



Town Council Meeting
November 16, 2017



A quorum being duly present, Council President Eric Steinhilber called the November 16, 2017, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Steinhilber regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: Frederick Chirigotis, William Crocker, Jr., Jennifer Cullum, Sara Cushing, Debra Dagwan(7:05pm), John Flores, Jessica Rapp Grasseti, Paul Hebert, John Norman, Eric Steinhilber, James Tinsley, Jr., Philip Wallace. **ABSENT:** James Crocker, Jr.,

The Pledge of Allegiance was led by President Steinhilber, followed by a moment of silence.

President Steinhilber and Councilor Rapp Grasseti presented the outgoing Councilors: William Crocker, Sara Cushing, John Norman, and Fred Chirigotis with a gift and plaque for their service to the Town. Councilor Dagwan highlighted the four councilors' great work, support and thoughtfulness. She thanked them for their terrific service to the Town and residents of the Barnstable.

PUBLIC COMMENT:

Bo Chu read aloud from the Boston Globe article entitled "At Odds in Hyannis".

Close public comment:

TOWN MANAGER COMMUNICATIONS: (Exhibit A)

- Thanked the four-outgoing councilor for their service
- FY 2019 Budget
- Mass Department of Fish and Wildlife
- Watershed Permitting in Popponesset Bay
- Vineyard Wind
- Police Department Up-grading Dispatch Center
- Cape Cod Technical School
- Site Plan Review
- Accessory Affordable Apartments
- E-Payment Program

Councilor questions and comments:

Dispatch center grant is for \$109,000 what about the CIP for next year? It will be for equipment upgrade next generation 911-telecommunication. 911 Calls from a cell phone are routed to Middlebury then transferred to Barnstable. (The upgrade is trying to eliminate this twostep process) What are the operating costs for the Cape Cod Technical School? (On average about 2.5 percent per year increase – because of the more efficient buildings the school will use more utilities but cost for utilities should not increase and cost for the programs will stay about the same)

ACT ON MINUTES: Upon a motion duly made and seconded it was voted to approve the minutes of the November 2, 2017 meeting.

VOTE: PASSES UNANIMOUS

COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements:

Town Manager evaluation by Council per our Charter – there were eight categories on a scale of 1 to 5 with Mark Ells receiving an average rating of 4.3 which places him just above in an overall exceeds job standards category for his first year of work with the Town of Barnstable. Criminal Justice Bill removes the mandatory minimums for sentencing, reclassification of Fentanyl as a Class A substance which is a felony. House Bill 3679 an act which Muddy Pond was renamed Crocker Pond. The Councils thanked the 4 outgoing Councilors for their service and friendship and welcomed the 4 newly-elected Councilors. Hyannis Civic Association hosting Hyannis Stroll on December 2, 2017. December 6, 2017 is the Barnstable Village Stroll. December 2, 2017 is Christmas in Cotuit and December 3, 2017 is the tree lighting in West Barnstable Village.

Reorder the agenda to take agenda item 2018-040 before agenda item 2018-038

<p>2018-040 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND CAPEBUILT PLEASANT STREET, LLC INTRO: 11/02/17, 11/16/17</p>
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Mark Ells, Town Manager, gave the rationale. He discussed the modification to the regulatory agreement. He noted the proponent was asked to go back to the Hyannis Water Board to review and receive their approval for the language which would be added to the agreement

Open public hearing

Laura Croning spoke on behalf of the Greater Hyannis Association Board in support of the Sea Captain’s row project. She cautioned as development goes forward in Hyannis we must not brush aside the regulatory protections designed to preserve the town’s heritage.

Bo Chu Mentioned the hydraulic oil spill on South Street and Pleasant Street. He said the roads had very fast traffic and it was difficult cross them.

Wendy Norcross spoke in support of the regulatory agreement and she read from her letter. (EXHIBIT B)

Jane Walsh felt Hyannis was taking a downward spiral as property values go down and group homes move in Hyannis. She felt there was unfair zoning of these group homes. She hoped Council would approve the Sea Captain's Row project.

Peter Cross was concerned about parking and traffic on Pleasant Street. He felt the design of the off-street parking did not make sense.

John Allen, Director of the John F. Kennedy Museum, spoke in support of the Sea Captain's row project. He felt it would bring jobs and quality of life to Hyannis.

David Dumont thanked Council in advance for approving the regulatory agreement.

Josh Richards spoke in support of the Sea Captain's row project.

Rick Penn spoke in support of the Sea Captain's row project. He hoped Council would approve the project.

Lynn Mitchell spoke in support of the Sea Captain's row project.

Amanda Converse spoke in support of the Sea Captain's row project.

