



Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601

508.862.4738 • 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us



Councillors:

Dr. Debra S. Dagwan
President
Precinct 8

Jessica Rapp Grassetti
Vice President
Precinct 7

Ann B. Canedy
Precinct 1

Tom Rugo
Precinct 2

Michael P. Hersey
Precinct 3

Frederick Chirigotis
Precinct 4

James H. Cote
Precinct 5

Janet S. Joakim
Precinct 6

James M. Tinsley
Precinct 9

Janice L. Barton
Precinct 10

June M. Daley
Precinct 11

John T. Norman
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator to the
Town Council:
Barbara A. Ford

Administrative
Assistant:
Cynthia A. Lovell

MEETING AGENDA TOWN HALL HEARING ROOM May 16, 2013 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Town Manager Tom Lynch – FY14 Budget Message**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES (Includes Executive Session)**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS,
BOARDS, COMMISSIONS, STAFF,
CORRESPONDENCE, ANNOUNCEMENTS AND
COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT REGULAR MEETING: June 6, 2013

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2013-032	Amending Code of Barnstable General Ordinances by inserting, “Chapter 54, Building and Property Maintenance” (Public hearing continued) (Roll-call)	4 - 7
2013-034	Amending Code of Barnstable General Ordinances Chapter 170, Rental Properties (Public hearing continued) (Roll-call)	8 - 10
2013-043	Amending the General Ordinances, Article I, §1-3, Chapter 170, Rental Registration (Public hearing continued) (Roll-call)	11 - 12
2013-135	Appropriation and transfer order \$14,000 from the Sandy Neck Enterprise reserves to Sandy Neck Enterprise account to reimburse the costs from storm “Nemo” (Public hearing) (Roll-call)	13 - 14
B. NEW BUSINESS		
<u>FY14 OPERATING BUDGET APPROPRIATIONS 2013-138 – 2013-164</u>		
2013-138	Appropriation \$11,601,168 for the FY14 Police Department operating budget (Refer to public hearing 06/06/2013)	15
2013-139	Appropriation \$57,255,360 for the FY14 Barnstable Public Schools operating budget (Refer to public hearing 06/06/2013)	15
2013-140	Appropriation \$8,114,348 for the FY14 Department of Public Works general fund budget (Refer to public hearing 06/06/2013)	15
2013-141	Appropriation \$2,696,341 for the FY14 Department of Public Works Solid Waste Enterprise Fund budget (Refer to public hearing 06/06/2013)	15
2013-142	Appropriation \$4,328,518 for the FY14 Department of Public Works Water Pollution Control Enterprise Fund budget (Refer to public hearing 06/06/2013)	15
2013-143	Appropriation \$3,662,420 for the FY14 Department of Public Works Water Supply Enterprise Fund budget (Refer to public hearing 06/06/2013)	15
2013-144	Appropriation \$968,435 for the FY14 Growth Management Department General Fund budget (Refer to public hearing 06/06/2013)	16
2013-145	Appropriation \$276,383 for the FY14 Town Council Department budget (Refer to public hearing 06/06/2013)	16
2013-146	Appropriation \$565,822 for the FY14 Town Manager Department budget (Refer to public hearing 06/06/2013)	16
2013-147	Appropriation \$1,630,979 for the FY14 Library budget (Refer to public hearing 06/06/2013)	16
2013-148	Appropriation \$986,700 for the FY14 Community Preservation Fund Administrative Expenses and FY14 Program set-asides (Refer to public hearing 06/06/2013)	16
2013-149	Appropriation \$2,576,097 FY14 Community Services Department General Fund budget (Refer to public hearing 06/06/2013)	16
2013-150	Appropriation \$2,670,058 for the FY14 Community Services Department General Fund Budget (Refer to public hearing 06/06/2013)	17
2013-151	Appropriation \$2,921,692 for the FY14 Community Services Department Golf Course Enterprise Fund budget (Refer to public hearing 06/06/2013)	17
2013-152	Appropriation \$ 2,767,973 for the FY14 Community Services Department Hyannis Youth and Community Center Enterprise Fund budget (Refer to public hearing 06/06/2013)	16
2013-153	Appropriation \$680,231 for the FY14 Community Services Department marina Enterprise Fund budget (Refer to public hearing 06/06/2013)	17
2013-154	Appropriation \$740,382 for the FY14Community Services Department Sandy Neck Enterprise Fund budget (Refer to public hearing 06/06/2013)	17
2013-155	Appropriation \$7,230,647 for the FY14 Barnstable Municipal Airport Enterprise Fund budget (Refer to public hearing 06/06/2013)	17

B. NEW BUSINESS (Continued)

2013-156	Appropriation \$2,643,229 for the FY14 Regulatory Services Department budget (Refer to public hearing 06/06/2013)	17
2013-157	Appropriation \$5,389,290 for the FY14 Administrative Services Department budget (Refer to public hearing 06/06/2013)	17
2013-158	Appropriation \$8,778,309 for the FY14 General Fund Debt Service budget (Refer to public hearing 06/06/2013)	18
2013-159	Appropriation \$21,141,235 for the FY14 Employee Benefit & Insurance budget (Refer to public hearing 06/06/2013)	18
2013-160	Appropriation \$121,875 and \$51,924 for the FY14 Tourism Grant and Lombard Land Lease budget (Refer to public hearing 06/06/2013)	18
2013-161	Appropriation \$3,413,750 for the FY14 Assessments and Other Costs budgets (Refer to public hearing 06/06/2013)	18
2013-162	Appropriation \$3,827,151 for the FY14 Transfers budget (Refer to public hearing 06/06/2013)	18
2013-163	Revolving Funds Authorization Order of \$1,320,000 (Refer to Public hearing 06/06/2013)	19
2013-164	Authorizing Expenditure of Comcast Licensing Fees for the funding of the Public, Education and Government (PEG) Access Channels (Refer to public hearing 06/06/2013)	19
2013-165	An Act authorizing the Town of Barnstable to lease a parcel land in the Town of Barnstable for the use of a for-profit museum (May be acted upon)	20 – 21
2013-166	Amending the Code of the Town of Barnstable General Ordinances by inserting Chapter 224, Vacant or Foreclosing Properties (Refer to public hearing 07/11/13)	22 – 27
2013-167	An Act authorizing the West Barnstable Fire District to fund library services for the Whelden Memorial Library (May be acted upon)	28 - 29

Approve Minutes- May 2, 2013 No executive session minutes.

