



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



MEETING AGENDA TOWN HALL HEARING ROOM

October 16, 2014

7:00 PM

Councillors:

Jessica Rapp Grassetti
President
Precinct 7

Ann B. Canedy
Vice President
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Frederick Chirigotis
Precinct 4

James H. Crocker
Precinct 5

William Crocker, Jr.
Precinct 6

Debra S. Dagwan
Precinct 8

James M. Tinsley
Precinct 9

Sara Cushing
Precinct 10

Philip N. Wallace
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

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. ACT ON MINUTES (Including Executive Session)

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

- **Council on Aging - Paul Curley, Chair**
- **Disability Commission - Sheila Mulcahy, Chair**
- **Department of Public Works Capital Project update**
Daniel Santos, P.E., DPW Director

8. ORDERS OF THE DAY

A. Old Business

B. New Business

9. TOWN MANAGER COMMUNICATIONS

10. ADJOURNMENT

NEXT REGULAR MEETING: November 6, 2014

A. OLD BUSINESS

2014-091	Appropriation and loan order - \$1,205,000 Airport Enterprise Fund Capital Improvement Plan for funding the Design and Construction of the Airport Fixed Base Operations Building (Public Hearing) (Roll Call)	3
2015-005	Approval of the change in care, custody, management control and purpose of two parcels of land, namely a ± 16.3 acre portion of tract 1 of the West Barnstable Conservation are shown on Assessors Map 86 as parcel 1, recorded in Barnstable County Registry of Deeds book 2846, page 129 and a ± 17 acre parcel shown on Assessors Map 314 as parcel 027001, recorded in Barnstable County Registry of Deeds book 5077, page 300 (May be acted upon)	4
2015-006	Petitioning the General Court of the Commonwealth to enact Special Legislation approving the change in care custody, management control and purpose of two parcels of land, namely a ± 16.3 acre portion of tract 1 of the West Barnstable Conservation as shown on Assessors Map 86 as parcel 1 and a ± 17 acre parcel shown on Assessors Map 314 as parcel 027001, recorded in Barnstable County Registry of Deeds book 5077, page 300 (May be acted upon)	5-7
2015-023	Appropriation and Transfer Order of \$555,000 to repair cafeteria walls at Barnstable High School (Public hearing)(Roll call, 2/3 vote)	8-9
2015-026	Amending the Administrative Code, Chapter 241, §241-30 Public Works Commission to expand the membership to include an associate member position (Second Reading) (May be acted upon)	10-11

B. NEW BUSINESS

2015-027	Town Council Rule5E change re: Agenda Order of Business (First Reading)	12
2015-028	Acceptance of a \$6,000 grant from Elder Services of Cape Cod and the Islands to the Barnstable Senior Services Division for transportation services for the elderly (May be acted upon)	13-14
2015-029	Acceptance of a gift in the amount of \$15,500 from the Friends of the Barnstable Council on Aging to the Barnstable Senior Services Division to support staff salaries and programs (May be acted upon)	15-16
2015-030	Appropriation Order \$211,544 be appropriated from available funds in the General Fund for the purpose of acquiring and implementing e permitting software. (Refer to Public hearing 11/06/14) ...	17-19
2015-031	Appropriation Order \$25,000 be appropriated from available funds in the General Fund for the purpose of conducting an initial environmental assessment at the shooting range (Refer to Public hearing 11/06/14)	20-21
2015-032	Amend the General Ordinance by adding a new Chapter 78 on fertilizer (Refer to Public hearing 11/06/14)	22-31
2015-033	Letter of Support for the YMCA “Cape Cod Y Achievers Program” (May be acted upon)	32
2015-034	Resolve regarding the expansion of the NSTAR substation Communication Way, Barnstable to Accommodate Cape Wind Oil-filled Equipment (May be acted upon)	33

Approve Minutes – October 2, 2014

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 (Public hearing) (Roll call)

BARNSTABLE TOWN COUNCIL

ITEM# 2014-091

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14, 05/15/14, 08/07/14, 10/16/14

2014-091 APPROPRIATION AND LOAN ORDER \$1,205,000 TO FUND DESIGN AND CONSTRUCTION OF AIRPORT FIXED BASE OPERATIONS BUILDING

ORDERED: That the sum of \$1,205,000 be appropriated for the purpose of funding the Design and Construction of the Airport Fixed Base Operations Building as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,205,000, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>
<u>05/01/14</u>	<u>Public hearing opened and continued to 05/15/14</u>
<u>05/15/14</u>	<u>Public hearing opened and continued to 08/07/14</u>
<u>08/07/14</u>	<u>Public hearing opened and continued to 10/16/14</u>

- Read item
- Motion to open public hearing
- Rationale
- Public hearing
- Close public hearing
- Council discussion
- Move/vote

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-005

INTRO: 08/07/14, 09/18/14, 10/16/14

2015-005 APPROVAL OF THE CHANGE IN CARE, CUSTODY, MANAGEMENT CONTROL AND PURPOSE OF TWO PARCELS OF LAND, NAMELY A ±16.3 ACRE PORTION OF TRACT I OF THE WEST BARNSTABLE CONSERVATION AREA SHOWN ON ASSESSORS MAP 86 AS PARCEL 1 AND A ±17 ACRE PARCEL SHOWN ON ASSESSORS MAP 314 AS PARCEL 027001

ORDERED: SECTION 1: That, having received notice that the conservation commission determined that the following parcel of land is no longer needed for the purposes set forth in section 8C of chapter 40 of the General Laws of Massachusetts, the care, custody, management and control of said parcel be transferred to the Town Manager to be held for general municipal purposes, namely a 16.3 acre, more or less, portion of Tract I of the West Barnstable Conservation Area having a street address of 875 Service Road shown on Assessors Map 86 as Parcel 1 taken by eminent domain pursuant to chapter 79 for purposes of said section 8C by order dated December 21, 1978 and recorded in the Barnstable County Registry of Deeds Book 2846, Page 129, which said 16.3 acres are further described on plan entitled “Plan of Land in Barnstable (West Barnstable) MA Prepared for the town of Barnstable Prepared By: the Town of Barnstable - D. P. W. Survey Division Date: July 28, 2014 Scale: 1” = 80””on file with the Town Clerk; and