Sarah Colvin spoke in support of the Sea Captain's row project.

Taryn Thomson, Hyannis Historic Commission Vice-Chair, questioned the regulatory agreement process. She suggested an independent structural review be added to the process.

John Alden spoke in support of the Sea Captain's row project.

Sam Mazzeo spoke in support of the Sea Captain's row project.

Jen Vella spoke in support of the Sea Captain's row project.

Dominic Allesandro who was in favor of development of the identity of Hyannis did not feel the buildings on Pleasant Street to be in disrepair.

Marianna Atsalis objected to the process of the Pleasant Street project. She felt the process negated the Historic Commission's role.

Close public hearing.

Ruth Weil, Town Attorney gave background about the development agreement. She mentioned all regulatory agreements were negotiated with the Planning Board.

Upon a motion duly made and seconded it was:
To accept the amendment as read by Councilor Cullum

By striking the 19th "WHEREAS" clause contained therein and substituting in its place the following:

"WHEREAS, after consultation by the Developer with the Department of Public Works (DPW), Hyannis Water Board and Town Manager, it was mutually agreed to be of benefit to both the Town and the Developer to conserve resources and coordinate Developer's infrastructure with the Town's infrastructure plans for Pleasant Street, Developer shall now to construct and install a new 8" water main in Pleasant Street as shown on the Redevelopment Plans referenced below. The new 8" main will extend from the existing 12" water main to the south in South Street up to the northerly property line of 44 Pleasant Street. This construction will be at the cost to the Developer. The Hyannis Water System Development Charges for domestic and fire sprinkler service connections shall be waived. The Developer shall be responsible for any costs associated with the provision of police details and resident inspections that are not otherwise covered."

By updating the plan references contained in paragraph 2 as follows:

In paragraph 2(a) that the date "June 23, 2017" be stricken and that the date "October 23, 2017" be substituted in its place and that the "sheets" referenced at the end paragraph 2(a) shall now read "sheets CO.O to C6.2, fourteen sheets."

In paragraph 2(b) that the date "October 19, 2017" be stricken and that the date "October 23, 2017" be substituted in its place.

In paragraph 2(c) that the date "June 26, 2017" be stricken and that the date "October 23, 2017" be substituted in its place.

By striking paragraph "3" and substituting in its place the following:

"3. Developer shall construct and install a new 8" water main in Pleasant Street as shown on the Redevelopment Plans. This construction will be at the cost to the Developer. The Hyannis Water System Development Charges for domestic and fire sprinkler service connections shall be waived. The Developer shall be responsible for any costs associated with the provision of police details and resident inspections that are not otherwise covered."

VOTE: PASSES UNANIMOUS

Councilor Comments and Questions:

There have been efforts to save the houses on Pleasant Street, but they are in disrepair. Hyannis will benefit greatly from the Pleasant Street project however the regulatory agreement as drafted needs work. It is a good project but not a perfect project. The one problem with it is the lack of four affordable units. Pricing of the units was surprising for affordable housing rates.

Rob Brennan, the Developer addressed the concerns of Council and residents. He spoke about the environment and the street parking. He commented on the affordable units and hoped young professionals and all other professionals would live on Pleasant Street. He hoped artist would also live on Pleasant Street. He noted the sidewalks were

reconstructed on the property to allow for off-street parking.

Upon a motion duly made and seconded it was:

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the "Code"), to enter into and execute a Regulatory Agreement between the Town of Barnstable and CapeBuilt Pleasant Street, LLC for the properties at 24, 28, 43, 44, 53, 56, 64 and 66 Pleasant Street and 86 South Street, Hyannis, Massachusetts and shown on Assessor's Map 327 as Parcels 131, 245, 122, 133, 121, 143, 268, 135 and 137, consisting of 103,688± square feet (2.38± acres), and which are more particularly described in the deeds recorded with the Barnstable County Registry of Deeds in Book 25831 Page 318, Book 21784 Page 410, Book 21784 Page 138, Book 21784 Page 143, Book 21784 Page 144, Book 29558 Page 294, Book 21784 Page 143 (Parcel A and Parcel B in Plan Book 69 Page 19) and Book 21784 Page 134 (hereafter, the "Property"); and permitting the redevelopment of the Property and granting the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT
CAPEBUILT PLEASANT STREET, LLC
24, 28, 43, 44, 53, 56, 64 AND 66 PLEASANT STREET AND 86 SOUTH STREET,
HYANNIS