Please Note: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda.

Persons interested are advised, that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice.

Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-032

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13,
02/28/13, 03/21/13, 04/25/13, 05/02/13, 05/16/13**

2013-032 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING, "CHAPTER 54. BUILDING AND PROPERTY MAINTENANCE"

ORDERED: That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter 54.

"Chapter 54"

BUILDING AND PROPERTY MAINTENANCE

§54-1. Purpose and intent.

The purpose and intent of this ordinance is to eliminate nuisances in the town. Nuisances, such as deteriorated structures, vacant buildings, overgrowth of vegetation, trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas; adversely affect the value of adjacent and surrounding property; and impair the health, safety and general welfare of the inhabitants of the town. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

§54-2. Building, structure and premises maintenance.

Each owner and occupant shall comply with this ordinance by keeping land, premises, buildings and structures in a safe, sanitary and non-hazardous manner so as to prevent deterioration and ensure that the property itself may be preserved safely so that hazards to public health and safety are avoided. For purposes of sections 54-2 to 54-4, "occupant" means the person or persons other than an owner or owners having exclusive possession of land, premises, buildings and structures, or parts thereof, and the obligation to maintain the same.

§54-3. Building and structure maintenance standards.

- A. All means of egress, devices, safeguards and equipment shall be kept in good working order
- B. All exterior components of every building and structure including but not limited to walls, roofs, chimneys, cornices, gutters, downspouts, drains, porches, canopies, awnings, steps, landings, fire escapes, exterior stairs, windows, shutters, and doors, shall be kept in sound condition and good repair, with proper weather protection and waterproofing, and be maintained substantially free of deterioration, including but not limited to loose or missing shingles or siding, crumbling brick, stone and mortar, and peeling, scaling or deteriorated paint.
- C. Vacant buildings and structures shall be maintained in compliance with this ordinance and be kept secure from use or occupation by unauthorized persons.
- D. Overhanging structures, including canopies, awnings, exterior stairways, fire escapes, and other overhanging extensions shall be maintained in sound condition and good repair, be securely anchored, and be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.
- E. All buildings and structures damaged by fire, explosion, weather or other cause shall be repaired and returned to their former condition or in compliance with this ordinance, or be razed within six (6) months unless granted an extension by the Building Commissioner.

§54-4. Maintenance of land, premises and landscape elements.

A. Each owner and occupant shall keep premises and land, including but not limited to steps, walks, driveways, fences, retaining walls and vegetation, in good condition. "Occupant" for purposes of this section has the same meaning as in section 54-2.

B. All paved driveways and walks shall be maintained substantially free from broken or uneven condition.

C. All steps, fences, retaining walls and landscape features shall be firmly anchored and maintained in good structural repair. Elements subject to deterioration shall be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.

D. All premises shall be maintained substantially free from overgrowth of vegetation which constitutes a suitable habitat for vermin, otherwise poses a hazard to the health and safety of any person in the vicinity of the premises, or is so overgrown as to have a clear adverse affect on the value of surrounding properties.

E. Indoor items such as furniture, appliances, plumbing fixtures and bedding shall be kept within enclosed structures after fifteen (15) days. All other personal property shall be kept within enclosed structures or screened from public view after six (6) months. Functional outdoor items such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, operable vehicles, trailers, boats and inventory shall not be subject to the requirements of this subsection.

F. Water shall not be permitted to continuously stagnate outside of any building or structure for more than ten (10) days except under natural conditions. Nothing in this subsection shall operate as a waiver or exception to any other law, rule or regulation for the storage or handling of water.

§54-5. Storage and Removal of Rubbish, Garbage and Refuse.

A. Owner's responsibilities. The owner of any building, structure or premises shall be responsible for receptacles with tight-fitting lids to be used for the proper storage of rubbish, garbage and other refuse. Said receptacles shall be located in such manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

B. Occupant's responsibilities. The occupants of any building, structure or premises shall be responsible for the proper storage of rubbish, garbage and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse, which is stored outside a building or structure is properly covered. Said occupant(s) shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and ultimate disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

C. For purposes of subsections (A) and (B): "owner" shall mean any person(s) who alone or severally with others has legal title to buildings, structures, vacant land or to land with buildings or structures thereon, or to any dwelling or rooming unit, mortgagee in possession, or agent, trustee or person appointed by a court; and "occupant" shall mean any person(s) who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

D. Premises covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.

§54-6. Enforcement

A. The Board of Health, the Police Chief, and the Building Commissioner, or their designees, are hereby designated as the enforcing authorities for this ordinance. If any enforcing authority determines that a violation of the standards contained in this ordinance exists, he or she shall notify the owner or occupant to

remove or abate the nuisance by a date certain as determined by the enforcing authority not more than ten (10) days after service of notice of the violation(s): provided, however, that if the enforcing authority determines that the violation is such that the public health and safety will be jeopardized by that delay, the enforcing person may order the abatement or removal of the nuisance in a shorter time as public health and safety may in her or his judgment require. The order shall be in writing and may be served personally on the owner, occupant or his authorized agent by any person authorized by the enforcing authority. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through non-criminal, criminal or civil proceedings and no action shall preclude any other enforcement action or actions.

B. In addition to any penalties or enforcement action(s) hereunder, after final determination of three (3) or more violations within a twelve-month period an enforcing authority may notify a violator in writing that the enforcing authority may elect to bill the violator for the costs incurred by the Town for response to each subsequent violation not abated or ordered without abatement as provided herein. Such bill(s) shall be due and payable in full by the violator within thirty (30) days of submission and if unpaid thereafter shall be subject to a municipal charges lien as provided in G. L. c. 40 §58.