SECTION 2: That, having received notice that the Town Manager determined that the following parcel of land containing 17 acres, more or less, is no longer needed for general municipal purposes, the care, custody, management and control of said parcel be transferred to the conservation commission to be held for the purposes set forth in section 8C of chapter 40 of the General Laws of Massachusetts, namely the land having a street address of 145 Breed’s Hill Road shown on Assessors Map 314 as Parcel 027001 acquired by deed dated May 15, 1986 and recorded in said Registry in Book 5077 Page 300; and

SECTION 3: That the aforesaid transfers take effect upon recording of an instrument or instruments by the Town Manager in the Barnstable County Registry of Deeds following the effective date of legislation enacted by the General Court approving the transfer under section 1 of this order.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>08/07/14</u>	<u>Continued to 9/18/14</u>
<u>09/18/14</u>	<u>Continued to 10/16/14</u>

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

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-006

INTRO: 08/07/14, 09/18/14, 10/16/14

2015-006 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION APPROVING THE CHANGE IN CARE, CUSTODY, MANAGEMENT CONTROL AND PURPOSE OF TWO PARCELS OF LAND, NAMELY A ±16.3 ACRE PORTION OF TRACT I OF THE WEST BARNSTABLE CONSERVATION AREA SHOWN ON ASSESSORS MAP 86 AS PARCEL 1 AND A ±17 ACRE PARCEL SHOWN ON ASSESSORS MAP 314 AS PARCEL 027001

ORDERED: That the Town Manager submits a petition to the General Court of the Commonwealth for a special act approving the change in care, custody, management, control and purpose of two parcels of land in the Town as follows.

“AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO TRANSFER TWO PARCELS OF LAND.

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

SECTION 1: The conservation commission of the town of Barnstable shall transfer the care, custody, management and control to the Town Manager for general municipal purposes of a certain 16.3 acre portion, more or less, of a larger parcel of land identified on assessors' map 5 as parcel 4, which was acquired by the town and held by the conservation commission for conservation purposes pursuant to section eight “C” of chapter forty of the General Laws and has been declared by the conservation commission to no longer be appropriate to be held by the conservation commission for such purposes. Upon the transfer as provided in Section 3 the Town of Barnstable shall be authorized to use the 16.3 acres, more or less, for general municipal purposes. The 16.3 acres more or less declared surplus in order to be transferred as provided in this section 1 are also shown on a plan entitled “Plan of Land in Barnstable (West Barnstable) MA Prepared for the town of Barnstable Prepared By: the Town of Barnstable -D. P. W. Survey Division Date: July 28, 2014 Scale: 1” = 80”” on file in the office of the town clerk.

SECTION 2: To ensure a no net loss of lands protected for conservation purposes under section 1, the Town Manager of the town of Barnstable shall transfer the care, custody, management and control to the conservation commission for conservation purposes pursuant to section eight “C” of chapter forty of the General Laws of a certain 17 acre, more or less, parcel of land identified on assessors' map 314 as parcel 027001, which was acquired by the town and held for general municipal purposes and has been declared by the Town Manager to no longer be appropriate to be held by the Town Manager for such purposes. The parcel contains wetland, upland and other significant natural features as well as potential for passive recreational use and is bounded on the Southeast by public water supply land. Upon the transfer as provided in Section 3 the parcel described herein shall be preserved as conservation land in accordance with said section eight “C”. The 17 acres more or less declared surplus in order to be transferred as provided in this

section 2 are further described as Lot 1 on plan of land recorded in the Barnstable County Registry of Deeds in Plan Book 417, Page 18 and was acquired by the Town by deed dated May 15, 1986 and recorded in said Registry in Book 5077 Page 300.

SECTION 3: The Town Manager may execute and record any instruments necessary on behalf of the Town to effectuate the transfers under sections 1 and 2 following passage of this act.

SECTION 4: This act shall take effect upon its passage.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>08/07/14</u>	<u>Continued to 9/18/14</u>
<u>09/18/14</u>	<u>Continued to 10/16/14</u>

Read Item
 Rationale
 Council discussion
 Move/vote

BARNSTABLE TOWN COUNCIL

ITEM # 2015-006
INTRO: 08/07/14, 10/16/14

SUMMARY

TO: Town Council
FROM: Thomas K Lynch, Town Manager
THROUGH: Mark S. Eells, Assistant Town Manager
DATE: August 4, 2014
SUBJECT: Approval of the change in care, custody, management control and purpose of two parcels of land, namely a ±16.3 acre portion of Tract I of the West Barnstable Conservation area shown on assessors map 86 as parcel 1 and a ±17 acre municipal parcel shown on assessors map 314 as parcel 027001

BACKGROUND: On December 11, 2012 the West Barnstable Shooting Range was closed following notification from the Town's insurance carrier that the Town no longer had coverage under its existing policy. The Town commenced a multifaceted process involving the Massachusetts Department of Conservation Services (DCS), Barnstable Conservation Commission, Town staff and Town Council examining all aspects of reopening the shooting range. One issue that arose following a letter from DCS to Barnstable Conservation Commission on September 23, 2013 involved removing the range from 8C jurisdiction. Subsequent meetings between DCS, Barnstable Con Comm. Town staff and Town Councilors resulted in the Town proceeding with said removal.

ANALYSIS: It was recommended that the Town proceed with the process of removing the shooting range parcel (±16.3 acres) from 8C jurisdiction. The Conservation Commission voted to remove the shooting range from 8C on June 24, 2014. The Town Manager offers the 17 acre municipal parcel for placement under 8C in exchange (provided the use of the Breeds Hill parcel for the "swap" does require DCS review and approval). A two-thirds vote of the Town Council and both branches of the State Legislature are needed to remove the range parcel from 8C purposes. The Town Council would also need a 2/3 vote to change the purpose of the 17 acre parcel Breed's Hill parcel from general municipal purposes to §8C purposes.

