



Town of Barnstable Town Council Meeting January 17, 2013



A quorum being duly present, Council President Debra Dagwan called the January 17, 2013, Regular Town Council meeting to order at 7:07 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Dagwan regarding the meeting being televised live and questioning if anyone was actively taping the session.

PRESENT: Janice Barton, Ann Canedy, Jennifer Cullum, Frederick Chirigotis, Debra Dagwan, June Daley, Jessica Rapp Grasseti, Janet Joakim (7:43), John Norman, Thomas Rugo, James Tinsley, Jr **ABSENT:** James Cote, Michael Hersey,

The Pledge of Allegiance was led by President Dagwan, followed by a Moment of Silence

Annual Joint Workshop with the School Committee

Present: School Supt. Dr. Mary Czajkowski

School Committee: R. Patrick Murphy, Chris Joyce, Stephanie Ellis, V-Chair and Margeaux Weber, Chair

Town Manager Tom Lynch stated that he, the Chief of Police Paul McDonald and Superintendent of Schools Dr. Mary Czajkowski have continued to work on School Security and gave a brief overview (See Attachment A).

Dr. C said that we have heightened awareness after the Sandy Hook incident on Dec. 14, 2012. She explained the adopt-a-school program. With this program there is a comforting police presence. There have been: recent meetings; all doors have a buzzer entrance; they practice emergency response drills; make plans; have crisis teams, and there is a bullying plan.

Chief McDonald affirmed the police presence in the schools, and the drills, etc.

Questions and comments from councilors and school committee:

- Looking for an outside agency assessment
- Staff said schools were not built to be prisons...teachers understand drills and safe spots.
- Full time police would cost \$75,000 per officer per school (7). High probability that there will be a police officer at the schools at most times.
- Credit given to the police department for their participation
- Compliment to the Chief and staff – the police understand that they are part of the schools and they understand their role.
- Background checks of teachers – new CORI bill any person having contact with students will have to have a CORI fingerprint.

- What about the violent student – students and teachers are made aware of the possibility of people in trouble and are encouraged to report them.
- No set number offences on a CORI background check as far as hiring – employers have discretion.

The team was thanked.

Mark Milne and Garreth Markwell joined the council and school committee. Finance Director Milne gave a handout (See Attachment B).

Finance Director Milne said we had:

- About \$2.8M positive revenue
- Returned appropriations of \$1.7M
- Used \$4.15M of surplus to balance capital and operating
- He explained enterprise funds and free cash
- We still have AAA bond rating
- OPEB liability on balance sheet increased
- There was a review of the history and composition of general fund revenue
- Cherry Sheet assessments are leveling off and are lower
- Employee benefits have grown the most
- The required net school spending per student has risen even though the number of students has dropped.
- Debt was reviewed – as well as the general fund
- He identified key budget areas
- There are capital budget challenges
- General Fund Revenue growth showed 3.1% in property taxes
- Identified changes in fixed costs

Comments:

- What is meals tax - \$1.2M and \$2.6M rooms income
- The debt service for HYCC is paid out of capital trust
- Should we increase capital trust fund – take some reserve to put in trust fund – it would be a one year transfer
- The costs of sending students to schools outside of Barnstable was discussed
- Marketing schools in town has been done

Ended at 8:34 p.m.

PUBLIC COMMENT

Rep. Brian Mannal – 2nd Barnstable District – introduced himself – looked forward to working with the councilors. Kevin Houston died in Afghanistan a year ago. His family is looking to have Exit 6 named in his honor. He is looking for support for this issue. He gave out a copy of the proposed item and asked for the council support (see Attachment C)

Representative Mannal's contacts are: 617 722 2425 brian.mannal@mahouse.gov

Kris Clark spoke regarding Stage Coach Residences. The Land Acquisition and Preservation Committee voted to support this (see Attachment D).

Pres. Dagwan addressed the Kevin Houston bridge naming and would support this item.

ACT ON MINUTES

Upon motion duly made and seconded it was voted to approve the minutes of January 3, 2013.