§54-7. Applicability and Severability.

A. The provisions of this ordinance are in addition to and not in lieu of any other ordinance, rule or regulation of the Town of Barnstable and any board, commission or officer. Compliance with this ordinance shall not thereby constitute compliance with any other ordinance, rule or regulation, and violation of this ordinance does not thereby preclude violation of any other ordinance, rule or regulation.

B. If any provision of this ordinance is declared invalid, it shall not thereby invalidate any other provision.

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/06/12</u>	<u>Public hearing, cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing, cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing, cont'd to 03/21/13</u>
<u>03/21/13</u>	<u>Public hearing, cont'd to 04/25/13</u>
<u>04/25/13</u>	<u>Public hearing, cont'd to 05/16/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-032

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13,
02/28/13, 03/21/13, 04/25/13, 05/02/13, 05/16/13**

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, C.54

RATIONALE: Throughout the Town of Barnstable, many blighted and/or abandoned homes not presently addressed by the town. The intent of this ordinance is to eliminate deteriorated structures, vacant buildings, overgrowth of vegetation, trash and debris within neighborhoods and commercial areas, where buildings may be abandoned.

This amendment outlines basic property management and repair standards and guidelines for structural and landscape management, trash removal, and land maintenance standards.

At present, these unchecked blighted/abandoned properties impair the health, safety and general welfare of the neighborhood in which they are located. It is intended that this amendment address these issues of abandoned/blighted properties and improve the standard of public safety and general welfare in the neighborhoods in which they are located.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-034

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13,
03/21/13, 04/25/13, 05/02/13, 05/16/13**

2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES

ORDERED: That Chapter 170 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By striking the following sections 170-11 entitled “storage and removal of rubbish, garbage, and other refuse” and 170-12 entitled “inspections” and re-numbering the remaining sections accordingly.

“§170-11. Storage and removal of rubbish, garbage, and other refuse.

A. Owner’s responsibilities. The owner of any dwelling shall be responsible for providing receptacles with tight-fitting lids to be utilized for the proper storage of rubbish, garbage, and other refuse. Said receptacles shall be located in such a manner that no objectionable odor enters any dwelling and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.

B. Occupant's responsibilities. The occupant(s) of any dwelling shall be responsible for the proper storage of rubbish, garbage, and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage, and other refuse which is stored outside the dwelling unit is properly covered. Said occupant shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage, and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and for the ultimate disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.”

§170-12. Inspections.

Dwelling units covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.”

SECTION 2. By adding the following sentence to subsection 170-12(A) of section 170-12 as re-numbered entitled “violations and penalties” after the first sentence; “Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of

\$300.00”; and by adding the following at the end of the second sentence in subsection 170-12(B) as re-numbered; “or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period” ; said subsection 170-12 to read as follows

“§170-12. Violations and penalties.

A. Any person who violates any provision of this chapter shall be subject to a fine not to exceed \$300. Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of \$300.00. Each day of continued violation may be deemed to be a separate offense.

B. This chapter may be enforced under the provisions of MGL c. 40, §21D. The fine for any violation under the provisions of MGL c. 40, §21D shall be \$100 or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period. Each day of continued violation may be deemed to be a separate offense.”

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing, cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing, cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing, cont'd to 03/21/13</u>
<u>03/21/13</u>	<u>Public hearing, cont'd to 04/25/13</u>
<u>04/25/13</u>	<u>Public hearing, cont'd to 05/16/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-034

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13,
03/21/13, 04/25/13, 05/02/13, 05/16/13**

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote, and Jessica Rapp Grasseti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, C.170

RATIONALE: The Code of Barnstable General Ordinances, Chapter 170 concerns rental properties in the town. This amendment provides for a maximum fine of \$300 after two (2) valid violations within a twelve (12) month period, making it consistent with other graduated fines.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-043

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13,
03/21/13, 04/25/13, 05/02/13, 05/16/13**

**2013-043 AMENDING THE GENERAL ORDINANCES, ARTICLE 1, §1-3, CHAPTER 170,
RENTAL REGISTRATION**

ORDERED: That the schedule of fines in Article I, Section 1-3 of the General Ordinances is hereby amended by striking out the line related to Chapter 170 and inserting in place thereof the following.

<u>CODE, CH/SECTION</u>	<u>SUBJECT</u>	<u>FINE</u>
Art. I, §1-3, Ch. 170	Rental Registration	
	Any violation	\$100
	Rental Registration	
	Two documented violations by owner in a twelve-month period	\$300

SPONSOR: Councilor Jennifer Cullum

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing cont'd to 03/21/13</u>
<u>03/21/13</u>	<u>Public hearing, cont'd to 04/25/13</u>
<u>04/25/13</u>	<u>Public hearing, cont'd to 05/16/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-043

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13,
03/21/13, 04/25/13, 05/02/13, 05/16/13**

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum
DATE: November 6, 2102
SUBJECT: Amending the General Ordinances, Article 1, §1-3, Chapter 170, Rental Registration

BACKGROUND: Amending Chapter 170, Rental Registration, is relevant to the passage of 2013-034 - Chapter 170, Rental Properties. This amendment will conform to the maximum allowable fine of \$300 as referenced.

A. OLD BUSINESS (Public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-135
INTRO: 05/02/13, 05/16/13

2013-135 APPROPRIATION AND TRANSFER ORDER - \$14,000 FROM SANDY NECK ENTERPRISE FUND RESERVES TO REIMBURSE SANDY NECK ENTERPRISE ACCOUNT FOR STORM “NEMO” COSTS

ORDERED: That the sum of \$14,000 be appropriated for the purpose of funding reimbursement to the Sandy Neck Enterprise account for “Nemo” storm costs and to meet this appropriation that \$14,000 be transferred from the Sandy Neck Enterprise Fund reserves.