This regulatory agreement ("Agreement") is entered by and between the developer, CapeBuilt Pleasant Street, LLC, ("Developer") and the Town of Barnstable ("Town"), a municipal corporation, on this ____ day of _____, 2017 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, this Agreement shall establish the permitted uses, densities, and traffic within the Development (as hereinafter defined), for the duration of the agreement, and any other terms or conditions mutually agreed upon between Developer and the Town;

WHEREAS, this Agreement shall vest land use development rights in the property for the duration of the agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare;

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, Developer is the prospective owner of the properties at 24, 28, 43, 44, 53, 56, 64 and 66 Pleasant Street and 86 South Street, Hyannis, Massachusetts and shown on Assessor's Map 327 as Parcels 131, 245, 122, 133, 121, 143, 268, 135 and 137, consisting of 103,688± square feet (2.38± acres). Collectively, the nine parcels are referred to herein as "the Property";

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests;

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS, the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS, Developer has made application to the Planning Board pursuant to Chapter 168 of the Barnstable Code;

WHEREAS, the Development is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application as extended by an Agreement to Extend Town of Barnstable Downtown Hyannis Growth Incentive Zone to October 6, 2017 between the Cape Cod Commission and the Town of Barnstable executed on December 14, 2015 and as further extended by a second Agreement to Extend to April 4, 2018 between the Cape Cod Commission and the Town of Barnstable executed on October 6, 2017;

WHEREAS, the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ as extended by an Agreement to Extend Town of Barnstable Downtown Hyannis Growth Incentive Zone to October 6, 2017 between the Cape Cod Commission and the Town of Barnstable executed on December 14, 2015 and as further extended by a second Agreement to Extend to April 4, 2018 between the Cape Cod Commission and the Town of Barnstable executed on October 6, 2017, under which this development may proceed and Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, prior to applying for approval of this Agreement, the Development was reviewed by the Town of Barnstable Site Plan Review Committee on July 20, 2017 (SPR 045-17). The Site Plan Review Committee voted to find the development proposal approvable subject to the grant of a Regulatory Agreement and other conditions;

WHEREAS, the Development was considered by the Planning Board at a public hearing on September 11, 2017, continued to September 25, 2017, and further continued to October 23, 2017, at which time the Board affirmatively voted recommend execution of the Regulatory Agreement.

WHEREAS, the Property is currently developed with six single-family dwelling units, one vacant residential-style commercial building and one accessory garage totaling 14,684 square feet. None of the buildings are currently inhabited. The primary use of the Property prior to the Developer's purchase was for seasonal commercial parking serving ferry customers. At the date of this agreement, the property at 53 Pleasant Street had a commercial parking lot license for 67 spaces;

WHEREAS, Developer proposes to redevelop the Property with eight (8) new multi-family residential structures that will contain a total of fifty-eight (58) units, and to renovate one existing structure that will contain two units, for a total of nine buildings covering 22,252

square feet on the Property, and sixty (60) total units with a combined total floor area of 86,218 square feet. The Developer proposes to construct seven (7) three-story multi-family housing buildings, one three-story building with two townhouses, and one building to be renovated into a community gathering space with two studio apartments above and an outdoor patio area. Six existing dilapidated dwellings and one accessory garage will be demolished. Paved parking areas with new stormwater management systems, lighting and landscaping will be installed;

WHEREAS, Developer proposes to develop forty-six (46) units as rental apartments in buildings labeled "Building PP", "Building C", "Building D", "Building E", "Building F" and "Building G" on the Site Construction Plans referenced below;

WHEREAS, Developer proposes to develop fourteen (14) units as either rental apartments or condominium units in buildings labeled "Building A", "Building B" and "Building H" on the Site Construction Plans referenced below;

WHEREAS, the Developer is required to provide 90 parking spaces by the Town of Barnstable Zoning Ordinance and the Developer is proposing 88 total parking spaces, which includes 70 standard spaces, 7 compact spaces and 11 on-street spaces.

WHEREAS, the Developer originally proposed to construct the waterline main through the project property itself and not within the Pleasant St. road layout (the "Original Infrastructure Proposal")

"WHEREAS, after consultation by the Developer with the Department of Public Works (DPW), Hyannis Water Board and Town Manager, it was mutually agreed to be of benefit to both the Town and the Developer to conserve resources and coordinate Developer's infrastructure with the Town's infrastructure plans for Pleasant Street, Developer shall now to construct and install a new 8" water main in Pleasant Street as shown on the Redevelopment Plans referenced below. The new 8" main will extend from the existing 12" water main to the south in South Street up to the northerly property line of 44 Pleasant Street. This construction will be at the cost to the Developer. The Hyannis Water System Development Charges for domestic and fire sprinkler service connections shall be waived. The Developer shall be responsible for any costs associated with the provision of police details and resident inspections that are not otherwise covered."

