



# The Town of Barnstable

## Town Council

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Councilors:

Henry C. Farnham  
President

Janet S. Joakim  
Vice President

Richard G. Barry  
Janice L. Barton  
Gary R. Brown  
Ann A. Canedy  
Frederick Chirigotis  
James H. Crocker, Jr.  
Leah C. Curtis  
J. Gregory Milne  
James F. Munafo, Jr.  
Tom Rugo  
Harold E. Tobey

Administrator:  
Donald M. Grissom

Town Council  
Secretary:  
Cheryl A. Phillips

### TOWN COUNCIL AGENDA

November 2, 2006

7:00 PM

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **MOMENT OF SILENCE**
- **R. E. TAX EXEMPTIONS WORKSHOP**
4. **PUBLIC COMMENT**
5. **COUNCIL AND TOWN MANAGER RESPONSE TO PUBLIC COMMENT**
6. **REPORTS FROM TOWN COUNCIL, BOARDS, AND COMMITTEES**
7. **ACT ON MINUTES**
8. **ORDERS OF THE DAY**
  - A. **OLD BUSINESS**
  - B. **NEW BUSINESS**
9. **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE AND ANNOUNCEMENTS**
10. **PRESIDENT/VICE PRESIDENT COMMUNICATIONS**
11. **TOWN MANAGER COMMUNICATIONS**
12. **PUBLIC COMMENT**
13. **ADJOURNMENT.**

**NEXT MEETING NOVEMBER 16TH.**

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Minutes of Barnstable Town Council Meeting of October 5, 2006 and October 19, 2006.

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**Please Note:** It is possible, if it so votes, the Council may go into executive session.  
The council may act on items in a different order than they appear on this agenda.

**A. OLD BUSINESS (SECOND READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-017 APPOINTMENTS**

**INTRO.: 09/21/06; 10/05/06; 11/02/06**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**PERSONNEL ADVISORY BOARD REAPPOINTMENT:**

Robert O'Brien, 41 Deacon Court, Barnstable, MA 02668, term expires 06/30/2009

**ZONING BOARD OF APPEALS (ALTERNATE) REAPPOINTMENT:**

Sheila Geiler, PO Box 771, Hyannis, MA 02601, term expires 06/30/2009

**SPONSORS:** Appointments Committee

**DATE**

**ACTION TAKEN**

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**A. OLD BUSINESS (PUBLIC HEARING MAY BE ACTED UPON)(ROLL CALL)**

**BARNSTABLE TOWN COUNCIL**

<p><b>2007-035 AMENDMENT TO THE GENERAL ORDINANCES -- BASIC AWARENESS ORDINANCE INTRO.: 10/19/06; 11/02/06</b></p>
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**AMENDMENT TO THE GENERAL ORDINANCES**

**ORDERED:** That the General Ordinances of the Code of the Town of Barnstable be amended as further set forth herein.

**SECTION 1** The Code of the Town of Barnstable, General Ordinances, is hereby amended by inserting the following in chapter 147, Peace and Good Order, after Article III, section 147-7.

“ARTICLE IV

CHILD SAFETY INFORMATION AND AWARENESS ORDINANCE

§ 147-8 Title

This ordinance shall be known as the “Barnstable Active Safety Information for Child Awareness Ordinance” and may be referred to by the acronym “BASIC.”

§ 147-9-8 Purpose

The purpose of this ordinance is to advance the public safety and welfare of the residents of the Town of Barnstable by making certain environmental information and controls available for the benefit of children and those who care for children.

§ 147-10-9 Definitions

“CHILD,” a person under the age of 16.

“FACILITY,” place(s) for the conduct of the activities of a public or private enterprise.

“RESIDENCE,” the place of abode of a person.

“SERVICES,” an activity involving the exchange of public or private consideration other than goods.

§ 147-11 Information

(A) The Town will make available by publication on its web site and in one of its offices public records that chronicle areas where hazardous materials as defined in section 2 of chapter 21E of the General Laws of Massachusetts have been released and the status of remedial actions updated semi-annually until final response actions have been taken and thereafter maintain the record of such final response for a period of three (3) years.

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM 2007-035 (Continued)  
INTRO.: 10/19/06**

(B) The Town will make available by publication on its web site and in one of its offices public records on motor vehicle collisions on ways within the Town updated semi-annually.

§ 147-12 Controls

(A) The Town will post a sign on any of its property listed for publication under section 147-11(A) containing a summary of the published information.

