



TOWN COUNCIL MEETING

September 8, 2011

A quorum being duly present, Council President Frederick Chirigotis called the September 9, 2011, Barnstable Town Council meeting to order at 7:04 p.m. at 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, James Tinsley

The Pledge of Allegiance was led by President Chirigotis, followed by a Moment of Silence. Manager John Klimm acknowledged the family of Willie R. Frechette.

PUBLIC COMMENT:

- John L. Reed, Vice President of the Cape Cod branch of the NAACP, said he was addressing the organization's disdain regarding a recent blog that was of a racial nature. It referred to one of the councilors in a demeaning and humiliating manner. On behalf of the NAACP he asked the citizens who are hiding behind their blogs to tone down the rhetoric because public officials work very hard to benefit the citizens.
- Mary Ann Barboza said she agreed with everything John Reed said and added that we won't tolerate it. Ms. Barboza stated her disappointment in John Klimm leaving as Town Manager. "You all need to take the time to know my community." she stated. "I guess I would sign (the contract) if I was held by my ankles over a bridge." She hopes that the climate will change in November and Klimm will you continue as Town Manager.
- Robert Tucker asked why is the Councilor of Precinct 5 going after Mr. Klimm? A friend from Precinct 13 wants to know where is that money to replace Mr. Klimm coming from, the taxpayers? He knows someone who went to school with John Klimm and noted that he was helpful to people even then. What is the problem, Councilor from Precinct number 1? The tax payers want answers. Let's move on.
- Steve Brown, co-chair of the Barnstable United-No Place for Hate Committee, said that a citizen reported a cyber posting that was racial in content, directed at Councilor Dagwan. This is potentially a hate crime. We have notified the Barnstable Police and they responded by opening a file on this case. Brown shared that this is a community health issue here as well. Per Dr. Jonathan Mann of the Harvard School of Public Health "Injuries to individuals and collective dignity may represent a hitherto

unrecognized pathogenic force with a destructive capacity towards physical, mental and social well-being at least equal to viruses or bacteria.” Free speech is a sacred right, but this attack exceeded the bounds and triggered action by the committee.

- Kathleen Duncan stated she is upset over the sorry state of our town government. Duncan said that several times she has asked why remove Mr. Klimm. She has only heard evasive responses; there is no cause for his removal. Or, the presence of his Attorney made it impossible for the Councilors to speak. He had an evaluation of 4.5 out of 5 rating. Irresponsible action does not work for the voters in this town. Do you believe your constituents will forgive such spending to get rid of Mr. Klimm? The voters will speak out in November.
- John Julius said that some of those comments from the previous speaker couldn't be further from the truth. Mr. Klimm was never forced to sign anything. Can I see a show of hands of those of you who would release the executive session minutes? I have questions and want those minutes. I was told that John Klimm was reading a two plus page document behind closed doors and that an elected official of this town asked for the documents that he was reading. Why was someone from the Human Resources Dept. brought in to take those minutes? I called the Town Clerk and she said she was available, that is a violation against the Charter.
- Alan Burt stated that things have just gone crazy. People who are coming to support the Councilors who are after John Klimm seem to be stimulated by the conflict. I hope there is going to be a huge turnout in voting. We need new councilors, and we need Mr. Klimm. You Councilors have gone too far with this, you need to resign.
- Patrick Paige felt personally attacked by the council. “You are cowards, I don't give a #@** who you are, you have destroyed my life”, he said. He noted that he was on the edge. (Clerk's note: Mr. Page asked to have included in the minutes that “he signed in, was determined to be out of order and was escorted out of the building by the Barnstable Police.”)
- Jane Saunders acknowledged that she was present with Patrick Page. “If you think anyone wants to be this way you are fools”, she stated. He has been driven to this by the actions against him. Saunders said If you think everything is wonderful in Barnstable, you need to have your heads examined; you are living in a cloud. Saunders stated they have put forth endless numbers of ideas to solve the problems with the property. The Town's attitude is “our way or the highway.” We need someone who can easily talk to people and say when they are wrong. Saunders stated she supports the six, and hopes they carry through with what they started.
- Meg Laughlan, asked all councilors but especially the six who voted in the buy out, to please respond to the following questions. What is the range of costs to the taxpayers for buying out the manager's contract; including: health care costs, pension, vacation time accrued, head hunter search for a new manager, and the cost to pay the new manager? Where is this money coming from?

- Herbert Bodensiek, questioned the response on the recent power outage. His mother is on oxygen, and they waited four days for power. NStar told Bodensiek that her condition was not a priority. Who is going to run the town? Where is the money coming from for a salary for a new Town Manager and a head hunter?
- Sue Rohrbach, was very upset at what has happened over the past few weeks. As elected officials you need to bring your concerns forward to the public. What happens next? Who will be on the search committee? How will the public get to be involved in all of this? What are we transitioning to? We really need both positions of Town Manager and Assistant Town Manager.
- Mimi McConnell noted that it was another tense evening. I think that the people of the town are even more confused than they were before. Where is our town going? It's not over. We really are capable of turning things around. Come November there will be changes. She urged the voters to get out and speak by voting. The present atmosphere has been building and we are paying the price. Let us all work together try to find unity and respect.

COUNCIL RESPONSE TO PUBLIC COMMENT:

President Chirigotis closed the public comment and opened the Council response with Councilor Dagwan.