WHEREAS, the Developer proposes to reconstruct Pleasant Street to include eleven (11) parking spaces wholly or partially within the public right-of-way proposed for exclusive use by the development. The Developer is requesting a revocable license from the Town Manager for use of the parking spaces. Licenses for use of the public right-of-way are granted by the Town Manager pursuant to Part IV of the Town Charter, subject to terms and conditions.

WHEREAS, the Developer will replace the existing sidewalks along each side of Pleasant Street with sidewalks which comply with the Americans With Disabilities Act and Town of Barnstable requirements for public sidewalks;

WHEREAS, the Developer will grant to the Town of Barnstable an easement to allow the public to use the sidewalks to be constructed along Pleasant Street;

WHEREAS, the Developer is required by Chapter 9, Article I to provide six (6) affordable rental units to individuals or households with a total annual income that does not exceed 65 percent of the median income for the Town of Barnstable, as determined annually by the United States Department of Housing and Urban Development. In furtherance of the goals of enhancing the cultural character of the Downtown Hyannis Main Street and preserving the historic narrative of Pleasant Street as Sea Captains Row (the “Cultural Objectives”), Developer proposes to provide two on-site studio apartment rental units, and associated workshop space, in the former Patriot Press Building (labeled as “Building PP” on the Site Construction Plans referenced below) that will be deed restricted for occupants earning no more than 50% of Area Median Income (the “Cultural Units”). The Cultural Units will be designated for residence by artists, consistent with open and fair marketing requirements. The Developer shall consult with the Town’s Planning and Development Department in developing criteria for the selection of artists to occupy the live-work space (the “Criteria”). Tenancy in each of the Cultural Units shall be for fixed periods of two (2) consecutive years in furtherance of the Cultural Objectives. If at the termination of any tenancy the Developer is without an applicant for a Cultural Unit meeting the corresponding Criteria, the Developer shall enter into an agreement for two year tenancy with any prospective resident earning no more than 50% of Area Median Income;

WHEREAS, The Redevelopment provides, without limitation, the following site design, traffic safety, and community benefits:

- a. Revitalization of long standing vacant property; revitalization is anticipated to eliminate or substantially reduce issues associated with blighted property including but not limited to homeless occupation and illicit activity.
- b. Redevelopments will significantly improve aesthetics along Pleasant Street.
- c. The Project will provide market rate housing, the need for which was identified in the 2014 Housing Production Plan, in an area of Hyannis in need of redevelopment.
- d. Elimination of ferry parking which has caused traffic and aesthetic problems for many years.
- e. Substantially improved traffic flow pattern allowing smoother ingress and egress on the property.
- f. Exterior site lighting improvements, including use of LED lights and motion detector lights.
- g. Construction of sidewalks.
- h. Improved stormwater management on-site with low impact design features.
- i. Addition of two affordable housing units at a reduced rate of 50% of Area Median Income, said units dedicated to live-work space for artists in furtherance of the Town’s Cultural Objectives.

WHEREAS, the Developer would require relief from the requirement for Hyannis Main Street Waterfront Historic District Commission Certificate of Demolition for the six existing structures on the property and Certificate of Appropriateness for all new exterior improvements;

WHEREAS, Developer would require zoning relief to allow for multi-family residential development totaling more than seven units per acre as well as relief from setbacks,

maximum building height – number of stories, maximum lot coverage, landscape setbacks, off-street parking requirements, all as further defined in paragraphs numbers 2 and 24 below;

WHEREAS, Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on October 23, 2017;

WHEREAS, Developer has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows;

1. The Developer shall redevelop the property as follows:
 - a. The Developer shall redevelop the Property with eight (8) new multi-family residential structures that will contain a total of fifty-eight (58) units, and to renovate one existing structure that will contain two units, for a total of nine buildings covering 22,252 square feet on the Property, and sixty (60) total units with a combined total floor area of 86,218 square feet.. The Developer will construct seven three-story multi-family housing buildings and one three-story building with two townhouses. The development will provide 2 studio units; 26 one-bedroom units; 26 two-bedroom units; and 6 three-bedroom units.
 - b. Forty-six (46) units shall be developed as rental apartments in buildings labeled “Building PP”, “Building C”, “Building D”, “Building E”, “Building F” and “Building G” on the Site Construction Plans referenced below.
 - c. Fourteen (14) units shall be developed as either rental apartments or condominium units in buildings labeled “Building A”, “Building B” and “Building H” on the Site Construction Plans referenced below.
 - d. The “Patriot Press” building at 24 Pleasant Street shall be retained and renovated into a community gathering space with two studio apartments above and associated workshop space. The rear addition to the building, post-dating its original construction, will be removed.
 - e. Outdoor patio areas providing resident amenities shall be provided.
 - f. Six existing dilapidated structures and one accessory garage will be demolished.
 - g. Paved parking areas with new storm water management systems, lighting and landscaping shall be installed;
2. The Developer agrees to construct the project in accordance with the plans and specifications submitted to and approved by the Town (hereinafter Redevelopment Plans), listed as follows and made a part of this Regulatory Agreement by reference:
 - a. Site Construction Plans: Sea Captains Row, Pleasant Street, Hyannis, Massachusetts, dated **October 23, 2017**, drawn and stamped by Baxter Nye Engineering and Surveying, **sheets CO.0 to C6.2, fourteen sheets**.