VOTE: 11 yes

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

- ✓ Jan. 27 – Ham & Bean Supper in Marstons Mills
- ✓ Regular updates on the shooting range was being requested
- ✓ Feb. 5 – representatives from Recreation Commission will be meeting in Marstons Mills regarding Little League ball fields
- ✓ Senior Center has a lobby grand opening tomorrow morning
- ✓ The BHS is having a Credit for Life Fair to address financial literacy – looking for volunteers to work on it on Feb. 1.
- ✓ Thanked Rep. Randy Hunt for helping fire district to disallow health insurance

ORDERS OF THE DAY

A. OLD BUSINESS

2013-001 AMENDING C.240, ART III, §240-35.f (2) OF THE ZONING ORDINANCE – INTRO: 7/12/12, 10/4/12, 10/18/12, 11/15/12, 01/3/13, 01/17/13

This was a continued public hearing which was re-opened.

Deb Krau from the Hyannis Water Board explained that this is part of the water study. This is to make us in alignment with the DEP requirements. She had many recommendations from water departments who requested approval.

Joanne Miller Buntich, Dir. of Growth Management said the planning board recommended favorable action.

Hans Kaiser from the Water Board asked for support.

Public hearing closed at 9:00 p.m.

Councilor Norman asked how a building could possibly be built that would not fail in storing commercial fertilizers. It was explained the type of building and segregation that would be expected. It is required by DEP. All towns except Barnstable and Chatham have the zoning requirement. Mr. Kaiser said it has not been a problem in the other communities who have passed it.

A motion was made and seconded to move the question.

VOTE: Unanimous in favor

Upon motion duly made and seconded it was
ORDERED:

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

Amend Section 240-35 titled Groundwater Protection Overlay Districts by adding new subsection (v) to paragraph F, subsection (2) Prohibited Uses as follows:

(v) Storage of commercial fertilizers, as defined in MGL c 128 section 64, unless such storage is within a structure designed and engineered to prevent escape or transport of commercial fertilizers to the groundwater under any circumstances.

VOTE: Roll Call - 11 Yes

A. OLD BUSINESS (Continued public hearing)

**2013-031 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING
"CHAPTER 160 PROBLEM PROPERTIES" - INTRO: 10/18/12, 11/15/12, 12/16/12,
01/17/13**

This item was brought forward with the following substitute text:

**SUBSTITUTE TEXT
01/14/13**

**2013-031 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING
"CHAPTER 160. CHRONIC PROBLEM PROPERTIES"**

Upon motion duly made and seconded it was
ORDERED: That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter.

"Chapter 160. Chronic Problem Properties."

§160-1 Purpose and Intent.

The purpose and intent of this chapter is to define a coherent method of addressing the adverse effects on the health, safety, welfare, and quality of life of residents arising from properties where illegal activity occurs on a regular basis. Some persons that own or control such properties allow their properties to be used for illegal activity, with the result that these properties have become chronic problem properties in the neighborhood. Chronic problem properties within the town of Barnstable cause a financial burden by the numerous calls for service to the properties because of the illegal activities that repeatedly occur or exist on such properties. The current provisions of the ordinances relating to noise and disturbing the peace do not provide an adequate tool for abating such chronic problem properties. The Town through its public safety, code enforcement and regulatory agencies is in a unique

position to gather data on such properties and to establish an active plan tailored to address the particularized problems and costs posed by specific properties.

§160-2 Cost of Police Officers Assigned to Chronic Problem Properties.

A. Authority for Police Response.

Where police department personnel, while on duty in service to the department, are dispatched or caused to respond at a particular dwelling unit, property or location on multiple occasions, to incidents involving criminal offenses, whether a misdemeanor or felony under federal, state or local law, the Chief of Police is hereby authorized and empowered to assign to such dwelling unit, property or location a member or members of the department to staff such police response as the Chief of Police deems appropriate to protect the health, safety, and welfare of the inhabitants of the town of Barnstable.

B. Requirements for Police Response.

Such assignment of a police response shall only occur after the following procedure has been satisfied:

(1) Upon being dispatched or caused to respond to an incident at a property involving a misdemeanor or a felony, police department personnel shall investigate the validity of the complaint against the occupants at the particular property or location.

(2) Upon finding a Valid Complaint, police shall make a record of the incident and shall mail a copy of this ordinance and copies of the all-calls reports relating to said police response to the property owner by certified mail. A "valid complaint" "incident" or "felony or misdemeanor" as used in this ordinance shall not include a complaint, incident or offense where an occupant of the premises is the victim of the crime.