- Councilor Dagwan – Concerning the blog, Councilor Dagwan was disappointed with this individual's lack of respect for those whose income is less than the median, for people of color and the lack of respect he had for himself. Also, for those in crisis due to a loss of income, jobs, and homes who are faced with no healthcare, this type of dialogue is harmful. She felt physical harm may come to her and other families she knows who have lived on this Cape for many years. Watch your back! These remarks were also directed at Mr. Klimm. She was concerned about the effect this will have on the young people who found these blogs. We hoped that nothing like this exists in this town, but it does. She was not looking for an apology.
- Councilor Canedy stated, "I said this to Councilor Dagwan privately and I am going to say it publicly, I am sorry that you have experienced this." Canedy felt all councilors have been personally attacked by this blog in sometimes cruel ways. She said the recent case has gone beyond just Councilor Dagwan and extended to the people that she mentioned. Canedy feels the gentleman owes Dagwan an apology.
- Councilor Dagwan: I don't wish for an apology, I have always had respect for this individual.
- President Chirigotis interjected, that he did not think "apology" was correct. Recently we saw an attack on a Shabbat, and the community came together because hate crimes cannot be tolerated. There was an outpouring of support from the community. He recalled a saying: "When they came for the Poles I didn't say anything because I am not Polish. When they came for the Gypsies, I didn't say anything because I am not a Gypsy. When they came for the Jews I didn't say anything because I am not Jewish; but when they came for me there was no one left to stand up and do anything." We need to

stand up as a community. We cannot tolerate this type of behavior. I cannot say with stronger words how much we condemn these types of attacks.

- Vice Pres. Barton noted that at the Barnstable United-No Place for Hate Committee, the Co-Chairs Steve Brown and Officer Reid Hall, immediately had this issue brought to the Police Department, that determined at this time there is no crime. They opened a file and that person is being monitored. We will be planning more events to respond to this attack.
- Councilor Crocker felt anguish over the incident, but has no first hand knowledge of the event. How are we to respond to the constituents in our precincts that this is not something we condone? I know that there is not a neighbor or friend in Barnstable that would stand for this treatment. Sympathies are with the families.
- Councilor Milne was flabbergasted and outraged at how long this blog has gone on. It sounded to him that it was a hate crime, and should be sent up to the District Attorney. This is totally not condoned by anyone in our community. This type of garbage needs to be stopped in its tracks as a criminal act.

To the other speakers, that sounded very angry at how six people voted, he has met people of this community and even though they don't agree with him, they have been respectful. They are not people who make this personal. We are all human beings. Don't make this personal. Full disclosure is not allowed. Those two pieces of paper have muzzled me in what I committed to do when I ran for this job. I wish the situation was different. I have made myself available every single month, once a month, to discuss my thought process and how it has evolved over the years.

- Councilor Farnham: said that he has enjoyed working with his colleagues for eight years. He heard President Chirigotis say at a press conference, that the councilors need to stay in their lanes, and not blur their responsibilities. The Councilors have a responsibility to the legislature of the Town and not to the operation of the Town. My lanes pertain to the town's organizational chart which starts with the residents at the top, followed by the town councilors, town manager and town staff. I am not going to do another evaluation, until the last one has the comments added to it. Councilor Farnham then read an email he sent to Pres Chirigotis, and some councilors, asking if he would revise the evaluation by adding the constructive comments. That did not happen.
- President Chirigotis stated the past evaluations were written by councilors, sent to and the summary was done by the then Administrator. He said he never saw them, didn't receive them or compile them. The summary became part of the Town Manager's personnel file. He said a councilor asked for another evaluation of the Town Manager. This is a one time per year evaluation, per the contract. First you tell him he is gone, don't sign the contract, let the chips fall where they may. If you think that I have done something other than fair and impartial, please put it in writing and I will respond to it. I am disappointed that you are using the chair here to campaign.
- Councilor Farnham asked for this originally in July to be started in August, long before the manager accepted his contract amendment. He could not have accepted it right? You didn't allow a revote.
- Councilor Canedy said she has heard a lot about a toxic atmosphere, and difficult working environment. It's a two way street here. If we want to work together and we

need to work together, it has to stop. We were all friends, at one time. We have had differences of opinion before and we have differences of opinion on this matter. We have got to stop this taking of potshots at one another in public, on the radio, on the blogs, in the columns in the newspapers. Canedy stated that she has never interfered with anyone's election and this was out of respect for all of the councilors on the dais and of this body. We have disagreed with each other. She cannot say that we have always treated each other with respect and her constituents have noted that from time to time. She is urging everyone to "let the chips fall where they may" as far as this election is concerned and let our constituents decide whether we are worthy of reelection. If the Town Manager decided tomorrow he wanted to stay, she will continue to do as she has done, and that is with respect for all of the councilors and for the Town Manager. We need to get back to that point. We have a lot to do and we need to get going, we need to stop this backstabbing.

- Councilor Rugo was concerned about the loss of power during the recent storm. He received calls from constituents all around Lake Wequaquet. It didn't appear to be such a bad storm, but the people were without electricity. Rugo asked the Town Manager's office to contact Nstar, to find out what happened during this storm.