(B) Following each data update completed pursuant to section 147-11(B), the Town will review motor vehicle traffic rules, regulations and improvements for the purpose of considering amendments or additional improvements designed to alleviate the occurrence of future similar incidents.

(C) No person designated as level 2 or 3 under the provisions of G. L. c. 6 § 178K(2) in whole or in part by reason of a sexual offense against a child shall take up residence apart from a person related by blood or marriage within the first degree of kindred within the Town within 1,500 feet of the boundaries of land containing a facility with the principle purpose of providing services to a child.

(D) A person does not commit a violation of subsection (C) if any of the following apply:

- (1) the person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility; or;
- (2) the person had already established residence as of the effective date of the prohibitions.

§ 147-13 Enforcement

Violations of Section 147-12 shall be punishable by a fine of \$300.00 per day.

§ 147-14 Severability

The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof. “

**SECTION 2**

The provisions enacted in sections 147-8-14 of Article IV of Chapter 147 shall take effect ninety (90) days following their adoption by the Town Council.”

**SPONSOR:** Town Councilor James H. Crocker, Jr.

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-035  
INTRO.: 10/19/06; 11/02/06**

**TO:** Town Councilors  
**FROM:** Town Councilor James H. Crocker, Jr.  
**SUBJECT:** Amendment to General Ordinance  
**DATE:** October 12, 2006

This legislative item, 2007-035, is a three pronged approach with the principal emphasis being to provide information to parents in easily accessible form on the town web site that (1) chronicles public information about areas where there may have been hazardous materials as defined by Chapter 21E of Massachusetts General Laws on public lands and where children are known to congregate, (2) chronicle public records on motor vehicle collisions and pedestrian safety in areas where children are known to congregate and (3) utilize information from the Barnstable Police Department Sex Offender Registry to identify possible sex offender residency.

In addition the item will cause procedures to be set up to post information about hazardous materials on town land, improve traffic design and oversee persons listed in the sex offender registry.

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-037 ACCEPTANCE OF GRANT TO THE BARNSTABLE SENIOR CENTER  
FOR TRANSPORTATION SERVICES FOR THE ELDERLY, FROM  
ELDER SERVICES OF CAPE COD AND THE ISLANDS  
INTRO.: 11/02/06**

**RESOLVED:** that the Town of Barnstable hereby accept a grant in the amount of \$6,000.00 to support the ongoing provision of transportation services to local elders, and authorize the expenditure of monies for that purpose.

**SPONSOR:** Town Manager John C. Klimm

**DATE**

**ACTION TAKEN**

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**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-037**  
**INTRO.: 11/02/06**

**TO:** Town Councilors  
**FROM:** Town Manager John C. Klimm  
**SUBJECT:** Acceptance of a Grant for the Senior Center for Transportation  
**DATE:** October 18, 2006

**RATIONALE:** The transportation program offered by the Barnstable Senior Center offers a vital link for local seniors. Through the program, seniors can arrange direct transportation to and from medical, social and other appointments through the Senior Center on a handicap accessible van. For many Seniors, driving themselves to appointments is no longer a viable option, so this service becomes their primary link to outside services.

Acceptance of this gift will allow the Senior Center to continue to provide this invaluable community service to elders and their caregivers.

In recognition of their grant, Elder Services will be appropriately mentioned in all publicity materials.



**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-038 APPOINTMENTS**

**INTRO.: 11/02/06**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE APPOINTMENT:**

William S. Brower, 890 Santuit-Newtown Road, Marstons Mills, MA 02648, term expires 06/30/2007

**HOUSING COMMITTEE APPOINTMENT:**

Michael F. Schulz, 81 Meadow Lark Lane, Osterville, MA 02655, term expires 06/30/2008

**RECREATION COMMISSION APPOINTMENT:**

Rene M. King, 192 Zeno Crocker Road, Centerville, MA 02632, term expires 06/30/2008

**SPONSORS:** Appointments Committee

**DATE**

**ACTION TAKEN**

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**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-039 RESOLVE REGARDING CONFLICT OF INTEREST DISCLOSURE BY  
ROBERT O'BRIEN, BUDGET ANALYST FOR THE TOWN OF BARNSTABLE  
INTRO.: 11/02/06**

**RESOLVED:** that the interest of Robert O'Brien, Budget Analyst for the Town is hereby found to be not likely to interfere with the objective performance of his Personnel Advisory Board duties in the best interest of the Town, and is hereby exempted.