(3) The police department shall make a record of the number of such incidents at a particular dwelling unit, property or location and keep such record within the department's control

(4) After two (2) Valid Complaint incidents in a twelve-month period relating to the occupancy of a dwelling unit, or to a particular property or location, the Chief of Police or his designee may request a meeting with the property owner to coordinate a plan to resolve the incidents at the particular property. For the purpose of calculating the number of such incidents, where a particular property contains more than one single dwelling unit, providing complete independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, a Valid Complaint incident shall be attributable to any single unit where the Valid Complaint incident has been documented, and not to the entire multiple unit property.

(5) After the three (3) Valid Complaint incidents whether misdemeanor or felony in a twelve-month period, relating to the property owner, tenants or occupants of a dwelling unit or at a particular property or location, the Chief of Police at his discretion shall make the decision to designate the property as a chronic problem property and assign a police response.

- a. Factors that should be considered by the Chief of Police include the following:
 - i. the nature, scope, and seriousness of the incident(s);
 - ii. whether incident(s) resulted in an arrest;
 - iii. history of criminal activity taking place at the property;
 - iv. property owners and tenants/occupants willingness to cooperate with police.

- b. The Chief of Police shall notify, in writing the property owner of his decision to designate the property as a chronic problem property and to assign police response as follows:
 - i. If the property owner resides within the town of Barnstable, such notification should be hand delivered to the property owner's residence or usual place of business that is on record at the assessor's office and by mailing the notification to such address by regular and certified mail - return receipt requested; or
 - ii. If the property owner does not reside within the town of Barnstable, by mailing the notification to the property owner's residence or usual place of business that is on record at the assessor's office by regular and certified mail - return receipt requested.
 - iii. The Chief of Police's notification must inform the property owner that he may request, in writing, a hearing within seven (7) days of the notification, from the Chief of Police and where and to whom he must address his letter of appeal, specified under §160-2 D.
 - iv. The notification shall contain the number of Valid Complaint incidents, which occurred on said property in a twelve (12) month period.

(6) Upon dispatch or delivery of the notification, the dwelling unit, property or location shall be officially identified as a chronic problem property and the property owner shall be subject to the penalties addressed in Section (c). The Chief of Police may commence assigning police response seven (7) days after hand delivery of the notification and ten (10) days after mailing the notification to the property owner.

(7) The Chief of Police or his designee shall keep an accurate record of the cost of police response to a particular property or location, including an accurate record of the number of officers who are part of the determined response; and the Chief of Police shall forward such record to the Collector.

(8) Coordination of police response is subject to the rules and regulations of the department.

C. Penalties.

(1) The Collector is hereby authorized and empowered to notify and bill the property owner for the costs the Town incurred for its police response in addition to any incidental costs during the period of police response to the dwelling unit, particular property or location. The property owner is responsible for payment of the bill in full within thirty (30) days of receiving the bill, unless an appeal under §160-2 D is timely filed. All amounts collected by the Collector shall be deposited into the general fund of the Town.

(2) Any unpaid bill for police response, including interest and/or collection costs, shall be added to the real estate tax on the property and collected as part of that tax. Failure to pay real estate taxes will render the property owner delinquent and the Collector shall commence foreclosure proceedings.

D. Property Owner's Rights.

The property owner may request, in writing, a hearing before the Problem Properties Appeals Committee within seven (7) days of receipt of notification to appeal the designation of the property as a Chronic Problem Property under §160-2 B(6) and/or to contest any penalties set forth in §160-2 C. A decision on the appeal must be in writing. If the Committee finds that the property is not a chronic problem property, the designation shall be removed and any penalties assessed shall be rescinded. If the Committee finds that the property is a chronic problem property, it may: 1) uphold the penalty in its entirety or 2) reduce the penalty or 3) abate any portion thereof that has already been paid.

E. Eviction.

In the event the property owner has commenced the process of eviction against the tenant(s) responsible for the incidents at the property, and demonstrates that he has proceeded diligently and in good faith, then the application of this ordinance shall be stayed until the eviction process is concluded. The Chief of Police may continue police response at the particular property or location, at his discretion, at all times after the eviction proceeding has been completed; provided however, that such costs shall not be assessed to the property owner.

F. Charges to Constitute Municipal Lien Pursuant to MGL c. 40 s. 58.

All charges to recover costs imposed in this ordinance shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58.

G. Reporting Requirements

The Chief of Police shall submit a report to the Town Manager and Town Council no later 6 months after the effective date of this ordinance which shall include the total cost of administration of this ordinance, as well as an accounting of all revenues collected in association with it. It shall also contain data regarding all dwelling units within a property, particular properties or locations which remain chronic problem properties and those that are no longer designated as chronic problem properties. The report shall also include the general impact, if any, that the implementation of this order has had on the health, safety, and welfare of residents of Barnstable.