FISCAL IMPACT: The fiscal impacts of this action are minimal and limited to associated administrative costs.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends that the Town Council approve the action proposed by this order.

STAFF ASSISTANCE: Ruth Weil, Town Attorney

A. OLD BUSINESS (Public Hearing) (Roll call 2/3 vote)

BARNSTABLE TOWN COUNCIL

**ITEM NO# 2015-023
INTRO: 10/02/14, 10/16/14**

**2015-023 APPROPRIATION AND TRANSFER ORDER \$555,000 FOR THE PURPOSE OF
MAKING REPAIRS TO THE BARNSTABLE HIGH SCHOOL CAFETERIA
WALLS**

ORDERED: That the sum of \$555,000 be appropriated for the purpose of making repairs to the Barnstable High School cafeteria walls; and to meet this appropriation, that the sum of \$423,000 be transferred from Council Order 2013-106 from the balance remaining in the amount originally appropriated for the new air conditioning units at the Barnstable High School, and, that the sum of \$132,000 be appropriated from available funds within the Capital Trust Fund and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for this purpose.

SPONSOR: Thomas K. Lynch, Town Manager

DATE ACTION TAKEN

10/2/14 Continue Public Hearing to 10/16/14

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

BARNSTABLE TOWN COUNCIL

ITEM #2015-023
INTRO: 10/02/14, 10/16/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: September 23, 2014
SUBJECT: Appropriation and Transfer Order of \$555,000 for immediate repairs to the Barnstable High School Cafeteria Walls

BACKGROUND: BHS café' was original built in 1974 and renovated in 1997 (New PVC Roof installed) however, the original windows and masonry walls remained. On July 15, 2014 it was observed that the exterior insulation at the soffit above the rear exit door had detached from the framing and appeared to be taking on water. On August 19, 2014 we returned with our on-call engineering firm (CBI) to perform test cuts and existing conditions study.

ANALYSIS: It was determined that due to the fact that there was no sill flashing installed at the base of windows/top of wall, water had been infiltrating the wall sections over many years. Additionally the EFIS/Masonry wall were designed without any drainage channels or flashing making the exterior wall a barrier and not allowing water a route for drainage. The wall insulation, framing and exterior façade are water damaged and require full and total replacement. Additional repairs and replacement will be required on the roof flashing and windows respectively.

FISCAL IMPACT: Council Order 2013-106 included an appropriation of \$450,000 for new air-conditioning units at the Barnstable High School for the library area. During the engineering and evaluation of existing conditions for this project it was discovered that ductwork and the window/store front insulation was inadequate for the existing space and the replacement of just the air conditioning units was not adequate. As a result this project is being postponed and redesigned. \$423,000 from this appropriation remains and will be redirected to the BHS cafeteria wall repairs. The remaining funds needed to complete the repairs; \$132,000, will be provided from the Capital Trust Fund which has an available balance of \$11.8 million.

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

A. OLD BUSINESS (Second reading) (May be acted upon)

**SUBSTITUTE TEXT DATE 10/02/14
BARNSTABLE TOWN COUNCIL**

**ITEM # 2015-026
INTRO: 10/02/14, 10/16/14**

**2015-026 AMENDING THE ADMINISTRATIVE CODE, CHAPTER 241, ARTICLE III,
MULTIPLE-MEMBER APPOINTIVE ORGANIZATIONS, §241-30, PUBLIC WORKS
COMMISSION**

ORDERED: That §241-30 of Chapter 241, Administrative Code, Article III, Multiple-Member Appointive Organization be amended by striking § 241-30A in its entirety and substituting in its place the following:

“§ 241-30. Public Works Commission

A. Term of office. There shall be a Public Works Commission consisting of five regular members and one alternate member. The alternate shall have voting rights at meetings only in the absence of a regular member.”

So, §241-30 as amended will read as follows:

“241-30. Public Works Commission

Chapter 241. ADMINISTRATIVE CODE Article III. Multiple-Member Appointive Organization

§ 241-30. Public Works Commission

A. Term of office. There shall be a Public Works Commission consisting of five regular members and one alternate member. The alternate shall have voting rights at meetings only in the absence of a regular member.

B. Authorities and responsibilities. The Public Works Commission is responsible for providing the Town Manager and the Superintendent of Public Works with recommendations concerning the development of rules and regulations for the maintenance and sanitary operation of the solid waste disposal area, water pollution control facilities, public highways, bridges, sidewalks, parking lots, parks, bulkheads, docks, Town landings, beaches playgrounds, recreation and conservation areas, cemeteries, Town forests, and public buildings, excluding schools. The Public Works Commission is an advisory committee of the Town.

C. Interrelationships

(1) Town Council: The Public Works Commission interacts with the Town Council to advise the Council on those policies and legislative matters concerning public works activities within the Town. The Commission interacts primarily with the Council Committee on Planning and Development for this purpose.

(2) Town Manager: The Public Works Commission provides the Manager with recommendations on those areas noted, in order to provide oversight to the Department of Public Works. Administrative support to the Commission shall be primarily through the department staff.

(3) Other boards: The Public Works Commission interacts, as necessary, with any body requiring or requesting assistance in matters of public works activities in the Town.”

DATE
10/2/14

ACTION TAKEN
Second reading 10/16/14

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

SPONSOR: Appointments Committee

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

**ITEM # 2015-027
INTRO: 10/16/14**

2015-027 TOWN COUNCIL RULE CHANGE REGARDING: AGENDA ORDER OF BUSINESS

RESOLVED That the Town Council Rules are hereby amended by striking out Rule 5E and inserting in place thereof the following:

RULE 5E ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business shall be as follows:

1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Communications
7. Act on Minutes (including Executive Session)
8. Communications from Elected Officials, Boards and Commissions, Staff, Correspondence, Announcements and Committee Reports
9. Orders of the Day - A. Old Business B. New Business
10. Adjournment.