Rugo addressed the contract that was signed last Friday. Essentially there was no contract since June that anyone had to adhere to, so those Councilors who had problems with the Town Manager could have spoken about them.

- Councilor Dagwan stated her concern about the slow response of NStar regarding the lack of electricity, health issues, and down wires. Dagwan tried to call Nstar about a wire down on Mitchell's Way.

Dagwan said that someone said we were all friends up here. We don't look or act like we are friends at these meetings, but we need to work a little more on coming together.

- Councilor Tinsley said we need to get along. We waste so much time up here, we could be so much more efficient. There is one major issue which has us divided. We can work together. I truly believe everyone up here has the best interests of their precinct and the town at heart. We can move on and I hope we do this evening.
- Councilor Barry stated in response to the questions by the public. How much is it going to cost to get rid of the Town Manager, pay for the head hunter, pay the new Town Manager, and where is the money coming from? I don't know, I did not vote for the modification of the contract. Barry asked if Mr. Milne of the Finance Department has done any calculations.
- Councilor Joakim said we are supposed to be responding to constituent's questions, and I will. Before the new contract was negotiated, there were pieces in the charter that would allow you to speak publicly if there was an issue. How did a member of the public know about a something that happened in executive session? How did he know that? What is the plan? Who is going to run the town? How long does the Town Manager stay in his office? What is the true cost? As a council the most important thing we do, is the evaluations of the Town Manager.

Joakim addressed the blog issue with Councilor Dagwan and suggested we not read them and not give him any satisfaction or credibility.

- Vice President Barton reported the statements she has heard regarding this contract amendment that “the Town Manager was being dismissed for no cause.” It was reported to the public that his job was in trouble. Think about working under those conditions.
- Pres. Chirigotis asked the Town Manager’s office to contact the Finance and Human Resources Departments to find out exactly what it will cost to replace the Town Manager. The Town Charter allows the Town Council to appoint a temporary Town Manager for three months, and that position may be extended for an additional three months. Chirigotis asked Councilor Dagwan and Councilor Barry to work on a committee with him to recommend to the full Council a temporary Town Manager. By the next Council meeting we will have recommendations on developing a search committee as an agenda item.

In response to staying in our lanes, we cannot have councilors going directly to the Department heads with requests. Requests need to be in writing and go through the Town Manager’s office. There is a chain of command.

Regarding minutes, the idea is not to change the substance of the minutes; it is to correct things like spelling. Chirigotis stated that the minutes should be reviewed and corrected in front of the public, and that when minutes are released they are in their entirety.

- Council Crocker stated a point of information in the wording in section 4.5 of the Town Charter “shall be” not a “may be.” Any vacancy of the office of Town Manager shall be filled as soon as possible by the Town Council. Pending the appointment of the Town Manager, the Council shall forthwith appoint someone qualified to perform the duties.
- Councilor Farnham noted that when his constituents have an issue they communicate via email, he has always gone directly to the department head, with a copy to the Town Manager.
- President Chirigotis explained it is the job of the Town Manager to direct the process of notifying the correct department to look into any issues. This process has always been in place.
- Councilor Joakim stated that the process is in the Town Charter.
- Vice President Barton stated for the last eight years I have always gone through the Town Manager’s office and has always gotten timely feedback.
- Town Manager John Klimm stated he was terribly bothered by the NStar story he heard this evening. The Town Manager’s office was in constant touch with NStar and our legislators. We need concrete evidence as we heard tonight. Put it in writing so we can forward our concerns to them. The legislators are demanding an inquiry, we need those stories forwarded.

- Attorney Jeff Swope, from Edwards, Angell, Palmer and Dodge, who represented the town in the purchase of the Barnstable Water Company in 2005, noted some of you were members of the Town Council when the Town made this purchase. I was retained to advise the town about the feasibility of buying that water company, the town had a statutory right to purchase the water company.

The concept of private water companies was a public health effort to have a safe water supply. Barnstable Water Company followed Chapter 286, which allowed the town to purchase the assets of the water company at actual cost, plus the obligation to assume any debt and liabilities.

Barnstable Water Company was purchased by a Connecticut Water Company. Connecticut Water put considerable money into the infrastructure.

- Councilor Milne thanked Attorney Swope for an excellent presentation, and the chronology. The constituents had questions regarding the newspaper reports, of when Connecticut Water purchased the Barnstable Water Company for \$6.7 million. The infrastructure was not well maintained prior to the purchase by the Connecticut Water Company, but the sticking point comes to the differences in the cost.
- Per Attorney Swope, the Connecticut Water did expend substantial amount of dollars into the system, which added to the cost of the company.
- Councilor Milne: If you add in the investment the Connecticut Water Company put into the system the purchase price landed about as good as we could. We didn't have as strong charter language as some other towns.

ACT ON MINUTES:

Upon a motion duly made and seconded it was voted to postpone all minutes until September 22, 2011 Town Council Meeting.