H. Definitions

The term "Person" shall mean any individual, partnership, corporation, firm, association, or group including a governmental unit and the Town of Barnstable or any of its agencies

The term "Police Response" shall mean any and all police action deemed appropriate by the Chief of Police to protect the health, safety and welfare of

inhabitants of a property or location where Valid Complaints have been documented.

The term "Property Owner" shall mean any person who alone or severally with others has legal title to any building, structure, property, dwelling, dwelling unit(s), rooming unit or parcel of land, vacant or otherwise; mortgagee in possession; or agent, trustee or other person appointed by the courts.

The term "Valid Complaint" shall refer to an investigated finding, documented by on-duty police department personnel dispatched or caused to respond to an incident, that a misdemeanor felony under federal, state or local law has taken place in a dwelling unit, within a property, on a particular property or at a specific location which disturbs the health, safety and welfare of other inhabitants of said property or location. The term shall not include incidents involving an occupant of the premises as the victim of the crime.

The public hearing was re-opened and Town Attorney Ruth Weil highlighted the changes in the substitute text.

- Including the definitions.
- In the beginning – needs to be noted that it is for chronic problem properties.
- 160-2 A – was crisped up
- B1 notes misdemeanor or felony
- 2- addresses the notification of the valid complaint
- The dwelling unit is defined
- 4 describes sufficient process to try to ameliorate the situation
- 5 lists the factors to consider as far as problem property designation – then the notice provisions and appeal process was defined
- D – hearing before an appeals board
- E – eviction process begins and it is pursued
- G – reporting requirements

Laura Cronin appreciated the dialogue and process that developed the ordinance. She supports it.

Juan Hemaney encouraged passing this. He has had issues with his landlord who does nothing.

Public hearing closed.

The councilors held a lengthy discussion and made various possible suggestions for changes to words and phrases within the item. There was mention of a letter from the ACLU and possible changes that could be made in the document to put it more in alignment with their wishes as well.

FIRST AMENDMENT - an initial amendment to section 4 was withdrawn and the following motion was made and seconded to:

Section (5) after the words "Chief of Police" add - "shall schedule a hearing with the property owner and after the hearing, at his/her discretion, may make the decision to designate the property as a chronic problem property and assign a police response."

In Section (5) a. change Factors that should - to Factors that shall

In Section (5) a. iii - add at the end; or dwelling unit.

(In Section (5) b. iii - change in the second line seven (7) days to thirty (30) days - (motion made but not seconded after discussion))

VOTE: 10 yes 1 ab (Norman)

SECOND AMENDMENT - after additional discussion the following motion was made and seconded to:

In Section (5) b iii - change the 7 days to fourteen (14) days

In Section D - change 7 days to fourteen (14) days

VOTE: 10 yes 1 no (Norman)

THIRD AMENDMENT - a motion was made and seconded to:

In Section (5) b iii - make it he/she – in two places.

VOTE: 11 yes

FOURTH AMENDMENT - a motion was made and seconded to:

In Section (6) it should now read: After the hearing under paragraph 5 above, the property or dwelling unit may be officially identified as a chronic problem property and the property owner shall be subject to the penalties addressed in Section (c). The Chief of Police may commence assigning police response seven (7) days after hand delivery of the notification and ten (10) days after mailing the notification to the property owner.

VOTE: 10 yes 1 no (Norman)

FIFTH AMENDMENT - a motion was made and seconded to:

In Section (5) – change three to four (4) Valid Complaint incidents

VOTE: 7 yes 4 no

Dept. Chief Craig Tamash had some questions about the hearing and what if they do not appear and the language in Section 6. It was explained that they give up the rights to appeal if they do not show up

Atty. Weil had not had an opportunity to undertake a full analysis of the letter from the ACLU having just received it immediately prior to the meeting.

SIXTH AMENDMENT - a motion was made and seconded to:

In Section G add the word "written" before the word "report".

VOTE: 10 Yes 1 no (Norman)

SEVENTH AMENDMENT - a motion was made and seconded to:

In Section D – in the second line after the word "notification" add "in order".

VOTE: 10 yes 1 no (Norman)

Councilors Chirigotis and Canedy concurred that the amendments addressed due process, the appeal period, and other major issues that the ACLU brought forward.