- b. Landscape Plan: Sea Captains Row, Pleasant Street, Hyannis, Massachusetts, dated **October 23, 2017**, drawn and stamped by DeMelo Brothers, Inc. sheet L1.0
 - c. Architectural Renderings and Floor Plans: Sea Captains Row Schematic Design, Hyannis, MA dated **October 23, 2017**, drawn and stamped by Union Studio Architects, 26 sheets;
3. ***Developer shall construct and install a new 8"watermain in Pleasant Street as shown on the Redevelopment Plans. This construction will bear the cost to the Developer. The Hyannis Water System Development Charges for domestic and fire sprinkler service connections shall be waived. The Developer shall be responsible for any costs associated with the provision of police details and resident inspections that are not otherwise covered.***
4. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of 10 years from the effective date of the Agreement, provided, however, that prior to the expiration of said 10 year period Developer may request a twelve month extension to obtain development permits, which shall include all necessary building permits. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but Developer to use reasonable efforts to complete construction within 4 years from receipt of necessary development permits. The development rights granted under this agreement shall not transfer to another owner without the prior written permission of the Town Manager under Section 168-5 of the Barnstable Town Code.
5. The Developer shall grant the Town an easement to allow the public to use the sidewalks along Pleasant Street where located on the Property. The Developer and all successors shall maintain the sidewalks.
6. Cultural Units:
- a. Developer shall provide two on-site studio apartment rental units, and associated workshop space, in the former Patriot Press Building (labeled as "Building PP" on the Site Construction Plans referenced below)
 - b. Consistent with open and fair marketing requirements The Cultural Units shall be designated for residence by artists, with an income of not more than 50% of area median income, subject to the requirements in paragraph 6(d) below. The Developer shall consult with the Town's Planning and Development Department in developing criteria for the selection of artists to occupy the live-work space (the "Criteria"). Tenancy in each of the Cultural Units shall be for fixed periods of two (2) consecutive years in furtherance of the Cultural Objectives.
 - c. If at the termination of any tenancy the Developer is without an applicant for a Cultural Unit meeting the corresponding Criteria, the Developer shall enter into an agreement for two year tenancy with any prospective resident earning no more than 50% of Area Median Income.
 - d. As per Chapter 9, Article I, Section 9-6 of the Barnstable Inclusionary Housing Ordinance, the two (2) aforementioned housing units located in the proposed new development shall be dedicated as affordable housing units in perpetuity and in compliance with the Ordinance.

- i. The two units shall only be rented to qualified households with an income of not more than 50% of area median income (as determined by HUD) and priced so as to be affordable and not exceed a monthly housing cost of 30% of 50% of the area median income, including rent and utilities and associated artist workspace.
 - ii. In order to protect the perpetuity of the affordable units, a Local Initiative Program Regulatory Agreement shall be reviewed and approved by the Town Attorney's office and recorded prior to the issuance of building permits.
 - iii. Design of the two affordable units shall be appropriate for artist "live-work" space, including designated workshop space on the first floor of the building.
 - iv. The owner shall enter into a Monitoring Services Agreement to annually verify compliance with terms of this permit, as approved by the Town Attorney's Office. The owner shall bear cost of annual marketing.
 - v. The owner shall prepare an Affirmative Fair Housing Marketing and Tenant Selection plan which shall be approved by the Town.
7. Lighting for the Development shall be contained on-site, shall be down cast, shall not contribute to light pollution of the area, and shall be constructed consistent with the lighting plan identified in paragraph 1, above.
8. The site shall be landscaped consistent with the landscaping plan identified in paragraph 2, above. All landscaping within the development shall be low water use and shall minimize the use of fertilizers and pesticides.
9. The developer shall provide bike racks and or bike storage on the Property.
10. The Developer, where reasonably feasible shall make available features or materials of interest to the Hyannis Historic Society or Cape Cod Maritime Museum available to the same for salvage upon prior written request. Provided, however, that salvage of features or materials shall not materially delay Developer's construction schedule, and further provided that Developer may require a waiver and release of liability by any persons or entity entering upon the Property for such purposes and/or removing or accepting features or materials from the Property.
11. Rental restrictions. Developer's minimum lease term of rental units shall be twelve (12) months. Sublease of rental units, if permitted by the Developer, shall be for a minimum term of ninety (90) days. The lease documents and/or condominium Master Deed and Homeowners Association documents shall be reviewed by the Town Attorney for consistency with the conditions of this Agreement prior to issuance of the first Certificate of Occupancy in each phase, as applicable.
12. Letter of Credit. Prior to the issuance of any foundation building permit, Developer will provide a Letter of Credit or cash in an amount to be approved by the Planning Board or its designee, said Letter of Credit or cash to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said Letter of Credit or cash shall be released by the Planning Board to Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner,