VOTE: Unanimous

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

- Councilor Norman said several years ago there was a theft by a town employee of cash at the Sandy Neck Beach. Recently there was another theft. Can we have a presentation on handling the cash through the departments.
- President Chirigotis will check with the legal department.
- Town Manager Klimm stated that a general discussion about our accounting practices would not interfere with the current litigation.
- Councilor Norman stated that the choice of Councilor Dagwan on the temporary Town Manager search is a good choice, however he has concerns regarding Councilor Barry on that committee. Norman believes Barry disrespected the Council tonight when he walked out. Norman felt President Chirigotis should consider someone else on that committee.
- Councilor Canedy reported she attended a Rotary meeting where the speaker was from the Ruth Rusher house. The speaker stated that in a survey of more than 4,000 hostels world wide the Rusher House was number 2, and number 1 as most friendly. She attended other meetings including one on a possible dog park, and a Sandy Neck Colony

Association meeting. Canedy said a 9/11 day of remembrance has been scheduled in town at the Barnstable Fire Department.

- Councilor Tinsley stated the 9/11 ceremony will begin at 3 PM at the Hyannis Green with the Fire and Police Departments and Deacon Dave Aiken.
- Councilor Joakim, read a list of vacancies on several of boards and committees.
- Councilor Dagwan stated she hoped her fellow Councilors will purchase tickets to this years NAACP fashion show. The proceeds are deposited in a scholarship fund. If the Councilors will not be attending the fashion show, Councilor Dagwan will donate their ticket to someone in need.
- Councilor Barton: stated she looked at several sites for the dog park, and thanked Lindsey Counsell for his assistance. Barton recognized Troop 54 and Michael Silvia of Marstons Mills. She also mentioned the passing of a local hero, Navy Seal, Kevin Houston, who graduated from BHS in 1999.
- Councilor Milne thanked the administration for the idea, initiative, and thoughtfulness for accepting brush at the dump after the hurricane. Milne brought up an issue of people who own 2nd homes and end up with newspapers and telephone books in their driveways. This is an advertisement that no one lives in that house year round. Milne and other Councilors were to look at working on making small charter changes. One that the Town Clerk would like included is the elimination of the preliminary election to save money. Today we have just a little time left to bring these issues forward. We are on the late side, could we put those charter changes on the next agenda meeting. Milne announced the next Cape Cod Selectmen and Councilors' Association meeting.

2011-138 AMENDING THE ZONING ORDINANCE-ADDING WEST BARNSTABLE VILLAGE BUSINESS DISTRICT INTRO: 5/19/2011, 8/4/2011

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

VOTE: Unanimous

Nancy Trafton was introduced by Councilor Farnham and gave the rationale. The original charge was to update the mixed use of the historic district, to clean up ambiguities and bring the ordinances up to date. Ms. Trafton stated that the committee worked closely with Growth Management to separate into two districts those which are presently bundled together. A residence and a business may be located in the same building. Limit one per acre of land, front yard set backs to 30 feet in place of 40 ft, which will encourage behind the building parking.

Councilor Milne thanked Ms. Trafton for her volunteerism. Under accessories uses B is part of the code for lower income housing. Relative to corporate branding, what is in place to prevent a McDonalds or a Dunkin Donuts? She said the reason we didn't add that ban is because we were afraid we would put our only village grocery store out of business. So we opted to go with a strict adherence to the look of a village store.

Public Hearing Closed.

Motion to move the question was made and seconded.

VOTE: 11 yes 1-No Milne, (Barry Absent)

Upon motion duly made and seconded it was

ORDERED: That Chapter 240, of the Code of the Town of Barnstable, The Zoning Ordinance hereby amended as follows:

Section 1: (Shown in its entirety below.)

Amends Article III, Section 240-20 by adding a new zoning district titled West Barnstable Village Business District (WBVBD)

Section 2:

Amends The Zoning Map of the Town of Barnstable, to rename the VB-B Zoning District located near the intersection of Meetinghouse Way (Route 149), and Main Street (Route 6A) in the Village of West Barnstable to WBVBD as shown on The Zoning Map of the Town of Barnstable, Massachusetts Index Map dated June 7, 2011, and The Zoning Map of the Town of Barnstable, Massachusetts, West Barnstable, Sheet 2 of 7 dated June 7, 2011.

Section 3:

Amends Section 240-5, Establishment of Districts by adding “WBVBD – West Barnstable Village Business District” to the listing of Commercial Districts

Section 4:

Amends Section 240-67 to delete “VB-B” and add in its place “WBVBD” so the section now reads “Section 240-67 Signs in the CVD, OM, HG, TD, VB-A, MMVD and WBVBD Districts”

Section 5:

Amends Section 240-125.B (1) (e) Use Variances by adding “and the West Barnstable Village Business District (WBVBD)” after “(MMVD)” and by adding “and the WBVBD” before the word “boundary” the section to read:

“Use Variances: To authorize variances for uses in accordance with the provisions of this ordinance provided, however, that no such variances shall be granted within three hundred (300) feet of the major arteries known as Route 28, Route 132, Route 149 and West Main Street, within the Marstons Mills Village District (MMVD) and the West Barnstable Village Business District (WBVBD) and within 300’ of the MMVD and WBVBD boundary.