SPONSOR: Town Manager, Thomas K. Lynch

DATE	ACTION TAKEN
<u>05/02/13</u>	<u>Referred to 05/16 for public hearing</u>

- _____ Read Item
- _____ Motion to Open Public Hearing
- _____ Rationale
- _____ Public Hearing
- _____ Close public hearing
- _____ Council discussion
- _____ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-135
INTRO: 05/02/13, 05/16/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: April 22, 2013
SUBJECT: Appropriation Order of \$14,000 for reimbursement to the Sandy Neck Enterprise account for "Nemo" storm costs

BACKGROUND: The February storm named "Nemo" caused damage to Sandy Neck Beach as the winds were directly onshore during an astronomically high tide. Wave action destroyed much of the primary dune and both sets of stairs were lost to the sea. In addition, the bottom two sections of the handicapped ramp and the flag pole were destroyed. The Sandy Neck enterprise account has been absorbing the costs of repairing these structures so that public access to the beach would not be interrupted.

ANALYSIS: Due to these unforeseen storm costs, the FY13 Sandy Neck operating budget has been depleted. Reimbursement to the enterprise account is needed in order to have funding available for the anticipated costs of preparing the beach and facilities for the summer season.

FISCAL IMPACT: Funding for this request will be provided from the Sandy Neck Enterprise Fund reserves which has a current balance of \$645,858.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends the approval of the transfer of these funds.

STAFF ASSISTANCE: Nina Coleman, Sandy Neck Park Manager
Daniel J. Horn, MEA Director and Harbormaster
Mark Milne, Finance Director

B. NEW BUSINESS (Refer to public hearings on 06/06/13)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-138 – 2013-164

INTRO: 05/16/13

FY 2014 OPERATING BUDGET APPROPRIATION ORDERS

2013-138 APPROPRIATION OF \$11,601,168 FOR FY14 POLICE DEPT. OPERATING BUDGET

ORDERED: That the sum of **\$11,601,168** be appropriated for the purpose of funding the Town's FY 2014 Barnstable Police Department budget; and to meet such appropriation that **\$11,518,933** be raised from current year revenues and that **\$50,000** be transferred from the Embarkation Fee Special Revenue Fund, and that **\$32,235** be transferred from general fund reserves as presented to the Town Council by the Town Manager.

2013-139 APPROPRIATION OF \$57,255,360 FOR FY14 BARNSTABLE PUBLIC SCHOOLS OPERATING BUDGET

ORDERED: That the sum of **\$57,255,360** be raised and appropriated for the purpose of funding the Town's FY 2014 Barnstable Public Schools budget as presented to the Town Council by the Town Manager.

2013-140 APPROPRIATION OF \$8,114,348 FOR FY14 DEPARTMENT OF PUBLIC WORKS GENERAL FUND BUDGET

ORDERED: That the sum of **\$8,114,348** be appropriated for the purpose of funding the Town's FY 2014 Department of Public Works General Fund budget, and to meet such appropriation, that **\$8,050,874** be raised from current year revenue, **\$43,474** be transferred from the Embarkation Fee Special Revenue Fund and **\$20,000** be transferred from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager.

2013-141 APPROPRIATION OF \$2,696,341 FOR FY14 DEPARTMENT OF PUBLIC WORKS SOLID WASTE ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$2,696,341** be appropriated for the purpose of funding the Town's FY 2014 Department of Public Works Solid Waste Enterprise Fund budget, and to meet such appropriation that **\$2,267,972** be raised from current year revenues by the solid waste facility, and that **\$428,369** be transferred from the solid waste enterprise fund reserves, as presented to the Town Council by the Town Manager

2013-142 APPROPRIATION OF \$4,328,518 FOR FY14 DEPARTMENT OF PUBLIC WORKS WATER POLLUTION CONTROL ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$4,328,518** be appropriated for the purpose of funding the Town's FY 2014 Department of Public Works Water Pollution Control Enterprise Fund budget, and to meet such appropriation that **\$4,328,518** be raised from current year revenues by the water pollution control facility, as presented to the Town Council by the Town Manager

2013-143 APPROPRIATION OF \$3,662,420 FOR FY14 DEPARTMENT OF PUBLIC WORKS WATER SUPPLY ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$3,662,420** be appropriated for the purpose of funding the Town's FY 2014 Department of Public Works Water Supply Enterprise Fund budget, and to meet such appropriation that **\$3,662,420** be raised from current year revenues by the water supply operations, as presented to the Town Council by the Town Manager.

FY 14 BUDGET APPROPRIATIONS (Continued)

2013-144 APPROPRIATION OF \$968,435 FOR FY14 GROWTH MANAGEMENT DEPARTMENT GENERAL FUND BUDGET

ORDERED That the sum of **\$968,435** be raised and appropriated for the purpose of funding the Town's FY 2014 Growth Management Department budget as presented to the Town Council by the Town Manager:

2013-145 APPROPRIATION OF \$276,383 FOR FY14 TOWN COUNCIL DEPARTMENT BUDGET

ORDERED: That the sum of **\$276,383** be raised and appropriated for the purpose of funding the Town's FY 2014 Town Council budget as presented to the Town Council by the Town Manager.

2013-146 APPROPRIATION OF \$565,822 FOR FY14 TOWN MANAGER DEPARTMENT BUDGET

ORDERED: That the sum of **\$565,822** be raised and appropriated for the purpose of funding the Town's FY 2014 Town Manager budget as presented to the Town Council by the Town Manager.

2013-147 APPROPRIATION OF 1,630,979 FOR FY14 LIBRARY GRANT

ORDERED That the sum of **\$1,630,979** be raised and appropriated for the purpose of funding the Town's FY 2014 Library Grant as presented to the Town Council by the Town Manager.