SPONSOR: Town Council President Jessica Rapp Grassetti

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM#2015-028

INTRO: 10/16/14

2015-028 ACCEPTANCE OF A \$6,000 GRANT FROM ELDER SERVICES OF CAPE COD AND THE ISLANDS TO THE BARNSTABLE SENIOR SERVICES DIVISION FOR TRANSPORTATION SERVICES FOR THE ELDERLY

RESOLVED: That the Town of Barnstable hereby accepts a grant from Elder Services of Cape Cod and the Islands in the amount of \$6,000 to support the ongoing provision of transportation services to local seniors and authorize the expenditure of monies for that purpose.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM#2015-028

INTRO: 10/16/14

SUMMARY

TO: Town Council
FROM: Madeline Noonan, Director of Senior Services
THROUGH: Lynne Poyant, Director of Community Services
DATE: October 16, 2014
SUBJECT: Grant from Elder Services of Cape Cod and the Islands to the Barnstable Senior Services Division for transportation services for the elderly

RATIONALE: The “Silver Express” transportation program offered by the Barnstable Senior Center provides seniors with direct transportation to and from medical appointments, the grocery store, bank and other important appointments in handicapped accessible vans. This program also provides transportation to clients in our Adult Supportive Day Program. In FY14 we provided 5,840 one-way trips to 142 seniors. For many seniors who no can longer drive this program allows them to continue to live independently in their homes and is their primary link to outside services. Acceptance of this grant will allow the Barnstable Senior Services Division to continue to provide this invaluable community service to elders by supporting the Transportation Coordinator position. Funding for this grant comes from Title IIIIE of the Older Americans Act. We are extremely grateful to Elder Services of Cape Cod and the Islands for their continued support of this important program. In recognition of the grant, Elder Services of Cape Cod & the Islands will be appropriately mentioned in all publicity materials.

FISCAL IMPACT: None

STAFF ASSISTANCE: Madeline Noonan, Director of Senior Services
Judy Redd, Outreach and Transportation Coordinator

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM # 2015-029

INTRO: 10/16/14

2015-029 ACCEPTANCE OF A \$15,500 GIFT FROM THE FRIENDS OF THE BARNSTABLE COUNCIL ON AGING TO SUPPORT STAFF SALARIES AND PROGRAMS OF THE BARNSTABLE SENIOR SERVICES DIVISION

RESOLVED: That the Town of Barnstable hereby accept a gift in the amount of \$15,500 from the Friends of the Barnstable Council on Aging to support staff salaries and programs of the Senior Services Division and authorize the expenditure of monies for that purpose.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____
___Read Item	
___Rationale	
___Council discussion	
___Move / vote	

BARNSTABLE TOWN COUNCIL

ITEM #2015-029
INTRO: 10/16/14

SUMMARY

TO: Town Council
FROM: Madeline Noonan, Director of Senior Services
THROUGH: Lynne Poyant, Director of Community Services
DATE: October 16, 2014
SUBJECT: Acceptance of a gift in the amount of \$15,500 from the Friends of the Barnstable Council on Aging to the Barnstable Senior Services Division to support staff salaries and programs

RATIONALE: The mission of the Friends of the Barnstable Council on Aging is to raise funds on behalf of the Barnstable Senior Center to support their programs and services. The Friends have generously agreed to donate \$15,500 in FY15 to fund staff and program costs. This amount includes \$10,000 for the Outreach Coordinator's salary, \$1,500 for van repairs and maintenance, and \$1,600 for outdoor furniture. The remaining funds will be used to help offset event costs including our Volunteer Luncheon, Open House and Turkey Trot. We are extremely grateful to the Friends of the Barnstable Council on Aging for their continued support and responsiveness to the needs of the Barnstable Senior Center.

FISCAL IMPACT: There is no immediate financial impact to the Town's operating budget as a result of accepting this grant. However, in order to continue this service after the grant funds are exhausted the cost will need to be added to the Senior Services operating budget if another grant is not obtained. Otherwise, the service will have to be eliminated.

STAFF ASSISTANCE: Madeline Noonan, Director of Senior Services

B. NEW BUSINESS (Refer to Public hearing 11/06/14)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-030

INTRO: 10/16/16

2015-030 APPROPRIATION ORDER OF \$211,544 FOR THE ACQUISITION AND IMPLEMENTATION OF E PERMITTING SOFTWARE

ORDERED: That the sum of \$211,544 be appropriated from available funds in the General Fund for the purpose of acquiring and implementing ePermitting software.

SPONSOR: Thomas K. Lynch, Town Manager

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DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2015-030

INTRO: 10/16/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: October 8, 2014
SUBJECT: Appropriation for ePermitting Software

BACKGROUND: In our continued efforts to gain efficiencies in our permitting process and improve customer service, the Information Technology Division has evaluated proposals from several vendors for the installation, implementation, and maintenance of ePermitting software. The implementation of ePermitting has been a priority for the Town Manager's office and with the support of the IT Division and Regulatory Services Department we are ready to move forward with the purchase and implementation of ePermitting. The ePermitting program will allow citizens and businesses to submit digital permits applications 24/7 through a web portal wherever they have internet access. We anticipate the implementation process to take 8 to 10 months from commencement of the implementation.

ANALYSIS: The Information Technologies Department commenced a review of vendors providing ePermitting services in early 2014. After attending state wide discussions regarding municipal e-permitting and observing general vendor presentations three vendors were invited to present their product to our staff. After an internal review by staff, reference checks, and a questions and answer session with the vendor, a preliminary recommendation was made to visit a community using the preferred vendor software.