Section 6:

Amend Chapter 240, by deleting references and regulations for the VB-B. Specifically:

- A. Section 240-5, Establishment of Districts by deleting the “VB-B – Village Business B District”
- B. Section 240-53, Landscape requirements for parking lots, table of “Landscape Buffer Setbacks (in feet) to Parking Lots and Drives”
- C. Section 240-24.A, that sentence that reads “provided that in the VB-B District, no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as

follows: household quantities; waste oil retention facilities for retailers of motor oil required and operated in compliance with MGL Ch. 21 § 52A; oil on site for heating of a structure or to supply an emergency generator”

- D. Section 240-24. B(2), that Part of the second sentence that reads “No more than three total rooms shall be rented to not more than six total guests at any one time in the VB-B Business District, and”
- E. Section 240-24.D – all of the text in that subsection D, and
- F. Delete the remaining VB-B references in Section 240-24 and the single reference in Section 240-23. E (2).

Section 1:

To amend 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 by adding a new Section 240-20 (now reserved for future use) West Barnstable Village Business District, to read as follows:

§240- 20 West Barnstable Village Business District

- A. Purpose and Intent: The purposes and intent of this section is to guide development and redevelopment in West Barnstable Village Business District so that it:
 - 1. Promotes a location-appropriate scale and traditional mix of business, institutional and residential land uses that contribute to and respect the historic character and historic neighborhood development patterns;
 - 2. Acknowledges the historic context of the village and preserves or enhances historic buildings or other historic resources;
 - 3. Protects and preserves the historic and scenic streetscape.
 - 4. Provides a variety of functions that support residents’ day-to-day use of the district;
 - 5. Supports and enhances the diverse local economy and retains established village goods and service offerings;
 - 6. Preserves and protects the traditional New England village character of West Barnstable through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of Cape Cod and New England to enhance the aesthetic quality of Barnstable as a whole.
 - 7. Conforms with the Old Kings Highway Regional Historic District Act;
 - 8. Is consistent with the Barnstable Comprehensive Plan and the West Barnstable Village Plan.

The following uses are permitted in the WBVBD, provided that no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as follows: household quantities; waste oil retention facilities for small scale retailers of motor oil required and operated in compliance with MGL Ch. 21 § 52A; oil on site for heating of a structure or to supply an emergency generator.

A. Principal permitted uses.

- 1. Single-family residential dwelling. A single family residential dwelling may be free standing or attached to a building also used for non-residential uses. More than one single family residential dwelling per lot is permitted as long as there is a minimum of one acre per single family dwelling, but in no case will more than one principal permitted single family residential dwelling be contained in any one building.
- 2. Small scale retail store.
- 3. Professional, business or medical office.
- 4. Office of a bank, credit union, savings and loan or other financial institution.

B. Accessory uses. The following uses are permitted as accessory uses in the WBVBD:

1. Bed-and-breakfast operation within an owner-occupied single-family residential structure, subject to the provisions of § 240-11C (6) except Subsections (b) [1] and [2].
No more than three total rooms shall be rented to not more than six total guests at any one time in the WBVBD. No special permit shall be required in the WBVBD. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests.
2. Automated banking facilities (ATM) shall be located within a principal building and shall not be accessed from the exterior of the building.
3. Accessory apartments as provided for in The Town of Barnstable Code, Chapter 9 Affordable Housing, Article II Accessory Apartments and Apartment Units.

C. Special Permit Uses. The following uses are permitted provided that a special permit is first obtained from the Special Permit Granting Authority (SPGA) subject to the provisions of § 240-125C herein and subject to the specific standards for such uses as required in this section:

1. Artisans and craftspeople
2. Personal service business
3. Windmills and other devices for the conversion of wind energy to electrical or mechanical energy subject to the provisions of § 240-44.1

D. Special Permit Performance Standards. In addition to the standards for the grant of a special permit set forth in § 240-125C, the grant of any special permit within the WBVBD requires findings to support that the development meets the following criteria:

1. Is compatible with and supports the purpose and intent of this section;
2. Mitigates impacts to safety and congestion from development;
3. Protects and preserves water supply for both drinking water and fire protection;
4. Stormwater shall be contained on site and mitigated using best management practices;
5. Manages waste, by-products and other debris that may be associated with artisan and crafts use in a manner compatible with abutting or nearby residential uses;
6. Does not generate noise, vibration, smoke, dust or other particulate matter, odors, heat, glare or intrude with similar nuisance on abutting or nearby residential uses;
7. Storage of all raw material and finished product associated with artisan or craft use shall be stored within a duly permitted permanent structure. All outdoor storage associated with artisan or craft use is prohibited.
8. Deliveries may take place not sooner than one hour before, or later than one hour after the permitted operating hours of a business.
9. Vehicles are prohibited from running motors, refrigeration units or other mechanical units outside of permitted hours of operation.

E. Bulk Regulations.

Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks			Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
			Front ³ (feet)	Side (feet)	Rear (feet)		
43,560	160	—	30	30	30	30 ¹	10 ²

NOTES:

- 1 Or two stories, whichever is lesser
- 2 No more than 33% of the total upland area of any lot shall be made impervious by the installation of buildings, structures and paved surfaces.
- 3 Front yard landscaped setback from the road lot line: 20 Feet. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

F. **Non-Conforming Use Limitations.** Within the WBVBD the change of a non-conforming use to another non-conforming use is prohibited notwithstanding the provisions of Section 240-94.A. A nonconforming use shall only be permitted to change to a Principal Permitted Use as of right or to a Special Permit Use as provided for by the grant of a special permit pursuant to Section 240-20 C and D herein.