2013-148 APPROPRIATION OF \$1,286,700 FOR FY 2014 COMMUNITY PRESERVATION FUND ADMINISTRATION EXPENSES AND FY 2014 PROGRAM SET-ASIDES

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2014, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: **\$378,900** for open space; **\$378,900** for historic resources; **\$378,900** for community housing; and that the sum of **\$150,000** be appropriated from the annual revenues of the Community Preservation Fund to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment, consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

2013-149 APPROPRIATION OF \$2,576,097 FOR FY 2014 COMMUNITY PRESERVATION FUND DEBT SERVICE

ORDERED: That the Town Council hereby appropriate **\$2,576,097** for the purpose of paying the FY 2014 Community Preservation Fund debt service requirements, and to meet such appropriation, that **\$2,466,403** be provided from current year revenues of the Community Preservation Fund and that **\$109,694** be provided from the reserve for the historic preservation program within the Community Preservation Fund.

2013-150 APPROPRIATION OF \$2,670,058 FOR THE FY14 COMMUNITY SERVICES DEPARTMENT GENERAL FUND BUDGET

ORDERED: That the sum of **\$2,670,058** be appropriated for the purpose of funding the Town's FY 2014 Community Services Department budget, and to meet such appropriation, that **\$2,356,382** be raised from current year revenue, that **\$291,075** be transferred from the Mooring Fee Special Revenue Fund, and that **\$22,601** be transferred from general fund reserves as presented to the Town Council by the Town Manager.

FY 14 BUDGET APPROPRIATIONS (Continued)

2013-151 APPROPRIATION OF \$2,921,692 FOR FY14 COMMUNITY SERVICES DEPARTMENT GOLF COURSE ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$2,921,692** be appropriated for the purpose of funding the Town's FY 2014 Golf Course Enterprise Fund budget; and to meet such appropriation that **\$2,886,692** be raised from current year revenues by the golf course facilities and that **\$35,000** be transferred from the golf course enterprise fund reserves, as presented to the Town Council by the Town Manager.

2013-152 APPROPRIATION OF \$2,767,973 FOR FY14 COMMUNITY SERVICES DEPARTMENT HYANNIS YOUTH AND COMMUNITY CENTER ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$2,767,973** be appropriated for the purpose of funding the Town's FY 2014 Hyannis Youth and Community Center Enterprise Fund budget; and to meet such appropriation that **\$1,160,550** be raised from current year revenues by the Hyannis Youth and Community Center operations, and that **\$216,000** be raised from the general fund, and that **\$1,391,423** be transferred from the Capital Trust Fund, presented to the Town Council by the Town Manager.

2013-153 APPROPRIATION OF \$680,231 FOR FY14 COMMUNITY SERVICES DEPARTMENT MARINA ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$680,231** be appropriated for the purpose of funding the Town's FY 2014 Marina Enterprise Fund budget; and to meet such appropriation that **\$593,000** be raised from current year revenues by the marina facilities, and that **\$63,231** be transferred from the Capital Trust Fund, and that **\$24,000** be transferred from the Bismore Park Special Revenue Fund as presented to the Town Council by the Town Manager.

2013-154 APPROPRIATION OF \$740,382 FOR FY14 COMMUNITY SERVICES DEPARTMENT SANDY NECK PARK ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$740,382** be appropriated for the purpose of funding the Town's FY 2014 Sandy Neck Park Enterprise Fund budget; and to meet such appropriation that **\$709,382** be raised from current year revenues by the Sandy Neck Park operations, and that **\$31,000** be transferred from the Sandy Neck enterprise fund reserve as presented to the Town Council by the Town Manager

2013-155 APPROPRIATION OF \$7,230,647 FOR FY14 BARNSTABLE MUNICIPAL AIRPORT ENTERPRISE FUND BUDGET

ORDERED: That the sum **\$7,230,647** of be appropriated for the purpose of funding the Town's FY 2014 Airport Enterprise Fund budget, and to meet such appropriation that **\$7,230,647** be raised from current year revenues by the airport as presented to the Town Council by the Town Manager.

2013-156 APPROPRIATION OF \$2,643,229 FOR FY14 REGULATORY SERVICES DEPARTMENT BUDGET

ORDERED: That the sum of **\$2,643,229** be appropriated for the purpose of funding the Town's FY 2014 Regulatory Services Department budget, and to meet such appropriation, that **\$2,545,862** be raised from current year revenue, and that **\$42,840** be transferred from the Wetlands Protection Special Revenue Fund, and that **\$54,527** be transferred from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager.

2013-157 APPROPRIATION OF \$5,389,290 FOR FY14 ADMINISTRATIVE SERVICES DEPARTMENT BUDGET

ORDERED: That the sum of **\$5,389,290** be raised and appropriated for the purpose of funding the Town's FY 2014 Administrative Services Department budget as presented to the Town Council by the Town Manager

FY 14 BUDGET APPROPRIATIONS (Continued)

2013-158 APPROPRIATION OF \$8,778,309 FOR FY14 GENERAL FUND DEBT SERVICE BUDGET

ORDERED: That the sum of **\$8,778,309** be appropriated for the purpose of funding the Town's FY 2014 General Fund Debt Service budget, and to meet such appropriation, that **\$8,640,882** be raised from current year revenue, and that **\$64,573** be transferred from the Embarkation Fee Special Revenue Fund, and that **\$72,854** be transferred from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager.

2013-159 APPROPRIATION OF \$21,141,235 FOR THE FY14 EMPLOYEE BENEFITS & INSURANCE BUDGETS

ORDERED: That the sum of **\$21,141,235** be appropriated for the purpose of funding the Town's FY 2014 Employee Benefits & Insurance budgets, and to meet such appropriation, that **\$19,756,235** be raised from current year revenue, that **\$300,000** be transferred from the Pension Reserve Trust Fund, and that **\$1,085,000** be transferred from the general fund reserves, as presented to the Town Council by the Town Manager.

2013-160 APPROPRIATION OF \$121,875 AND \$51,924 FOR THE FY14 TOURISM GRANT AND LOMBARD LAND LEASE BUDGETS

ORDERED: That the sums of **\$121,875 and \$51,924** be raised and appropriated for the purpose of funding the Town's FY 2014 Tourism Grant and Lombard Land Lease budgets; respectively, as presented to the Town Council by the Town Manager.