upon the request of Developer. The terms of the Letter of Credit are subject to review and approval by the Town of Barnstable Town Attorney;

13. Letter of Credit. To ensure completion of work within public ways and roadway restoration, Developer will provide a Letter of Credit or cash in an amount to be approved by the Planning Board or its designee, with advice from the Town Engineer, said Letter of Credit or cash to be expended on completion of work within the public ways and roadway restoration if completion of such work becomes necessary. Any unexpended portion of said Letter of Credit or cash shall be released by the Planning Board to Developer or his successor(s) after thirty (30) days from the date of the final acceptance of all work within the public ways, such date to be determined by the Town Engineer, upon the request of Developer. The terms of the Letter of Credit are subject to review and approval by the Town of Barnstable Town Attorney.
14. All plumbing fixtures in the new units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
15. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces), sewer permits and water permits. Only Town of Barnstable approved contractors are allowed to work on Town owned property. Contractors are required to have the insurance stipulated in the Street Excavation Rules and Regulations (SERR) and all work on town property must comply with all provisions of SERR. All work within the public way and public utility services shall be to Town Standards. All plans shall be reviewed and approved by the Department of Public Works prior to initiating any work within the public way.
16. Developer will make best efforts to complete construction work in accordance with a construction schedule and sequencing plan submitted and approved in writing by the Town of Barnstable Building Commissioner and Hyannis Fire Department prior to the issuance of any foundation or building permits. Developer reserves the right to construct the project in two (2) phases. Developer shall have four (4) years from the date of commencement of work on Phase 1 of the project to complete Phase 2. To the extent construction impacts public property or public rites of passage, changes in the schedule, if needed as work progresses, are subject to the written approval of the Town. The construction schedule shall, to the maximum extent feasible, avoid interference with traffic on Pleasant Street. The developer shall notify in writing and receive the written approval from the Town of Barnstable Planning & Development Department and the Department of Public Works at least 48 hours in advance of working on Town property. The Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work as determined by Town;
17. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays and Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration. Failure to comply with these protocols following written notice from the Building Commissioner shall be grounds for the

issuance of a stop work order until agreement as to compliance with the protocols is achieved.

18. During all stages in the demolition, rehabilitation and new construction, all vehicles, equipment and materials associated with the development shall be required to be located off the right of ways of Pleasant Street and South Street except as may be required to install utilities, and work authorized by this Agreement and as approved by Public Works and then only on a temporary basis.
19. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;
20. The total number of parking spaces proposed for the Development is 77 on the Developer's property. The Developer is also seeking a revocable license from the Town Manager for an additional eleven (11) spaces wholly or partially located on Pleasant Street for a total of 88 spaces serving the development.
21. Changes to the approved Redevelopment Plans referenced in Condition No. 1 shall require an amendment to this agreement under either §168-5 or §168-10 of the Barnstable Code, as determined by the Town.
22. Construction and demolition debris shall be removed from the Property and shall be reused or recycled to the maximum extent possible.
23. The construction of the multi-family apartment development will result in the following benefits to the Town:
 - a. Revitalization of long standing vacant property; revitalization is anticipated to eliminate or substantially reduce issues associated with blighted property including but not limited to illicit activity.
 - b. Redevelopment will significantly improve aesthetics along Pleasant Street.
 - c. The Project will provide market rate housing, the need for which was identified in the 2014 Housing Production Plan, in an area of Hyannis in need of redevelopment.
 - d. Elimination of ferry parking which has caused traffic and aesthetic problems for many years.
 - e. Substantially improved traffic flow pattern allowing smoother ingress and egress on the property.
 - f. Exterior site lighting improvements, including use of LED lights and motion detector lights.
 - g. Construction of a sidewalk.
 - h. Improved storm-water drainage management on-site with low impact design measures.
 - i. addition of two affordable housing units at a reduced rate of 50% of said units dedicated to live-work space for artist in furtherance of the Town's Cultural Objectives.
24. The Town hereby grants waivers from the following Zoning Ordinance sections:

Section 240-24.1.3 HVB Hyannis Village Business District: mixed use density relief, setback relief, parking relief, landscape setbacks, maximum floor area to allow preexisting nonconforming conditions and the redevelopment of the "Patriot Press" building as provided herein.