**SPONSOR:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-040 RESOLVE REGARDING CONFLICT OF INTEREST DISCLOSURE BY  
SHEILA GEILER AS A MEMBER OF THE TEMPORARY CLERICAL POOL  
FOR THE TOWN OF BARNSTABLE  
INTRO.: 11/02/06**

**RESOLVED:** that the interest of Sheila Geiler as a member of the temporary clerical pool for the Town is hereby found to be not likely to interfere with the objective performance of her Zoning Board of Appeals duties in the best interest of the Town, and is hereby exempted.

**SPONSOR:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-041 ORDER TO INCREASE THE COMPREHENSIVE FINANCIAL ADVISORY  
COMMITTEE MEMBERSHIP FROM SEVEN MEMBERS TO NINE MEMBERS  
INTRO.: 11/02/06**

**ORDER:** that Paragraph A of §241-18 of the Administrative Code is hereby amended by striking out the word "seven" and inserting in place thereof the word "nine".

**SPONSOR:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-041  
INTRO.: 11/02/06**

**TO:** Town Councilors  
**FROM:** Appointments Committee  
**SUBJECT:** Increasing Membership of CFAC From Seven Members to Nine  
**DATE:** October 26, 2006

**BACKGROUND/RATIONALE:** This legislative item was requested by the CFAC and unanimously approved by the Appointments Committee. A principal purpose is to ensure the committee the anticipated increase in work load to carry out the review of the Town's budget.

**B. NEW BUSINESS (To Be Referred To Public Hearing November 16th)**

**BARNSTABLE TOWN COUNCIL**

**2007-042 ALLOCATION OF TAX LEVY**

**INTRO.: 11/02/06**

**RESOLVED:**

**OPTION # 1**

The Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of \_\_\_\_\_ for the Fiscal Year 2007, and votes, further, not to adopt a Residential Exemption or the Small Commercial Exemption for Fiscal year 2007.

**OPTION # 2**

The Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of \_\_\_\_\_ for the Fiscal Year 2007, and votes, further, to adopt a Residential Exemption of \_\_\_\_\_ and to not adopt the Small Commercial Exemption for Fiscal year 2007.

**OPTION # 3**

The Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of \_\_\_\_\_ for the Fiscal Year 2007, and votes, further, to adopt a Small Commercial Exemption of \_\_\_\_\_ and not to adopt a Residential Exemption for Fiscal year 2007.

**OPTION # 4**

The Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of \_\_\_\_\_ for the Fiscal Year 2007, and votes, further, to adopt a Small Commercial Exemption of \_\_\_\_\_ and votes, further, to adopt a Residential Exemption of \_\_\_\_\_ for Fiscal year 2007.

**SPONSOR:** Board of Assessors

**DATE**

**ACTION TAKEN**

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**B. NEW BUSINESS (To Be Referred To Public Hearing November 16th)**

**BARNSTABLE TOWN COUNCIL**

**2007-043 ADOPTION OF CHAPTER 653, SECTION 40 OF THE ACTS OF 1989  
WHICH AMENDS MGL CHAPTER 59, SECTION 2A (a), ASSESSMENT OF NEW  
CONSTRUCTION  
INTRO.: 11/02/06**

**RESOLVED:** The Town Council hereby votes to accept the provisions of Chapter 653, Section 40 of the Acts of 1989 as it pertains to MGL Chapter 59, Section 2A (a): to assess new building structures or other physical improvements added to real property between January first and June thirtieth for the fiscal year beginning on July first. This provision shall take effect for the fiscal year of 2008.

**SPONSOR:** Board of Assessors

<b>DATE:</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**B. NEW BUSINESS (To Be Referred To Public Hearing November 16th)**

**BARNSTABLE TOWN COUNCIL**

**2007-044 ADOPTION OF CHAPTER 59, SECTION 5 (54) PERSONAL PROPERTY  
EXEMPTION  
INTRO.: 11/02/06**

**RESOLVED:** The Town Council hereby accepts the provisions of Chapter 59, Section 5 (54) whereby personal property below the value of \_\_\_\_\_ but not in excess of \$10,000 in value shall be exempt from taxation. This provision shall be in effect for the fiscal year of 2008.

**DATE:**

**ACTION TAKEN:**

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**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-045 ACCEPTANCE OF A FY 2007 GRANT FROM THE ARTS FOUNDATION OF CAPE  
COD (AFCC) IN THE AMOUNT OF \$2,500.00  
INTRO.: 11/02/06**

**RESOLVED:** That the Town Council hereby accepts the grant award in the amount of \$2,500 from the Arts Foundation of Cape Cod Grant Program.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-045  
INTRO.: 11/02/06**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Ruth Weil  
**DATE:** October 26, 2006  
**SUBJECT:** Acceptance of a FY 2007 Grant in the amount of \$2,500 from the Arts Foundation of Cape Cod.