2013-161 APPROPRIATION OF \$3,413,750 FOR THE FY14 ASSESSMENTS AND OTHER COSTS BUDGETS

ORDERED: That the sum of **\$3,413,750** be raised for the purpose of funding the Town's FY 2014 Assessments and Other Costs budgets, and to meet such appropriation, that **\$3,388,750** be raised from current year revenue, and that **\$25,000** be transferred from the general fund reserves, as presented to the Town Council by the Town Manager

2013-162 APPROPRIATION OF \$3,827,151 FOR THE FY14 TRANSFERS BUDGET

ORDERED: That the sum of **\$3,827,151** be raised and appropriated for the purpose of funding the Town's FY 2014 Transfers budget, as presented to the Town Council by the Town Manager

1) And that the following sums be transferred from the Town's enterprise accounts for the purpose of reimbursing administrative, employee benefit and insurance costs budgeted within the General Fund:

Water Pollution	\$390,022
Solid Waste	\$266,371
Water.....	\$106,855
Airport.....	\$613,939
Golf Course.....	\$250,000
Marinas	\$56,959
Sandy Neck.....	\$72,257

2) And further, that the sum of **\$1,472,000** be transferred from General Fund reserves all for the purpose of funding the Town's FY 2014 General Fund budget as presented to the Town Council by the Town Manager.

FY 14 BUDGET APPROPRIATIONS (Continued)

2013-163 REVOLVING FUNDS AUTHORIZATION ORDER OF \$1,320,000

ORDERED: Pursuant to Chapter II, Article XVIII-A, Section 3 of the General Ordinances, the Town Council hereby authorizes the following revolving funds for FY 2014:

Fund	Revenue Source	Dept Officer Auth. To Expend Funds	Use of Fund	Total Expenditure Limit FY
Classroom Education Fund	Program registration fees	Senior Services Director	Salaries, benefits, expenses, contract services to operate program	\$35,000
Adult Social Day Fund	Program registration fees	Senior Services Director	Salaries, benefits, expenses, contract services to operate program	\$175,000
Recreation Program Fund	Program registration fees	Recreation Director	Salaries, benefits, expenses, contract services to operate program	\$400,000
Shellfish Propagation Fund	Fees from permits	Natural Resources Director	Salaries, benefits, expenses, contract services, shellfish equipment to operate program	\$115,000
Building Inspections Fund	Fees from permits for municipal & private projects	Building Commissioner	Salaries, benefits, expenses, contract services to operate program	\$150,000
Consumer Protection Fund	Fees from weights & measures services,	Director Regulatory Services Dept.	Salaries, benefits, expenses, contract services to operate program	\$375,000
Geographic Information Systems Fund	Fees for GIS maps & reports	Information Systems Director	Salaries, benefits, expenses, contract services to operate program	\$20,000
Arts and Culture Program Fund	Shanty revenue, and gifts or contributions for arts and culture	Growth Management Director	Expenses related to arts and culture program	\$50,000
Total				\$1,320,000

2013-164 AUTHORIZING EXPENDITURE OF COMCAST LICENSING FEES FOR THE FUNDING OF THE PUBLIC, EDUCATION AND GOVERNMENT (PEG) ACCESS CHANNELS

RESOLVED: That the Town Council hereby authorizes the Town Manager to expend funds for the FY 2014 operation of Public, Education and Government access channels from licensing fees provided in the cable licensing agreement with Comcast, as signed by the Town Manager on July 8, 2008.

SPONSOR: Thomas K. Lynch, Town Manager

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-165
INTRO: 05/16/13**

2013-165 AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO LEASE A PARCEL OF LAND IN THE TOWN OF BARNSTABLE FOR USE AS A FOR-PROFIT MUSEUM

RESOLVED that the Town Manager is authorized to submit a petition to the Great and General Court of the Commonwealth for a Special Act to authorize the town of Barnstable to lease a parcel of land in the town of Barnstable for use as a for-profit museum.

“AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO LEASE A PARCEL OF LAND IN THE TOWN OF BARNSTABLE FOR USE AS A FOR-PROFIT MUSEUM

Be it enacted by the Senate and House of Representatives in General Court assembled, and by authority of the same, as follows.

Section 1. Notwithstanding the provisions of chapter 265 of the acts of two thousand and six and any other general or special law to the contrary, the town of Barnstable is hereby authorized to lease a certain parcel of land in the town of Barnstable, known as the Hyannis armory, located at 225 South Street, Hyannis, MA, together with buildings and structures thereon, for use as a for-profit museum.

Section 2: This act shall take effect upon its passage."

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-165
INTRO: 05/16/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: May 16, 2013
SUBJECT: Special legislation to authorize the town to lease the Hyannis armory for use as a for-profit museum

BACKGROUND: On December 3, 2012, in accordance with the provisions of Massachusetts General Laws Chapter 30B, Section 16, a Request for Proposal (RFP) for the disposition of the Armory Building (map/parcel 326/004) through a lease was issued and advertised with two proposals received. The proposal submittal in response to the RFP received through Attorney David Lawler on behalf of Charles F. Doe, Jr., Barry Clifford, and Robert Carlton, forming a Massachusetts Limited Liability Company for a multi year lease to operate an archaeological exhibit and education center called "Real Pirates" was deemed responsive to the requirements of the RFP. The other two page proposal submitted by ACDC, Inc. was rejected as being non-responsive to the RFP.

In accordance with the Town's RFP evaluation process for the disposition of real property, an evaluation committee was appointed by the Town Manager and the Chief Procurement Officer. The committee was tasked by the Town Manager to evaluate the proposal based on the requirements of the RFP including the evaluation criteria established and make a recommendation to him as to the merits of the proposal and the acceptance thereof.

The evaluation committee and staff met on several occasions, and interviewed the respondents. On April 17, 2013, the committee members in attendance unanimously recommended acceptance of the proposal by the Respondents to the Town Manager. By letter dated April 18, 2013, the Town Manger accepted the proposal subject to the negotiation of a satisfactory lease and lease approval by the Town Council.