Section 240-24.1.7 HD Harbor District – (B)(2) Special Permits, density of greater than 7 units/acre with a Special Permit; (C) Dimensional, bulk and other requirements, front yard building and landscape setbacks; maximum building height number of stories; maximum lot coverage;

Section 240-1.11 Site Development Standards (A)(4) – Off-Street parking requirements for 77 on the Developer's property. The Developer is also seeking a revocable license from the Town Manager for an additional eleven (11) spaces wholly or partially located on Pleasant Street for a total of 88 spaces serving the development. 90 spaces are required by Code.

25. The Town hereby grants waivers from the following Town Code sections:

Chapter 9, Article I Inclusionary Affordable Housing Requirements – Section 9-4-D requiring at least 10% of the residential units constructed shall be dedicated by deed restriction to affordable housing units is waived.

Chapter 112, Article III – Hyannis Main Street Waterfront Historic District Commission requirement for a Certificate of Appropriateness is waived for the demolition of the existing structures and construction of the buildings and all associated site work as shown on the approved development plans. This shall also include any relief necessary from compliance with the procedures or requirements of Chapter 112, Article I – Preservation of Historic Structures.

Chapter 353, Article I (Storage of Garbage and Refuse), Section 4 - Minimum setback to abutting property line. (No person shall store any rubbish or garbage less than 10 feet away from an abutter's property line. Where compliance with this provision is not possible due to existing physical constraints of the property, the refuse container(s) shall be set back away from the property line to the maximum separation distance feasible.) This requirement shall be waived.

26. Upon completion of all work, Developer shall cause a registered engineer or land surveyor to submit as-built plans accompanied by a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy;
27. The development allowed in this permit shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added without compliance with §168-10 of the Barnstable Code.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this _____ day of _____, 2017.

Town of Barnstable
By:

Developer, Cape Built Pleasant Street, LLC
By:

VOTE: 11 YES 1 NO (RAPP GRASSETTI) 1 ABSENT (J. CROCKER)

2018-038 FISCAL YEAR 2018 AIRPORT ENTERPRISE FUND OPERATING BUDGET REDUCTION AND TRANSFER FROM RESERVES INTRO: 11/02/17, 11/16/17

Bud Breault, Airport Manager, gave the rationale. He gave an overview of the PowerPoint presentation.

Open public hearing seeing no one close public hearing.

Councilor Comments and Questions:

Centerville Pie is no longer in the airport. (Cape Cod Coffee, based out of Mashpee will be in the airport as of December 1, 2017).

Councilor Dagwan left the dais at approximately 9:35 p.m.

Upon a motion duly made and seconded it was:

ORDERED: That the Fiscal Year 2018 Airport Enterprise Fund Operating Budget of **\$6,508,537** appropriated under Town Council order **2017-112** be reduced by **\$40,000** to **\$6,468,537**, and to meet such appropriation that the amount raised from current year revenues by the Airport Enterprise Fund as approved under Town Council order **2017-112** for **\$6,141,354** be reduced by **\$208,905** to **\$5,932,449**, and that the amount transferred from the Airport Enterprise Fund reserves as approved under Town Council order **2017-112** for **\$367,183** be increased by **\$168,905** to **\$536,088**.

VOTE: PASSES UNANIMOUS

2018-039 ORDER PURSUANT TO TEMPORARY REPAIRS TO PRIVATE ROADS PROGRAM REGARDING WAQUOIT ROAD IN COTUIT, MA INTRO: 11/02/17

Dan Santos, Director of Public Works, gave the rationale.

Open public hearing seeing no one close public hearing.

Upon a motion duly made and seconded it was

ORDERED: That for the purpose of making temporary repairs to Waquoit Road in Cotuit, Massachusetts, a private road within the Town of Barnstable, including costs incidental or related thereto, the Town Manager is authorized to contract for and expend a portion of the appropriation and loan in the amount of **\$125,500** made available for Pine Ridge Road, Cotuit under agenda item number **2017-149** and to assess betterments and accept any grants and/or gifts in relation thereto.