**BACKGROUND:** The Growth Management Department applied for and has been awarded the grant from the Arts Foundation of Cape Cod in the amount of \$2,500. The grant will supplement the department's effort to foster the creative economy as a centerpiece of the revitalization of downtown Hyannis through the Harbor Your Arts Program. This grant will allow the department to supplement marketing and signage efforts to cultivate Harbor Your Arts program initiatives. Collaboration between the Massachusetts Cultural Council, Cape Cod Art Association, the Guyer Barn Gallery & Arts Center, the Hyannis Area Business Improvement District, the Hyannis Area Chamber of Commerce, and the and the Arts Foundation of Cape Cod have contributed to the success of this project and grant eligibility.

**ANALYSIS:** Acceptance of this grant will contribute to our economic development and downtown revitalization efforts through promoting arts and culture.

**FISCAL IMPACT:** This grant will supplement funds allocated to the Harbor Your Arts (HyA) program.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends acceptance of this grant.

**STAFF ASSISTANCE:** Ruth J. Weil

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-046 SNOW AND ICE OVERDRAFT ORDER**  
**INTRO.: 11/02/06**

**ORDERED:** That pursuant to Chapter 44, Section 31D MGL, which provides for the ability of the Town to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal; the Town Council approves expenditures in excess of available appropriation for snow and ice removal for fiscal year 2007, subject to further approval action by the Town Manager

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-046**  
**INTRO.: 11/02/06**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Mark S. Eells, Director  
**DATE:** October 30, 2006  
**SUBJECT:** Snow and Ice Overdraft

**BACKGROUND:** It is customary to approve an overdraft authorization to ensure that snow and ice operations are not interrupted or suspended when the amount contained in the regular appropriation for this purpose is expended. For FY 2006, the Town appropriated \$122,750 for this purpose.

**ANALYSIS:** Chapter 44, Section 31D, MGL provides in part that “any city or town may incur liability and make expenditures in excess of available appropriations for snow and ice removal provided that such expenditures are approved by the city manager and the city council in a city having a city manager....; provided, however, that the appropriation for such purposes in said fiscal year equaled or exceeded the appropriation for said purposes in the prior fiscal year. Expenditures made under authority of this section shall be certified to the Board of Assessors and included in the next annual tax rate.”

**FISCAL IMPACT:** The Town annually appropriates \$122,750 for said purpose so as to allow for the legal spending deficit. Due to the unpredictable nature of this expense the town has traditionally chosen the spending deficit method allowed under the law. Any amount expended above this level is budgeted as part of the subsequent fiscal year’s budget, net of any state or federal assistance received. For example, in FY06 the total amount expended was \$674,079. This was \$551,329 above the appropriation. The spending deficit is budgeted and paid out of the FY07 fiscal year resulting in a snow and ice removal budget of \$674,079 in FY07 (\$122,750 for current year and \$551,329 for prior year). Any amount expended above \$122,750 in FY07 will be included as part of the FY08 budget.

Based on expenditures from previous fiscal years it would be very difficult if not impossible to set a current year budget that would prevent a spending deficit unless that budget was extremely high. If the town were to consistently budget this account extremely high then some other area of the budget would have to be permanently reduced in order to cover the permanent reallocation of funds to the snow and ice removal budget. Subsequently, if the expenses don’t materialize then the town would have permanently reduced services in an area of the budget that it did not have to. Rather than do this we recommend that the town authorize deficit spending for the current fiscal year and make a provision for this bill as part of the FY08 budget if it exceeds the current budget of \$122,750. Alternatively, the council reserve could be used to fund the higher budget so as not to impact another area of the budget.

Expenditures for preceding years were as follows: FY06 - \$674,079; FY05 - \$1,506,811; FY04 - \$684,228; FY03 - \$835,604; FY02 - \$196,711; FY01 - \$209,189; FY00 - \$344,584; FY99 - \$656,097; FY98 - 108,226; FY97 - \$380,145; FY96 - \$1,130,160; FY95 - \$139,362; and FY94 - \$801,485.

**TOWN MANAGER RECOMMENDATION:** The Town Manager requests favorable action by the Town Council.

**BOARD AND COMMISSION ACTION:** N/A

**STAFF ASSISTANCE:** Cornelius Andres, Supervisor, Highway Division  
Mark Eells, Superintendent of Public Works  
Mark Milne, Director of Finance