RATIONALE: Chapter 265 of the Acts of 2006 authorized the Commissioner of Capital Asset Management and Maintenance to convey the Hyannis armory back to the Town. One of the conditions of the conveyance was that the parcel "...not be used for other than municipal purposes." The proposed special legislation permits the Town to lease the parcel for use as a for-profit museum.

FISCAL IMPACT: The lease agreement will contain an annual sum to be paid to the Town of Barnstable for the lease of the building and grounds.

B. NEW BUSINESS (Refer to public hearing 07/11/13)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-166
INTRO: 05/16/13**

**2013-166 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES- INSERTING
CHAPTER 224 VACANT OR FORECLOSING PROPERTIES**

ORDERED: That Part I, General Ordinances of the Code of the Town of Barnstable be amended by inserting the following chapter 224.

“CHAPTER 224

Vacant or Foreclosing Properties

§ 224-1. Purpose.

Unsecured and unmaintained vacant properties and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods and, as such, constitute a public nuisance. This Ordinance is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

§ 224-2. Definitions.

The following words and phrases, when used in this Ordinance, shall have the following meanings:

FIRE CHIEF

The Fire Chief of the Fire District in which any property subject to this Ordinance is located, or his or her designee

FORECLOSING

The process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

INITIATION OF THE FORECLOSURE PROCESS

Taking any of the following actions:

- A. Taking possession of a residential property pursuant to MGL c. 244, § 1.
- B. Commencing a foreclosure action on a property in any court of competent jurisdiction, including without limitation filing a complaint in Land Court under the Service Members Civil Relief Act, Public Law 108-189 (50 U.S.C.S. App. § 501-536).
- C. In any instance, where the mortgage authorizes mortgagee entry to make repairs upon mortgagor's failure to do so.

MAINTENANCE

Keeping property in good sanitary condition and repair, including without limitation removal of snow from adjacent sidewalks.

MORTGAGEE

The creditor, including, but not limited to, service companies, agents, lenders in a mortgage agreement, and any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

OWNER

Every person, entity, service company, property manager or real estate broker, who or which, alone or severally with others:

- A. Has legal title to any real property, including but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- B. Has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park, or any administrator, administratrix, executor, trustee or guardian of the estate of the holder of legal title; or
- C. Is a mortgagee of any such property who has initiated the foreclosure process as defined in this Ordinance; or
- D. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- E. Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to MGL c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
- F. Every person who operates a rooming house; or
- G. Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

PROPERTY

Any real residential property, or portion thereof, located in the Town, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the Town, the Commonwealth or the United States of America.

VACANT

Any property not currently legally occupied and not properly maintained and secured but not including any property unoccupied on a seasonal basis only and properly secured while so unoccupied.

§ 224-3. Registration of vacant and/or foreclosed residential properties; maintenance requirements.

- A. Any owner of a vacant and/or foreclosing property shall, unless exempt from such actions by Massachusetts General Laws, within 30 days of the property becoming vacant or within 15 days of the initiation of the foreclosure process:
 - (1) Provide written notification to the (Designated Administrator) and the Fire Chief of the status of such property, including in such notice the name, address and telephone number of the owner or person in control of the property; the location of the property; the length of time the building has been vacant (where applicable); the estimated time the building will remain vacant (where applicable); and the nature of the contents of the building; and
 - (2) As may be required by the Fire Chief, file one set of space utilization floor plans for any buildings on said property with the Fire Chief and one set of said plans with the (Designated Administrator). The owner shall certify space utilization plans as accurate twice annually, in January and July; and

2013-166 (Continued)

- (3) Remove from the property, to the satisfaction of the Fire Chief, hazardous material as that term is defined in MGL c. 21K, as that statute may be amended from time to time; and
 - (4) At the discretion of the (Designated Administrator), secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board-up Procedures or provide twenty-four-hour on-site security personnel on the property. When a vacant or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four-hour on-site security shall be provided within the building or within the complex wherein the building is located; and
 - (5) Where a property is vacant, post "No Trespassing" signs on the property; and
 - (6) Maintain the property in accordance with this Ordinance, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and
 - (7) If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; and
 - (8) Maintain the property in accordance with the Massachusetts State Sanitary Code, the Massachusetts State Building Code and all specialized codes incorporated therein, and any Barnstable Ordinances concerning the maintenance of property and the Barnstable Zoning Ordinances; and
 - (9) Provide the Fire Chief and (Designated Administrator) with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the Fire Chief or (Designated Administrator); and
 - (10) Maintain liability insurance on the property and furnish the Director with a copy of said certificate of insurance; and
 - (11) Provide a cash bond acceptable to the (Designated Administrator), in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the City as an administrative fee to fund an account for expenses incurred in inspecting, securing, and marking said building and other such buildings that are not in compliance with this Ordinance. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City; and
 - (12) Notify the (Designated Administrator) in writing when the property is sold or transferred.
- B. Upon satisfactory compliance with the above provisions, the (Designated Administrator) shall issue a certificate of compliance with Chapter **224**. Said certificate shall be valid for the length of the vacancy or initiation of foreclosure, foreclosure, and vacancy following foreclosure; provided, however, the certificate shall be subject to continued compliance with the provisions of this Ordinance.

§ 224-4. Signs and markings.

When required pursuant to this Ordinance, signs or markings shall be applied on the front of the property, and elsewhere as the Fire Chief or (Designated Administrator) may require, and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the Fire Chief or (Designated Administrator), shall be placed on the sides and rear of the property. Signs/Markings shall be a minimum of 24 inches by 24 inches, with lines of two-inch width, and shall have a reflective background, or be painted with reflective paint in contrasting colors. Signs/Markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the Fire Chief and (Designated Administrator).

§ 224-5. Properties without certificate of compliance.

The (Designated Administrator), upon being informed of the existence of a vacant or foreclosing property without a certificate of compliance with this Ordinance, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of compliance. If any person fails to comply with said order, the (Designated Administrator) and agents thereof may commence proceedings to enforce the provisions of this Ordinance and in addition may enter the premises to inspect, secure and clean the premises, remove any pools of stagnant water, and seek court orders for the taking of such actions.