VOTE: 11 YES ABSENT (J. CROCKER and DAGWAN)

Councilor Dagwan returned to the dais at approximately 9:49 p.m.

2018-041 ACCEPTANCE OF FEDERAL FISCAL YEAR 2017 EMERGENCY MANAGEMENT PERFORMANCE GRANT IN THE AMOUNT OF \$14,460 FROM THE MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY INTRO: 11/16/17

Lieutenant Jean Challis gave the rationale. She explained the funds were 100 percent matching funds.

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept the Federal Fiscal Year 2017 Emergency Management Performance Grant from the Massachusetts Emergency Management Agency in the amount of **\$14,460** for the purpose of funding handheld radios used in emergency management operations and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSES UNANIMOUS

2018-042 ACCEPTANCE OF FISCAL YEAR 2018 911 DEPARTMENT SUPPORT AND INCENTIVE GRANT IN THE AMOUNT OF \$177,282 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY INTRO: 11/17/17

Lieutenant Jean Challis gave the rationale.

Upon a motion duly made and seconded it was

RESOLVED: That the Barnstable Town Council does hereby accept the Fiscal Year 2018 911 Department Support & Incentive Grant, in the amount of \$177,282 from the Commonwealth of Massachusetts Executive Office of Public Safety, for the purpose of funding personnel costs associated with shift shortages and also to fund the base salary of a portion of civilian telecommunicators and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSES UNANIMOUS

2018-043 ACCEPTANCE OF FISCAL YEAR 2018 STATE 911 DEPARTMENT TRAINING AND EMERGENCY MEDICAL DISPATCH GRANT IN THE AMOUNT OF \$169,907.40 FROM THE COMMONWEALTH OF MASSACHUSETTS EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY INTRO: 11/17/17

Lieutenant Jean Challis gave the rationale. She explained there were nine newly hired dispatch officers.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts a Fiscal Year 2018 State 911 Department Training and Emergency Medical Dispatch Grant in the amount of **\$169,907.40** from the Commonwealth of Massachusetts Executive Office of Public Safety and Security, for the purpose of funding costs associated with the mandatory training of all 911 telecommunicators who perform emergency dispatch operations and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSES UNANIMOUS

Reorder the agenda to take agenda item 2018-47 before agenda item 2018-044.

2018-047 ACCEPTANCE OF A FEDERAL FISCAL YEAR 2017 BULLETPROOF VEST PARTNERSHIP GRANT IN THE AMOUNT OF \$19,167.25 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS INTRO: 11/16/17

Lieutenant Jean Challis gave the rationale.

Upon a motion duly made and seconded it was

RESOLVED: that the Barnstable Town Council does hereby accept a Federal Fiscal Year 2017 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs in the amount of **\$19,167** for the purpose of replacing vests of police officers that are in excess of five years and are no longer considered protective and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSES UNANIMOUS

**2018-044 ALLOCATION OF TAX LEVY FISCAL YEAR 2018 – TAX FACTOR
INTRO: 11/16/17**

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the Fiscal Year 2018.

VOTE: REFER TO PUBLIC HEARING ON DECEMBER 7, 2017 – PASSES UNANIMOUS

**2018-045 ALLOCATION OF TAX LEVY FY18 – RESIDENTIAL EXEMPTION
INTRO: 11/16/17**

Mark Milne, Director of Finance gave the rationale. He highlighted a PowerPoint presentation. He discussed the Fiscal Year 2018 estimated tax rate and the two options. Option 1 split tax rate and option 2 residential exemptions. He noted that 88 percent of the properties in the Town were residential properties.

Upon a motion duly made and seconded it was

RESOLVED, that the Town Council hereby votes to adopt a Residential Exemption of 20 percent for Fiscal Year 2018.

VOTE: REFER TO PUBLIC HEARING ON DECEMBER 7, 2017 – PASSES UNANIMOUS

2018-046 ORDER TO APPROVE TERM OF CONTRACT CHANGE FOR OLDE BARNSTABLE FAIRGROUNDS GOLF COURSE GOLF CARS INTRO: 11/16/17

Upon a motion duly made and seconded it was

ORDERED, that the Town Council, under the provisions of M.G. L c, 30B, §12 (b), does hereby authorize the Town Manager to enter into a five (5) year contract to lease golf cars and utility vehicles for use at the Olde Barnstable Fairgrounds Golf Course.

VOTE: REFER TO SECOND READING ON DECEMBER 7, 2017 – PASSES UNANIMOUS

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED to adjourn:

Adjourned at 10:12 PM

Respectfully submitted,

Janet E. Murphy
Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: December 7, 2017

EXHIBITS:

- A. Town Manager's report
- B. Marinna Atsalis's letter