As a result of the evaluation of E-Permitting Software, it is our recommendation to proceed with retaining ViewPoint as the best solution for the Town of Barnstable. Below are the highlights of why ViewPoint was selected:

- The software is intuitive, comprehensive, powerful, and easy to use. This is for both the on-line system for contractors and citizens, as well as for the back office departmental staff.
- The software is written and ready to go for numerous permitting types.
- The software is flexible, and it is easy to create additional, simple, permit types.
- The interface between the Town's existing major systems and ViewPoint is compatible and direct.
- ViewPoint is familiar with the Munis permitting system, which will make the conversion of our existing program easier and quicker.
- ViewPoint offers unlimited licensing for users, which allows for growth without additional licensing costs.
- ViewPoint currently services over 60 communities, with 25 municipalities in MA.
- The reference checks with other Towns for ViewPoint are incredibly positive.
- I.T. feels that the company is strong, smart, and enthusiastic about the product. We feel that company is committed to the product and to the customer.

FISCAL IMPACT:

The appropriation includes the following costs:

Software costs	\$125,795
Implementation	\$47,800
Maintenance pro-rated (6 Months)	\$12,949
Hardware (15 devices to start)	\$15,000
Consultant	<u>\$10,000</u>
Total	\$211,544

Recurring costs for maintenance will be added to the FY16 operating budget and is expected to be approximately \$26,000. Funding for the initial acquisition and setup will be provided from the General Fund's "Free Cash".

TOWN MANAGER RECOMMENDATION:

The Town Manager recommends approval of the transfer order.

B. NEW BUSINESS (Refer to Public hearing 11/06/14)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-031

INTRO: 10/16/14

2015-031 APPROPRIATION ORDER OF \$25,000 FOR THE INITIAL ENVIRONMENTAL ASSESSMENT AT THE WEST BARNSTABLE SHOOTING RANGE

ORDERED: That the sum of \$25,000 be appropriated from available funds in the General Fund for the purpose of conducting an initial environmental assessment at the shooting range in order to develop a plan for the long-range remediation and management of the property.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2015-031
INTRO: 10/16/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: October 9, 2014

BACKGROUND: A shooting range has existed in what is currently the West Barnstable Conservation Area for more than fifty years. It operated first informally and then more formally, with Conservation Commission oversight, beginning in 1984. Firearms that were historically used at the range include shotguns, rifles, and pistols, firing lead shot bullets. The range was closed in December 2012 and remains closed.

ANALYSIS: Lead is a regulated contaminant in soil and groundwater according to Mass. DEP. As the result of shooting at the range over several decades, lead is present in the soil at levels that exceed DEP's Maximum Contaminant Levels. No lead has ever been removed from the range. This Transfer Order will fund a study which will determine:

- 1) The distribution of lead contamination in surficial soils at the shooting range
- 2) The estimated cost to clean-up the range
- 3) The estimated cost to develop a safe and modern shooting range at the range

FISCAL IMPACT: Funding for the appropriation will be provided from the General Fund's "Free Cash".

TOWN MANAGER RECOMMENDATION: Town Manager Thomas K. Lynch recommends approval of the Transfer Order.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (Refer to Public Hearing 11/6/14)

BARNSTABLE TOWN COUNCIL

**ITEM # 2015-032
INTRO: 10/16/14**

**2015-032 TO SEE IF THE TOWN COUNCIL WILL AMEND THE GENERAL
ORDINANCES BY ADDING A NEW CHAPTER 78 ON FERTILIZER**

ORDERED: That the General Ordinances of the Code of the Town of Barnstable shall be amended by adding the following new Chapter 78 which will serve as the Town's Implementing Regulations pursuant to the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07

**"CHAPTER 78"
FERTILIZER**

§78-1. Purposes and Intent

- A. Mounting evidence supports the claim that excessive nutrient enrichment of the region's ground waters and surface waters may have significant public health significance, including direct detrimental effects on drinking water sources by increased concentrations of nitrates that can violate Safe Drinking Water Standards, and have significant negative impacts to economic, environmental and recreational resources and values in the Town and region.
- B. The Town has significant amounts of glacially deposited coarse, sandy soils that are subject to rapid water infiltration, percolation, and leaching of nutrients. These soil characteristics mean that agronomic practices of soil fertilization common in other parts of the region, state and country may not always apply in the Town, as these practices vary by soil type.
- C. The Town, recognizing that excessive, inappropriate or improper use of fertilizers is part of the overall problem of nutrient pollution promulgates the following Ordinance regarding the use of fertilizer on turf. This Ordinance incorporates by reference the University of Massachusetts Extension's Turf Management Best Management Practices. These practices, if followed, are deemed to protect the public health, safety and welfare and aid in achieving compliance with the Total Maximum Daily Loads (TMDL) for the Town's water resources prescribed by the Commonwealth of Massachusetts while allowing reasonable use of fertilizers for the enhancement and maintenance of turf quality.

§78-2. Applicability

- A. It is necessary and desirable to control by regulation in the Town of Barnstable the use of fertilizer that contains phosphorus and nitrogen for the purposes set out herein.
- B. This Ordinance allows for a reduction of nitrogen and phosphorus going into the Town's waters and wetlands by means of an organized system of education, certification, standardization and regulation of practice. This Ordinance is not intended to eliminate the use of fertilizer but only to eliminate excess amounts of phosphorus and nitrogen from reaching our water and groundwater. This Ordinance adopts the Best Management Practices as the normal operating procedures for turf management throughout the Town.
- C. This Ordinance shall apply to turf management practices and to the application of nitrogen and phosphorus-containing fertilizer and other materials to turf within the Town, but not to plants other than turf.
- D. This Ordinance shall serve as the Town's Implementing Regulations pursuant to the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07.

§78-3. Authority

This Ordinance is adopted as Implementing Regulations pursuant to and as authorized by the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07, and by Section 9 of Chapter 262 of the Acts of 2012.

§78-4. Definitions

For the purposes of this Ordinance, the following words shall have the following meanings unless the context clearly indicates a different meaning:

“Agriculture/Agricultural Use” means farming in all of its branches including the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural, floricultural or horticultural commodities, including but not limited to cranberries.

“Barnstable” is the Town and all of its waters.

