installation, a storm water management plan, and general procedures for and frequency of operational maintenance of the installation.

H. Utility Notification. No ground mounted solar photovoltaic installation shall receive a building permit until an executed interconnect agreement with Nstar, the utility company operating the electrical grid, has been submitted to the Building Commissioner. Off-grid systems are exempt from this requirement.

I. Dimensional Requirements. Ground mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s).

J. Design Standards.

- (1) **Lighting.** Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
- (2) **Signage.** Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Article VII Sign Regulations. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising.
- (3) **Accessory Structures.** All structures accessory to ground mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. To avoid adverse visual impacts all such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, multiple accessory structures shall be clustered to the greatest extent feasible and views of such structures to residential properties and roadways shall be screened with landscaping.

K. Utility Connections. Reasonable efforts, as determined by Site Plan Review, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

L. Safety and Environmental Standards.

- (1) **Emergency Services.** The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (2) **Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

M. Monitoring and Maintenance

- (1) **Solar Photovoltaic Installation Conditions.** The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to Site Plan Review. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation.
- (2) **Modifications.** All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require Site Plan Review approval.

N. Abandonment or Decommissioning

- (1) **Removal Requirements.** Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Commissioner may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (2) **Abandonment.** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the

written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

- (3) **Financial Surety.** Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal and disposal in the event the Town must remove the installation and remediate the landscape, in an amount and in a form acceptable to the Town Attorney but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for pro rating removal costs as they may be affected by inflation or changes to disposal regulations.

Section 3

A building permit shall be issued by the Building Commissioner within one year from the date an application submitted is deemed complete by the Building Commissioner. Failure to issue a building permit within one year shall not result in a constructive grant.

VOTE: 10 Yes 3 No roll call (No – Canedy, Munafo, Norman)

2011-026

2011-026: ACCEPTANCE OF 2010 COPS HIRING GRANT INTRO: 10/07/2010

Police Chief Paul McDonald introduced Ann Spillane who gave the rationale for the item. She explained what it would cover bringing on 5 additional police officers.

Councilor Munafo said it is a Federal grant and he won't vote for it.

Councilor Canedy said thank you for your work.

Upon motion duly made and seconded it was voted to move the question.

VOTE: Unanimous

Upon motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts a **COPS Hiring Program Grant** in the amount of \$1,121,905 from the U. S. Department of Justice, Community Oriented Policing Services (COPS) Grant.

VOTE: 12 Yes, 1 No (Munafo)

2011-010 - ZONING ORDINANCE AMENDMENT – CHAPTER 240-47.1
INTRO: 8/5/2010, 10/07/10

JoAnne Miller Buntich said that the property must remain owner occupied. The planning board recommended it. (see Ex. H)

Upon motion duly made and seconded it was voted to go in to a public hearing for the purpose of discussing this item.

VOTE: Unanimous

No comments

Upon motion duly made and seconded it was voted to go out of the public hearing.

VOTE: Unanimous

A motion was made and seconded to move the question.

VOTE: Unanimous in favor

Upon motion duly made and seconded it was

Ordered: That Chapter 240, Article V of the Zoning Ordinance is hereby amended by inserting the following language to the first paragraph of § 240-47.1. Family apartments as follows:

The intent of this section is to allow within all residential zoning districts one temporary family apartment unit occupied only by **the property owner or** a member(s) of the property owner's family as accessory to an owner-occupied single-family residence. A family apartment may be permitted, provided there is compliance with all conditions and procedural requirements herein.

VOTE: 13 yes – roll call

2011-024 ACCEPTANCE OF A FY2011 GRANT FROM THE BARNSTABLE COUNTY
LAND MANAGEMENT GRANT PROGRAM IN THE AMOUNT OF \$510.00. – INTRO:
10/07/10

Town Manager John Klimm read the summary as it appears in the agenda.

A motion was made and seconded to move the question.

VOTE: Unanimous in favor

Upon motion duly made and seconded, it was

RESOLVED: That the Town Council does hereby accept the Barnstable County Land Management Grant Program Award in the amount of \$510.00.

VOTE: 13 yes

2011-025: COMMUNITY PRESERVATION FUND FOR COMMUNITY HOUSING

INTRO.: 10/07/10

Upon motion duly made and seconded, it was voted to refer this item to a public hearing to be held on October 21, 2010.

VOTE: Unanimous in favor of referral

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

Councilor Farnham noted that James McGillen was resigning from the Zoning Board, and that he had done a wonderful job in that position.

A motion was made and seconded to extend the meeting beyond 11 p.m. for the purpose of concluding said meeting.

VOTE: 11 yes, 2 no (Tinsley, Barry)

A motion was made and seconded that the council go into Executive Session to comply with the provisions of any general or special law, (here, the public records law) and not to reconvene in Open Session.

VOTE: Roll Call – 11 Yes, 2 No (Barry, Canedy)

Executive Session – at 10:56 p.m.

Respectfully submitted,

Linda E. Hutchenrider, MMC/CMMC
Town Clerk/Town of Barnstable



NEXT MEETING: October 21, 2010

LIST OF DOCUMENTS ATTACHED:

Exhibits:

A – Peace Proclamation

B – Letter from Robert Gatewood dated Oct. 2, 2007

C – Statement made by Camille Boullie

D – Two sheets – one noting Chapter 703 – Private Docks and Piers – and chart on water filtered by a million quahogs

E – Envelope of photos of out hauls

F – Planning Board recommendation on 2011-006

G – Map on 2011-006

H – Planning Board recommendation on 2011-010