§ 224-6. Expenses.

The owner of a vacant or foreclosing property who fails to obtain a certificate of compliance as required herein, shall be liable to the City for expenses incurred by the City in securing such property, for removing rubbish and overgrowth and/or for abating stagnant pools of water. The (Designated Administrator) shall provide the owner with a written statement of all costs associated with inspecting, securing, and marking the property, and removing rubbish or overgrowth, or abating stagnant pools of water. If the owner fails to pay or reimburse the City within seven days of notice of expenses, the City shall draw down upon the bond paid by the owner as required in § 224-3(A)(11). If there is no bond available, the (Designated Administrator) shall record the notice of claim in the Barnstable County Registry of Deeds (or the Land Court Department) forthwith, and shall have the right to file a civil action to establish a lien on the property for the balance due.

§ 224-7. Duty to maintain property.

- A. No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the (Designated Administrator) shall send written notification to the owner, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.
- B. If the owner fails to comply with any notice issued pursuant to this provision, the (Designated Administrator) may immediately seek to obtain the proceeds secured by the bond filed pursuant to § 224-3(A)(11) and shall enter upon the premises and cause the property to be inspected, and further may seek court orders to enter upon the premises to secure, clean, and remove any pools of stagnant water.

§ 224-8. Nuisance referral.

All unsecured vacant or foreclosing properties shall be immediately referred to the (Designated Administrator) for a determination relative to whether the property is a nuisance or dangerous pursuant to MGL c. 139 and procedures promulgated thereunder.

§ 224-9. Notice.

Notices required pursuant to this Ordinance shall be served in the following manner:

- A. Personally on any owner as defined in this Ordinance or on the contact person specified pursuant to § 224-3A(9); or
- B. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to § 224-3A(9), if such place of abode is known and is within or without the commonwealth; or
- C. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to § 224-3A(9).

§ 224-10. Enforcement; violations and penalties.

- A. Failure to comply with any provision of this Ordinance shall be punished by a fine of \$300 pursuant to MGL c. 40, § 21D, with each day of violation constituting a separate offense.
- B. This Ordinance may also be enforced by civil, criminal process or noncriminal process, including injunctive relief. The (Designated Administrator) shall be enforcing persons for purposes of this section.
- C. In addition to any penalties or enforcement action(s) hereunder, after final determination of three (3) or more violations within a twelve-month period an enforcing authority may notify a violator in writing that the enforcing authority may elect to bill the violator for the costs incurred by the Town for response to each subsequent violation not abated or ordered without abatement as provided herein. Such bill(s) shall be due and payable in full by the violator within thirty (30) days of submission and if unpaid thereafter shall be subject to a municipal charges lien as provided in G. L. c. 40 § 58.

§ 224-11. Term.

This Ordinance shall be in effect until _____ and shall be void and of no effect thereafter unless extended by Ordinance enacted and effective on or before said date. “

SPONSORS: Councilors Ann Canedy and Councilor Jen Cullum

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-166
INTRO: 05/16/13

SUMMARY

DATE: May 10, 2013
TO: Town Council
FROM: Town Councilor Ann Canedy and Town Councilor Jen Cullum
SUBJECT: Vacant or foreclosed property ordinance

RATIONALE: The purpose of this proposed Ordinance is to enable appropriate staff to identify and enforce basic safety and health regulations on specific identifiable nuisance properties in the Town of Barnstable. Unsecured and unmaintained vacant and abandoned properties and/or some properties in the process of foreclosure or, which may or may not be “bank owned” present a danger to the safety and public welfare. These properties, which unfortunately exist throughout the town, negatively affect property values and integrity of entire neighborhoods. These properties are those wherein an owner or occupant has left the premises and the property is subject to the elements without continued maintenance, security or upkeep.

It is the intent of this ordinance in the case of “foreclosing” properties, to place the responsibility of maintenance and upkeep on the foreclosing bank and not on the “owner” of record, regardless of occupancy.

FISCAL IMPACT: None anticipated

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-167
INTRO: 05/16/13**

2013-167 AN ACT AUTHORIZING THE WEST BARNSTABLE FIRE DISTRICT TO FUND LIBRARY SERVICES FOR THE WHELDEN MEMORIAL LIBRARY

RESOLVED, that the Town Council approves the request of the West Barnstable Fire District under Article 17 of the April 24, 2013 Annual Meeting Warrant to petition for enactment of a special law substantially as follows.

“An act relative to the West Barnstable Fire District.

SECTION 1. Chapter 107 of the Acts of 1949 is hereby amended by adding the following section:

SECTION 7. The West Barnstable Fire District is authorized to raise, appropriate and transfer funds to the Whelden Memorial Library, or any successor library within the Fire District, to provide for library services.

SECTION 2. This act shall take effect upon its acceptance by a majority vote of the Fire District at an Annual Fire District Meeting.”

SPONSOR(S): Town Councilor June Daley at the request of West Barnstable Fire District

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council discussion
- _____ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-167
INTRO: 05/16/13

SUMMARY

TO: Town Council
FROM: Councilor June Daley
DATE: May 13, 2013
SUBJECT: Special Legislation resolve for the West Barnstable Fire District

BACKGROUND: During the West Barnstable Fire District's, Annual District Meeting held in April of 2013 the fire district's residents took a unanimous vote to approve article 17. That action began the process to seek the state legislature's approval to change the district's original incorporation legislation. The voters now want to expand the district's authority to include spending for library purposes. The intent of the legislation is to allow the annual district meeting to annually vote to appropriate district funds to support the annual efforts of the Whelden Memorial Library. This is a practice that the Cotuit Fire District has employed in that village for many decades.

The next step in the process is a vote by the Barnstable Town Council. Under § 220-9 of the Town's Code, any bill filed by any of the five fire district must be first approved by the Town Council.

Upon approval by the Town Council, the resolve will then be forwarded to Representative Randy Hunt. He will then be asked to petition the Commonwealth by members of the Prudential Committee and others with regard to amending the Fire District Enabling Act to allow funding of library services.