G. **Corporate Branding -** Buildings, colors, signage, architectural features, text, symbols, graphics, other attention getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. All structures and sites shall be designed to include architectural and design elements that are consistent with the WBVBD architectural composition, character, and historic context. Interior corporate branding elements shall not be visible to the street through windows, doors or by any other means. The Town will work with applicants to adapt critical functional features of prototype plans to their sites, but will not accept standard plans, building forms, elevations, materials, or colors that do not relate to the site, adjacent development or West Barnstable community character.

H. **Site Development Standards.** In addition to Article IX, Site Plan Review and Article VI, Off-Street Parking the following additional requirements shall apply within the WBVBD.

1. Loading docks. Loading docks shall be screened from Meetinghouse Way (Route 149), Main Street (Route 6A), Lombard Avenue, Navigation Road, Packet Landing Road and Whitecap Lane with landscaping or fencing materials of an appropriate scale.
2. To the greatest extent feasible, all new parking areas shall be located to the side and rear of the building. Parking is not permitted in the required front yard setback with the exception of parking required by ADA compliance as determined by the Building Commissioner.
3. Curb cuts and driveways.
 - (a) Shared driveways and parking area interconnections are strongly encouraged. No more than one curb cut on Meetinghouse Way (Route 149), Main Street (Route 6A), Lombard Avenue, Packet Landing Road, Navigation Road and Whitecap Lane shall be allowed for any lot. For traffic safety and to reduce traffic congestion, no new driveways shall be permitted on Route 149, Route 6A, Lombard Avenue and Whitecap Lane within 200 feet of any intersection.
 - (b) Driveways shall not exceed the width required by Site Plan Review

Lighting. In no case shall exterior or outdoor lighting cause glare that impacts motorists, pedestrians or neighboring premises.

(a) All exterior lighting shall use full cutoff light fixtures in which no more than 2.5 percent of the total output is emitted at 90 degrees from the vertical pole or building wall on which it is mounted.

(b) Up lighting is prohibited.

I. **Definitions.** The following terms are defined in the WBVBD and shall not be construed to apply to other regulations.

Artisan or Craftsperson Use– A small scale use that typically employs one or two people who practice craft or artisan activities. A key feature of works produced by artisans or craftspeople is the high degree of manual expertise involved. The use must be compatible with abutting and nearby residential and non-residential uses. The following is included in the definition of Artisan or Craftsperson Use:

Artisan or Craftsperson– A person using manual skills to produce, in limited quantities, ornamental or functional works in ceramic, glass, metal, paper, wood or textiles. Examples include, without limitation, the following: drawing, painting, sculpture, pottery, photography, graphic design, interior design, fashion design, jewelry making, wood turning, glass blowing, furniture making, small wooden boat building, upholstering and weaving.

Personal Service – Establishments engaged in the provision of services, but not goods, of a personal nature to individuals and households. Such establishments include barber shop, beauty salon, clothing repair or seamstress shop, shoe repair shop, florist and day spas. Personal service establishments that are not commonly found in rural village environments such as check cashing services, fortune tellers, psychics, palm readers and similar services, spas and hot tubs for rent, tanning, piercing and similar services are prohibited.

Small scale retail store – Small stores and businesses, including but not limited to, corner groceries, bookstore, galleries and other small retail uses typically found in small New England towns. Small scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline and oil filling stations, garages for automotive repair. Small scale retail is subject to corporate branding limitations as described herein and shall not include drive through window service.

VOTE: ROLL CALL (2/3) Passed 12 yes, 1 absent (Barry)

**2011-147 APPROPRIATION OF \$375,000 FOR PARK REVITALIZATION, RIDGEWOOD PARK
IN HYANNIS INTRO: 06/16/11, 07/14/11, 08/04/2011, 09/08/2011**

- Withdrawn at the request of Growth Management

**2012-002 ACCEPTANCE OF AN \$18,800 MASS CULTURAL COUNCIL GRANT
INTRO 07/14/11, 08/04/11, 09/08/11**

Introduced by Councilor Joakim, Joanne Buntich gave the rationale. The armory has been linked with the revitalization of the downtown area which will include a legacy trail and an installation of some type of JFK acceptance speech link.

A motion was made and seconded to move the question
VOTE: 10 yes, 1 no Crocker, (2 Absent Milne and Barry)

Upon motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept the grant award in the amount of \$18,800 from the Massachusetts' Cultural Council, Cultural Facilities Fund.

VOTE: Unanimous, passed (Barry Absent)

2012-004 APPROPRIATION OF \$432,954 FOR PARK REVITALIZATION, 182 PLEASANT STREET, HYANNIS ON MAP 326 PARCEL 131 INTRO: 07/14/11, 08/04/11, 09/08/11

- Withdrawn at request of Growth Management

2012-005 ADOPTION OF THE TOWN OF BARNSTABLE MULTI-HAZARD MITIGATION PLAN INTRO: HYANNIS ON MAP 326 PARCEL 131 INTRO 08/04/11, 09/08/11

By unanimous consent it was voted to postpone until the September 22, 2011 meeting.

The Chair recognized Town Manager John Klimm, who made a statement that he will be leaving the Town's employ on December 15th. Klimm felt the greatest satisfaction he will take with him is meeting and working with the finest town employees in the state. He said that it has been an honor working with all of you. See Exhibit B for a copy of his full statement.