“Best Management Practices” (BMP), means a sequence of activities designed to limit a nonpoint pollution source. For the purposes of this Ordinance and pursuant to §78-5A of this Ordinance, BMP means the edition of “Best Management Practices for Soil and Nutrient Management in Turf Systems,” prepared by University of Massachusetts Extension, Center for Agriculture, Turf Program in effect on September 18, 2014.

“Certified Fertilizer Applicator” means an Applicator certified in the manner prescribed hereunder to apply fertilizer and manage turf in conformance with the BMP.

“Combination Products,” sometimes known as “Weed and Feed,” means any product that, in combination with fertilizer, contains pre- or post-emergence herbicides, insecticides other pesticides or plant growth regulators.

“Compost” is the biologically stable humus-like material derived from composting, or the aerobic, thermophilic decomposition of, organic matter, which is used as a fertility source for turf.

“Fertilizer Applicator” means any person who applies fertilizer to turf and soils.

“Fertilizer” means a substance that enriches turf with elements essential for plant growth, such as nitrogen, phosphorus, or other substances; fertilizer hereunder does not include dolomite, limestone, or lime, grass clippings, or compost/ compost tea. “Fertilize, fertilizing, or fertilization” means the act of applying fertilizer to turf.

“Impervious surface” means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, except for compacted areas on athletic fields such as clay or baseball infields, intensely trafficked turf and the like.

“Landscape professional” means a person, either as a sole proprietor or as part of a company, who, in exchange for money, goods, services, or other consideration, performs landscaping services. A Landscape professional can include turf management staff at a private golf course operation or other private entity.

“Landscaping” means, for purposes of this Ordinance, establishment (including by sod, seeding, or transplanting), renovation, maintenance, management or fertilization of turf

“Municipal applicator” means a public employee of a city, town, the county, or the state or federal government (or an employee of a department of and within such public entity) who fertilizes and manages turf located on property owned or controlled by a town, the county, the state or federal government (including publicly owned golf courses and athletic fields) within the scope of their official public employment responsibilities.

“Non-Certified Fertilizer Applicator” means an Applicator who is not certified in the manner prescribed hereunder to manage turf and apply fertilizer in conformance with the BMP.

“Nutrient” means any of the following 17 elements needed for growth of a plant; the three (3) non-mineral elements: carbon, hydrogen, and oxygen; the six (6) macronutrients: nitrogen, phosphorus, potassium, calcium, magnesium, and sulfur; and the eight (8) micronutrients: boron, copper, iron, chloride, manganese, molybdenum, nickel and zinc.

“Nutrient management” means the systematic control of the application and availability of nutrients to plants in order to minimize nutrient loss and to maintain the productivity of the soil.

“Readily available nitrogen” means any water-soluble nitrogen (WSN) that is readily available to turf after application.

“Slow-release, controlled-release, timed-release, or slowly soluble/ available nitrogen” means nitrogen in a form that delays its availability for uptake and use after application, and is not rapidly available to turf.

“Soil” means the upper-most layer of the earth’s surface, comprised of mineral and organic matter, which can host biological communities.

“Soil test” means a technical analysis of soil conducted by a soil testing laboratory that uses standards recommended by and in agreement with the University of Massachusetts Amherst Extension Program BMP, including a Modified Morgan soil testing procedure and extractable nutrient values.

“Turf” means grass-covered soil held together by the roots of the grass, also known as “sod” or “lawn.”

“Waters” or “Water-bodies” include, but are not limited to, streams, including intermittent streams, creeks, rivers, freshwater and tidal wetlands, ponds, lakes, marine waters, canals, lagoons, and estuaries within the Town, including without limitation all waters defined in Massachusetts General Laws Chapter 131, Section 40 and Town Wetland Ordinance or Regulations with the exception of the following: coastal and inland banks, beaches, coastal dunes, dune fields, and lands subject to coastal storm flowage, inland or coastal flooding or inundation, or within 100 feet of the hundred-year storm line.

§78-5. STANDARDS OF PERFORMANCE

A. Best Management Practices

The Best Management Practices (“BMP”), as defined herein, shall be applied to the standards of performance.

B. Performance Standards for Non-Certified Fertilizer Applicators

Fertilizer Applicators who do not hold Fertilizer Certification issued in accordance with §78-6B of this Ordinance shall comply with the following standards for fertilizer applications to turf:

- (1) Non-Certified Fertilizer Applicators shall not apply fertilizer during or immediately prior to heavy rainfall, such as but not limited to thunderstorms, hurricanes, or northeastern storms, or when the soil is saturated due to intense or extended rainfall;
- (2) Non-Certified Fertilizer Applicators shall not apply fertilizer or compost between October 1 and the following March 31;
- (3) Non-Certified Fertilizer Applicators shall not apply, spill, or deposit fertilizer on any impervious surface and fail to remove the applied, spilled, or deposited fertilizer immediately (and in which case the Applicator shall then either contain, dispose of legally or apply the fertilizer as allowed), and shall not apply, spill or deposit fertilizer in a manner that allows fertilizer to enter into storm drains;
- (4) Unless the Town’s existing Laws and Regulations, including its Wetland Ordinance or Regulations, contain a stricter standard or other enforcement or approval mechanism such as through the Town’s Conservation Commission, which shall control, Non-Certified Fertilizer Applicators shall not apply fertilizer closer than 100 feet to any water-body, or within the Zone I of a public drinking water well unless permission is obtained through the enforcement authority set out in §78-6D(1) herein allowing such activity;

- (5) A Non-Certified Fertilizer Applicator shall not apply fertilizer that contains phosphorus, unless a soil test taken not more than three years before the proposed fertilizer application indicates that additional phosphorus is needed for growth of that turf, or unless establishing new turf or re-establishing or repairing turf after substantial damage or land disturbance, in which case the application shall be in compliance with the BMP;
- (6) A single application of fertilizer that contains nitrogen shall not exceed .9 pounds of actual nitrogen per thousand square feet, shall consist of at least 20% slow-release nitrogen fertilizer¹ and the annual rate shall not exceed 3.2 pounds of actual nitrogen per thousand square feet. Single applications shall be done at intervals of no less than four weeks until the annual maximum is reached;
- (7) The fertilizer application requirements of this §78-5B shall apply with the same limitations to Combination Products, i.e. amount of nitrogen applied, vicinity of water bodies, etc.
- (8) Non-Certified Fertilizer Applicators shall not deposit grass clippings, leaves, or any other vegetative debris into or within 50 feet of water-bodies, retention and detention areas, drainage ditches or storm water drains, or onto impervious surfaces such as, but not limited to, roadways and sidewalks, except during scheduled clean-up programs.