<p style="text-align: center;">SUBSTITUTE TEXT AS AMENDED</p>
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**2013-031 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING
"CHAPTER 160. CHRONIC PROBLEM PROPERTIES"**

Upon motion duly made and seconded it was

ORDERED: That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter.

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(3) The police department shall make a record of the number of such incidents at a particular dwelling unit, property or location and keep such record within the department's control

(4) After two (2) Valid Complaint incidents in a twelve-month period relating to the occupancy of a dwelling unit, or to a particular property or location, the Chief of Police or his designee may request a meeting with the property owner to coordinate a plan to resolve the incidents at the particular property. For the purpose of calculating the number of such incidents, where a particular property contains more than one single dwelling unit, providing complete independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, a Valid Complaint incident shall be attributable to any single unit where the Valid Complaint incident has been documented, and not to the entire multiple unit property.

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- a. Factors that shall be considered by the Chief of Police include the following:
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 - ii. whether incident(s) resulted in an arrest;
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- iv. The notification shall contain the number of Valid Complaint incidents, which occurred on said property in a twelve (12) month period.

(6) After the hearing under paragraph 5 above, the property owner may be officially identified as a chronic problem property and the property owner shall be subject to the penalties addressed in Section (c). The Chief of Police may commence assigning police response seven (7) days after hand delivery of the notification and ten (10) days after mailing the notification to the property owner.

(7) The Chief of Police or his designee shall keep an accurate record of the cost of police response to a particular property or location, including an accurate record of the number of officers who are part of the determined response; and the Chief of Police shall forward such record to the Collector.

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(2) Any unpaid bill for police response, including interest and/or collection costs, shall be added to the real estate tax on the property and collected as part of that tax. Failure to pay real estate taxes will render the property owner delinquent and the Collector shall commence foreclosure proceedings.

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must be in writing. If the Committee finds that the property is not a chronic problem property, the designation shall be removed and any penalties assessed shall be rescinded. If the Committee finds that the property is a chronic problem property, it may: 1) uphold the penalty in its entirety or 2) reduce the penalty or 3) abate any portion thereof that has already been paid.

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F. Charges to Constitute Municipal Lien Pursuant to MGL c. 40 s. 58.

All charges to recover costs imposed in this ordinance shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58.

G. Reporting Requirements

The Chief of Police shall submit a written report to the Town Manager and Town Council no later than 6 months after the effective date of this ordinance which shall include the total cost of administration of this ordinance, as well as an accounting of all revenues collected in association with it. It shall also contain data regarding all dwelling units within a property, particular properties or locations which remain chronic problem properties and those that are no longer designated as chronic problem properties. The report shall also include the general impact, if any, that the implementation of this order has had on the health, safety, and welfare of residents of Barnstable.

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The term "Property Owner" shall mean any person who alone or severally with others has legal title to any building, structure, property, dwelling, dwelling unit(s), rooming unit or parcel of land, vacant or otherwise; mortgagee in possession; or agent, trustee or other person appointed by the courts.

The term "Valid Complaint" shall refer to an investigated finding, documented by on-duty police department personnel dispatched or caused to respond to an incident, that a misdemeanor felony under federal, state or local law has taken place in a

dwelling unit, within a property, on a particular property or at a specific location which disturbs the health, safety and welfare of other inhabitants of said property or location. The term shall not include incidents involving an occupant of the premises as the victim of the crime.

VOTE: 9 yes 2 no roll call (Daley - Norman)

2013-032 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING, "CHAPTER 54. BUILDING AND PROPERTY MAINTENANCE" INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

Upon motion duly made and seconded it was voted to refer this item to a workshop on Feb. 14 and the public hearing was opened and continued to Feb. 28.

VOTE: 11 yes

2013-033 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 59, COMPREHENSIVE OCCUPANCY - INTRO: 10/18/12, 11/15/12, 12/16/12, 01/17/13

Upon motion duly made and seconded it was unanimously voted to open the public hearing and subsequently close it with no comment.

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

VOTE: 11 yes

Upon motion duly made and seconded it was

ORDERED: That Chapter 59 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By striking the number "22" from the definition of "occupant" in section 59-2 and substituting therefore the number "18," said section 59-2 to read as follows.

"OCCUPANT — Any person who has attained the age of 18 who has resided in a residential dwelling for any length of time."