2012-006 ACCEPTANCE OF A \$17,285 GRANT FOR TWO AUTOMATED LICENSE PLATE READERS – MA EXEC. OFFICE OF PUBLIC SAFETY & SECURITY INTRO 08/04/11, 09/08/11

Councilor Milne introduced the item. Dept. Chief Craig Tamash gave the rationale. Everyday the Registry of Motor Vehicles sends a list to the Police Departments. This list is downloaded into the computers. It can read 10,000 plates in an hour.

Upon motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept the Fiscal Year 2011 Automated License Plate Reader Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security/Highway Division in the amount of \$17,285.00.

VOTE: Passed Unanimously, (Barry Absent)

2012-007 ACCEPTANCE OF FY12 \$177,282 9-1-1 DEPARTMENT SUPPORT AND INCENTIVE GRANT FROM MA EXECUTIVE OFFICE OF PULBLIC SAFETY INTRO 08/04/11, 09/08/11

Dept. Chief Tamash gave the rationale for this grant. This money can only be used for 911 employee coverage.

A motion was made, seconded and unanimously consented to move the question.

Upon motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept fiscal year 2012 911 Department Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety, State 911 Department in the amount of \$177,282.00.

VOTE: Passed Unanimously, (Barry Absent)

2012-008 ACCEPTANCE OF A \$10,000 GIFT FROM THE BLUECOATS OF BARNSTABLE, INC INTRO 08/04/11, 09/08/11

Councilor Crocker introduced this item. Dept. Chief Tamash gave the rationale.

A motion was made, seconded and unanimously consented to move the question.

Upon motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept a gift in the amount of \$10,000 from the Bluecoats of Barnstable, Inc. to the Barnstable Police Department

VOTE: Passed Unanimously, (Barry Absent).

2012-009 APPROPRIATE & TRANSFER \$25,000 FROM CAPITAL LOAN ORDER 2010-096 SANDY NECK BEACH HOUSE RENOVATIONS & ADDITIONS INTRO 08/04/11, 09/08/11

Public hearing opened.

Nina Coleman stated that the Sandy Neck Bath House is complete and open. We would like to use the \$25,000 to upgrade the gate house and air compressor shack. We would like to use this money for new shingles and new window frames.

Councilor Munafo, asked how much money is left over and would there be a problem moving the money. Per Mark Milne, this is an appropriate use of the leftover money. Nina stated they would put this out for an RFP, and it would be done over the winter.

Motion made and seconded to move the question, the vote was unanimous.

Upon motion duly made and seconded it was

ORDERED: That the sum of \$25,000 be transferred from Town Council appropriation and loan order 2010-096 Sandy Neck Beach House Renovations and Additions, for the purpose of funding repairs to the Sandy Neck Gatehouse and Air Compressor shack

VOTE: ROLL CALL - Passed 12 Yes, (Absent Barry)

2012-010 ACCEPTANCE OF A GIFT OF TWO EASEMENTS FOR THE STEWART'S CREEK RESTORATION PROJECT INTRO 08/04/11, 09/08/11

Councilor Milne introduced this item. The rationale was presented by Town Manager, John Klimm.

Upon motion duly made and seconded it was

RESOLVED: That the Town Manager be authorized to acquire by gift two easements for the construction, staging area and maintenance area for a replacement culvert to be constructed under Ocean Avenue, Barnstable (Hyannis), Barnstable County, Massachusetts, Assessors Parcel 288.180, as follows: (1) a permanent easement shown as Parcel A, containing 184 square feet of land, more or less, as described on the hereinafter mentioned plan, and (2) a temporary easement containing 246 square feet of land, more or less, as shown on a plan of land entitled "Plan of Easements & Taking for the Ocean Avenue Culvert in Barnstable (Hyannis) MA for The Town of Barnstable D.P.W. - Survey Section, Scale 1"=20' - Date: July 21, 2011," a copy of which plan is on file in the Town Clerk's Office.

VOTE: Passed - Vote 12 Yes, (1 Absent Barry)

**2012-011 APPROPRIATE & TRANSFER \$1,000 FROM CAPITAL IMPROVEMENT
ORDER 2009-093 TO ACQUIRE REAL PROPERTY FOR STEWART'S
CREEK RESORATION PROJECT INTRO 08/04/11, 09/08/11**

Councilor Canedy, noted the discrepancy in the word taking or acquire. *Correction to strike the word "acquire" and replace with "to take by eminent domain" motion was made, seconded and passed unanimously.

Councilor Milne introduced this item, and it was opened for a public hearing.

Milton Berglund, an abutter to this property, urged the Councilors to approve the easement and takings to complete the job.

Closed the public meeting.

Councilor Crocker stated that takings are very difficult. Can we ask legal to give us a definition of what they went through to get the details behind the due diligence.

Per Town Attorney Ruth Weil, no owners have been identified, nor has it been assessed. The Town retained Barbara Harris to look at this information and she could not find any owners of this property

Councilor Norman noted a discrepancy in the amount of the taking. He made a motion to amend the summary on page 29 to read Fiscal Impact: \$1,000 in place of the word "None".

The motion was seconded and the vote was .Unanimous

Councilor Canedy, why is the sum \$1,000 if there is no known owner of the property. How long do you hold the monies in escrow?