C. Performance Standards for Certified Fertilizer Applicators

Certified Fertilizer Applicators shall be exempt from the requirements set forth in §78-5B of this Ordinance, provided that they shall manage turf and apply fertilizer to turf in accordance with the BMP. The burden shall be on the Certified Fertilizer Applicator, if and as required, to show that he/she is applying fertilizer in accordance with the BMP.

D. Exemptions. The following activities shall be exempt from this Ordinance:

- (1) Application of fertilizer as a fertility source for Agriculture and Agricultural Use.
- (2) Application of fertilizer as a fertility source to home gardens, landscape ornamentals, shrubs, trees bushes, vegetables, fruit and container plants.

§78-6. EDUCATION, CERTIFICATION, ENFORCEMENT, AND PENALTIES

A. Fertilizer/Turf Management Education

Fertilizer education may consist of, but is not limited to, collaboration with retailers to post in-store information on town fertilizer regulations, the BMP and Fertilizer Certification requirements; mailings and flyers for the general public concerning town fertilizer regulations, the BMP and Fertilizer Certification requirements; and outreach to Landscape professionals and Municipal Applicators concerning fertilizer-related laws, the BMP and Fertilizer Certification requirements. The Town may rely on Cape Cod Cooperative Extension to assist in maintaining a program of fertilizer and turf management education that is based on the BMP.

¹ **Note:** this represents the minimum percentage: use of higher SRN content is generally preferable, especially on sandy root zones, during stress and pre-stress periods, and when there are fewer annual applications of nitrogen made to a lawn.

B. Fertilizer Certification

- (1) Any Non Certified Fertilizer Applicator may apply to the Town or Cape Cod Cooperative Extension, as the case may be, for Fertilizer Certification as a Certified Fertilizer Applicator.
- (2) The Town may seek the assistance of the Cape Cod Cooperative Extension, to establish application requirements for and the process required to obtain Fertilizer Certification and renewals thereof, including evidence that the applicant is proficient in the BMP.
- (3) Notwithstanding the requirement for a proficiency assessment set out in, §78-6B(2) above, Municipal applicators or Landscape professionals who meet the following criteria shall be presumed to be proficient in the BMP and may become Certified Fertilizer Applicators without the need for an additional proficiency assessment:
 - (a) Current Massachusetts Pesticide Commercial Applicator License (category 00) or Commercial Applicator License with Turf Certification (category 37) or Commercial Applicator License with Shade Tree & Ornamentals Certification (category 36), with evidence of participation in a recognized continuing education program for turf management within the past year, or
 - (b) Active membership in the Cape Cod Landscapers Association, the Golf Course Superintendents Association of Cape Cod, Massachusetts Association of Lawn Care Professionals (MALCP) or a substantially similar organization and any one of the following:
 - (i) Associate's Degree or higher in Turf Management, or closely related field, with evidence of participation in a recognized continuing education program for turf management within the past year;
 - (ii) Current Massachusetts Certified Landscape Professional (MCLP) certification or current Massachusetts Certified Arborist (MCA) certification, or substantially similar professional certification with emphasis on turf management, with evidence of participation in a recognized continuing education program for turf management within the past year;
 - (iii) Certificate of Completion from the University of Massachusetts Extension Green School (Turf or Landscape sections) or the University of Massachusetts Winter School for Turf Managers, or a horticultural certificate from Cape Cod Community College, or substantially similar professional certification with emphasis on turf management, with evidence of participation in a recognized continuing education program for turf management within the past year.
- (4) The Town may seek the assistance of the Cape Cod Cooperative Extension to help develop or administer an assessment to determine an Applicator's proficiency of the BMP and to assist with or administer a Fertilizer Certification process, which if administered by Extension, may be a county-wide process.

- (5) Municipal applicators or Landscape professionals who are Non-Certified Fertilizer Applicators may nonetheless apply fertilizer and manage turf pursuant to the standards for Certified Fertilizer Applicators set out in §78-5C of this Regulation so long as they fertilize and manage turf under the direct supervision of a manager or supervisor who has attained Fertilizer Certification hereunder. “Direct supervision” shall mean the instruction and control by such manager or supervisor who is responsible for fertilizer applications made and that person making them, and who is either physically present at the time and place the fertilizer is applied, or if not physically present, is available if and when needed.
- (6) All Certified Fertilizer Applicators shall ensure that a copy of the official documentation of said Fertilizer Certification is readily available when and at the location fertilizer is being applied, and shall provide such Certification when requested to do so by an officer or agent of the enforcement authority set out in §78-6D(1) herein.
- (7) All Certified Fertilizer Applicators who apply plant nutrients shall maintain records for 3 years of each application made. The following information shall be recorded, when applicable:
 - (a) Name of applicator;
 - (b) Date of application;
 - (c) Address or location description of the application site;
 - (d) Type and amount of nutrients applied;
 - (e) Size of the area being treated;
 - (f) Representative nutrient value or values;
 - (g) Plant nutrient analysis of product used;
 - (h) Method and rate of application;
 - (i) Total amount used;
 - (j) An original or legible copy of the label of the plant nutrient; and
 - (k) The implementation of all activities or protocols recommended or required by the nutrient management plan, if applicable.
- (8) The records required under this §78-6B shall be made available for inspection by the Town’s Director of Health Division.