SECTION 2. By striking the words "under the age of" and the number "22" from section 59-4 and substituting therefore the words "grandchildren and foster children of an owner or occupant," said section 59-4 to read as follows.

"Children, grandchildren and foster children of an owner or occupant shall be exempt from these provisions."

SECTION 3. By striking subsection 59-3(B), which reads as follows.

"The maximum number of motor vehicles that are permitted to be parked overnight, other than in a building, at any residential dwelling shall be equal to two motor vehicles for the first bedroom in a residential dwelling and one motor vehicle per bedroom thereafter."

VOTE: Roll Call 9 yes 2 no - (Chirigotis and Norman)

2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

Upon motion duly made and seconded it was voted to refer this item to a workshop on Feb. 14 and the public hearing was opened and continued to Feb. 28.

VOTE: 11 Yes

2013-035 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 133, NOISE - INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

Upon motion duly made and seconded it was voted to refer this item to a workshop on Feb. 14 and the public hearing was opened and continued to Feb. 28.

VOTE: 11 Yes

2013-043 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES ARTICLE 1, §1-3, CHAPTER 170 RENTAL REGISTRATION INTRO: 11/15/12, 12/06/12, 01/17/13

Upon motion duly made and seconded it was voted to refer this item to a workshop on Feb. 14 and the public hearing was opened and continued to Feb. 28.

(Laura Cronin said this is just changing and raising the fees to the allowable amount in MGL).

VOTE: 10 yes 1 no to continue

2013-064 AMENDING THE GENERAL CODE, CHAPTER 76,-SCHEDULE OF FEES INTRO: 01/03/13, 01/17/13

Upon a unanimous vote the public hearing was duly opened.

Tom Geiler, Director of Regulatory Services and Richard Scali, from Consumer Affairs were present to encourage passage of the fee increases. These are brought forward to maintain a cost of service recovery rate of 100%.

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

VOTE: Unanimous in favor

Upon motion duly made and seconded it was

ORDERED, that Chapter 76 of the General Code of the Town of Barnstable is hereby amended by deleting three Chapter 76 sections, and replacing them with the following amended sections.

Chapter 76 of the General Code:

76-3 Weights and Measures annual fees (MGL C.98§56)

76-4 Licensing

§ 76-3. Weights and Measures annual fees (MGL C. 98, § 56).

DESCRIPTION	FEE PER DEVICE			
	<u>2008</u> 1 – 3	<u>2013</u> 1 - 3	<u>2008</u> 4 or more	<u>2013</u> 4 or more
Scale with capacity over 10,000 lbs.	\$250.00	\$275.00	\$225.00	\$250.00
Scale with capacity 5,000-10,000 lbs.	\$135.00	\$145.00	\$110.00	\$120.00
Scale with capacity 100-5,000 lbs.	\$ 80.00	\$ 90.00	\$70.00	\$80.00
Scale with capacity less than 100 lbs.	\$ 50.00	\$ 60.00	\$45.00	\$55.00
Weights (each)	\$ 8.00	\$10.00	\$6.00	\$8.00
Liquid measures	\$ 30.00	\$40.00	\$30.00	\$40.00
Liquid measure meters	-----	-----	-----	-----
Lubricant meters	\$ 50.00	\$60.00	\$45.00	\$55.00
Motor fuel meters	\$ 50.00	\$60.00	\$45.00	\$55.00
Vehicle tank meters	\$110.00	\$120.00	\$100.00	\$110.00
Vehicle tank meter gravity	\$175.00	\$185.00	\$150.00	\$160.00
Bulk storage tank meter	\$175.00	\$185.00	\$150.00	\$160.00
Mechanical pumps, each stop	\$ 10.00	\$15.00	\$10.00	\$15.00
Taxi meters (semi-annually)	\$ 55.00	\$60.00	\$50.00	\$55.00
Commercial odometer – hubodometer	\$ 55.00	\$60.00	\$50.00	\$65.00
Leather measure	\$175.00	\$185.00	\$150.00	\$160.00
Dry measure, one bushel or less	\$ 85.00	\$95.00	\$85.00	\$95.00
Dry measure, more than one bushel	\$120.00	\$130.00	\$120.00	\$130.00
Counting Device	\$25.00	\$35.00	\$25.00	\$35.00
All other measuring devices	\$125.00	\$135.00	\$125.00	\$135.00
Rope, wire or chain measuring devices	\$ 25.00	\$35.00	\$20.00	\$30.00
Reinspection fee (after official rejection)	\$ 95.00	\$100.00	\$95.00	\$100.00
Reverse Vending Machines				
Bottle and Can redemption Inspection				
Disposable Test Material Supplied by Inspector	\$25.00	\$35.00	\$20.00	\$30.00
Disposable Test Material supplied by Store	\$15.00	\$20.00	\$10.00	\$15.00
Automatic Electronic Check-Out Systems				
3 or less cash registers (per inspection)	\$85.00	\$95.00	N/A	
4-11 cash registers (per inspection)	\$170.00	\$180.00	N/A	
12 or more cash registers (per inspection)	\$280.00	\$300.00	N/A	