We had an appraiser give us an appraisal of land just in case someone comes forward. I am not one hundred percent sure but I believe it is 6 years.

**A motion was made, seconded and voted to move the question.
Unanimous vote in favor.**

Upon motion duly made and seconded it was

ORDERED: That the Town Manager be authorized to take by eminent domain under Chapter 79 of the general laws of Massachusetts for general municipal purposes, a parcel of land located on Ocean Avenue, Barnstable (Hyannis), Barnstable County, Massachusetts containing 3,069 square feet of land, more or less, and shown as Parcel B on a plan entitled "Plan of Easements and Taking for the Ocean Avenue Culvert in Barnstable (Hyannis) MA for The Town of Barnstable D.P.W. - Survey Section Scale 1"=20' - Date: July 21, 2011," a copy of which is on file in the Town Clerk's office; and to appropriate the sum of \$1,000.00 for the said taking and to meet that appropriation that the sum of \$1,000.00 be transferred from Town Council Order 2009-93 and that the Town Manager is authorized to contract for and expend the appropriation made available for the stated purposes, to accept any gifts or grants, to grant easements, and to execute, deliver and record documents in relation thereto..

VOTE: ROLL CALL - Passed 2 Abstain (Crocker, Munafo), 1 Absent (Barry), 1 No (Tinsley), 9 Yes

**2012-012 TRANSFER \$950,000 FROM EMPLOYEE BENEFITS & INS. INTO
INSURANCE RESERVE TRUST FUND FOR SELF-INSURING WORKERS
COMP. PROGRAM INTRO 08/04/11, 09/08/11**

Upon motion duly made and seconded this item was moved to September 22, 2011

VOTE: Move to September 22, 2011-Unanimous

**2012-013 AUTHORIZE THE ESTABLISHMENT OF A GIFT ACCOUNT FOR THE
ACCEPTANCE OF GIFTS FOR THE CENTERVILLE PLAYGROUND INTRO
08/04/11, 09/08/11**

Introduced by Councilor Rugo, Town Manager John Klimm gave the rationale

A motion was made, seconded and unanimously consented to move the question.

Upon motion duly made and seconded it was

RESOLVED: that the Town Council, pursuant to the provisions of G.L. c. 44, §53A, hereby establishes an account for the purposes of receiving gifts to help pay for improvements to and ongoing maintenance of the Centerville playground located at 524 Main Street, Centerville and hereby authorizes the Town Manager to approve the expenditure of monies from said gift account for that purpose.

VOTE: Passed unanimous (Barry Absent)

**2012-016 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION - INTRO:
09/08/11**

Councilor Crocker had a point of information, Bill Doherty, has a residence in Harwich, how is he on this list...he is a representative member.

Upon motion duly made and seconded it was moved to a second reading for September 22, 2011

VOTE: Move to September 22, 2011 Unanimous, Barry Absent

2012-017 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 09/08/11
(First Reading)

Upon motion duly made and seconded it was voted to move this item to a second reading on September 22, 2011.

VOTE: Unanimous, (Barry Absent)

2012-018 AUTHORIZING THE TOWN MANAGER TO EXPEND FRUNDS FROM COMCAST LICENSING FEES FOR THE BARNSTABLE FIBER OPTICS NETWORK (BFON/I-NET). INTRO/COMMISSION INTRO 09/08/11

Upon motion duly made and seconded it was voted to move this item to a public hearing at the September 22, 2011 meeting.

VOTE: Unanimous (Barry Absent) to move to September 22, 2011

2012-019 APPROPRIATE & TRANSFER \$1,042,000 CPA FUNDS FOR STRUCTURAL HISTORIC PRESERVATION OF THE SCHOOL ADMINISTRATION BUILDING INTRO 9/08/11

Upon motion duly made and seconded voted to move this item to the September 22, 2011 meeting.

VOTE: Unanimous (Barry Absent) to move to September 22, 2011

2012-020 APPROVAL OF THE GRANT OF THE CONSERVATION RESTRICTION ON OSTERVILLE-W. BARNSTABLE RD, MARSTONS MILLS, MAP 125, PARCEL 220 INTRO 9/08/11

Upon motion duly made and seconded this item was moved to October 6, 2011.

VOTE: Unanimous (Barry absent)

2012-021 ACCEPTANCE OF A \$68,187 FY11 U.S. DEPT. OF JUSTICE GRANT INTRO 9/08/11

Introduced by Councilor Farnham, Dept. Chief Craig Tamash gave the rationale.

A motion was made, seconded and consented to move the question.

VOTE: 11 yes 1 abstention to move the question (Munafo)

Upon motion duly made and seconded it was voted

RESOLVED: That the Barnstable Town Council does hereby accept the Fiscal Year 2011 Edward Byrne Memorial Justice Assistance Grant: Local Solicitation from the United States Department of Justice in the amount of \$68,187.

VOTE: Passed-11 Yes, 1 No (Munafu), 1 Absent (Barry)

ADJOURNMENT:

Upon motion duly made and seconded, it was

VOTED: To adjourn -Unanimous

ADJOURNED. at 10:55 PM

Respectfully submitted,

Ann Quirk, CMC
Assistant Town Clerk
Town of Barnstable.

Exhibits attached:

A – Steve Brown, the Barnstable United-No Place for Hate

B – From the Desk of John Klimm