VOTE: 10 yes 1 no - Cullum

2013-068 was taken out of order

2013-068 APPROVING A CONSERVATION RESTRICTION FROM BARNSTABLE HOUSING AUTHORITY TO THE BARNSTABLE LAND TRUST, INC. ON 151 OAK STREET, WEST BARNSTABLE - INTRO: 01/17/13

This is part of a regulatory agreement and is a little different than the normal conservation restriction. In order to build the housing they need this for open space. This is supported by the town. The ZBA did not say the land could not be open to the public.

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

VOTE: 11 Yes

Upon motion duly made and seconded it was

RESOLVED, that the Town Council approve a perpetual Conservation Restriction from the Barnstable Housing Authority (grantor) to the Barnstable Land Trust, Inc. (grantee), over a 4.82-acre parcel of land at 151 Oak Street in West Barnstable, Town of Barnstable Assessor's Map 173, Parcel 014-001, for conservation purposes.

VOTE: 11 yes

B. NEW BUSINESS

**2013-066 APPROPRIATION & LOAN ORDER--\$633,000 FOR PRIVATE ROAD REPAIRS
INTRO: 01/17/13**

Upon motion duly made and seconded it was voted to refer this item to a public hearing to be held on Feb. 7, 2013.

VOTE: 11 yes

2013-067 AUTHORIZING THE CONTRACT LENGTH FOR GOLF CARTS AT THE OLDE BARNSTABLE COUNTY FAIRGROUNDS GOLF COURSE - INTRO: 01/17/13

Town Manager Lynch gave the rationale.

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

VOTE: 11 Yes

Upon motion duly made and seconded it was

ORDERED: that the Town Council hereby supports entering into a contract term of five years under the MGLA 30B, Uniform Procurement Act, Section 12, paragraph (b), which would allow the Olde Barnstable Fairgrounds Golf Course to enter into a 66 New Golf Carts lease and maintenance contract commencing April 1, 2013. A contract term in excess of three years requires Town Council majority approval.

VOTE: 11 yes

B. NEW BUSINESS

**2013-069 AMEND THE ADMINISTRATIVE CODE BY ADDING SECTION 241-44.2
PROBLEM PROPERTY APPEALS COMMITTEE – INTRO: 1/17/13**

Upon motion duly made and seconded it was voted to refer this item to a second reading on February 28th; and to be part of the workshop on Feb. 14.

VOTE: 11 Yes

Calendar of meetings—February and April updates

See E attached

Upon motion duly made and seconded it was voted to adopt the amended calendar of meetings for the Town Council.

VOTE: 11 yes

TOWN MANAGER COMMUNICATIONS

Manager Lynch made the following announcements:

- The Town has received the Commonwealth Award – an arts and cultural award.
- A grant came in with over \$200,000 for a parks grant – to restore Ridgewood Park in Hyannis.
- There will be a day long panel – Urban Land Institute – parking assessment – will report out at days end.
- Final flu clinic – HYCC – Tuesday
- Range update - he will come forward with one.
- Transformer move made last night – came from the harbor- crane used to raise the plane out of the harbor in New York. Photos to come.

Councilor Tinsley – pole at High School Rd and Bearses Way – needs to be moved.

ADJOURNMENT

Upon motion duly made and seconded it was

VOTED: To adjourn.

ADJOURNED: at 10: 52 p.m.

Respectfully submitted,

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

ATTACHMENTS:

- A. - School Security**
- B. - Financial update - School/Council**
- C. - Proposed act to name overpass**
- D. - Letter from Land Acquisition and Preservation Com. Supporting BHA - Stage Coach Residences**
- E. - Modified Council calendar changes**

NEXT REGULAR MEETING: February 7, 2013