C. Retailer Requirements

Any retailer who sells, or offers for sale, phosphorus containing fertilizer shall:

- (1) Display the product separately from non-phosphorus plant nutrients; and
- (2) Post in a location where phosphorus containing fertilizer is displayed a clearly visible sign, at least 11” x 17” in dimension, which reads as follows:

**“PHOSPHORUS RUNOFF POSES A THREAT TO WATER
QUALITY. THEREFORE, UNDER GL Ch. 128 sec. 65A,
PHOSPHORUS CONTAINING FERTILIZER MAY ONLY BE
APPLIED TO LAWN OR NON-AGRICULTURAL TURF WHEN**

- (i) a soil test indicates that additional phosphorus is needed for the growth of that lawn or non-agricultural turf; or
- (ii) it is used for newly established lawn or non-agricultural turf during the first growing season.”

D. Enforcement

(1) Enforcement Authority

This Ordinance shall be enforced by the Town's Director of Health Division

(2) Non-Criminal Disposition

Whoever violates any provision of this Regulation may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition ordinance. If noncriminal disposition is elected, then any person who violates any provision of this Regulation shall be subject to a penalty in the amount of three hundred dollars (\$300.00) per day for each day of violation, commencing ten days following day of receipt of written notice from the Town's Board of Health. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

(3) Other Remedies

The Town's Director of Health Division may enforce this Ordinance or enjoin violations thereof through any lawful process, and the election of one remedy by the Town's Director of Health Division shall not preclude enforcement through any other lawful means.

§78-7. SEVERABILITY CLAUSE

Should any section, part or provision of this Ordinance be deemed invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining terms of this Regulation as a whole or any part thereof, other than the section, part or provision held invalid, which shall remain in full force and effect.

§78-8. AMENDMENTS

- A. No amendment to this Regulation shall be adopted until such time as the Town Council shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen days prior to the date set for such hearing. No such amendment shall be effective unless the proposed amendment has been approved by the Town Council.
- B. Amendments shall also be subject to the procedures set out in Sections 10 and 11 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended. Specifically, amendments must also be consistent with the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07 and the Guidelines for Implementing Regulations set out therein, including the requirement for consistency with the BMP.

§78-9. EFFECTIVE DATE

The effective date of this Ordinance shall be the date provided under Section 2-8 of the Barnstable Charter or the date the Ordinance has been certified by the Cape Cod Commission as consistent with

the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07, whichever occurs later

§78-10. INTERIM PROVISION

Notwithstanding any provisions to the contrary contained herein, any application of fertilizer to turf shall be made in accordance with §78-5B herein unless and until the Fertilizer Certification process outlined in§78-6B herein is implemented and in effect.”

FISCAL IMPACT: None

SPONSORS: Town Council President, Jessica Rapp Grasseti, Town Council Vice President, Ann Canedy, Councilor Frederick Chirigotis and Councilor Debra Dagwan at the request of the Citizen Advisory Committee.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2015-032

INTRO: 10/16/14

SUMMARY

TO: Town Council
FROM: Philip M. Boudreau, Esq., Chair, Citizens Advisory Committee
DATE: October 16, 2014
SUBJECT: Amendment to the General Ordinances to adopt Implementing Regulations pursuant to the Fertilizer Management District of Critical Planning Concern designation, Barnstable County Ordinance 13-07.

RATIONALE: There is mounting evidence to suggest that excessive nutrient enrichment of the region's ground and surface waters can cause detrimental effects on drinking water sources by increased concentrations of nitrates that can violate Safe Drinking Water Standards, and can cause significant negative impacts to economic, environmental and recreational resources and values in the Town and region, specifically to our fresh water lakes, ponds and wetlands and to our salt water estuaries and embayments. Excessive, inappropriate or improper use of lawn fertilizers is part of the overall problem of nutrient pollution, contributing to the recognized degradation of these important resources.

Specifically, this regulation would control the use of lawn fertilizer that contains phosphorus and nitrogen, with the goal of reducing the amount of nitrogen and phosphorus going into the Town's waters and wetlands by means of an organized system of education, certification, standardization and regulation of practice. This Ordinance is not intended to eliminate the use of lawn fertilizers, but only to eliminate excess amounts of phosphorus and nitrogen from reaching our water and groundwater.

The lawn fertilizer limits in this regulation are based largely on the University of Massachusetts Extension's Turf Management Best Management Practices, which, if followed, should aid in the protection of the Town's natural resources and the public health, safety and welfare of the residents of the Town of Barnstable, as well as to aid in achieving compliance with the Total Maximum Daily Loads (TMDL) for the Town's water resources prescribed by the Commonwealth of Massachusetts, all while allowing the reasonable use of lawn fertilizers for the enhancement and maintenance of turf quality.

STAFF ASSISTANCE: Philip M. Boudreau, Esq., Chair, Citizens Advisory Committee
Citizen's Advisory Committee

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2015-033

INTRO: 10/16/14

2015-033 LETTER OF SUPPORT FOR THE YMCA “CAPE COD Y ACHIEVERS PROGRAM”

RESOLVED, that the Town Council, pursuant to the policy adopted under Town Council Order 2015-024, hereby approves sending a letter of support for the Cape Cod Y Achievers Program, a collaborative program with the town of Barnstable, to benefit the town’s at risk youth.

SPONSOR: Councilor Jennifer L. Cullum

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM#2015-034
INTRO: 10/16/14**

2015-034 RESOLVE IN OPPOSITION TO THE EXPANSION OF THE NSTAR SUBSTATION COMMUNICATION WAY, BARNSTABLE TO ACCOMMODATE CAPE WIND OIL-FILLED EQUIPMENT

RESOLVED, that the TOWN COUNCIL of the TOWN OF BARNSTABLE hereby opposes the placement of oil-filled equipment at the NSTAR substation on Communication Way, Barnstable.

IT IS FURTHER RESOLVED, that the Town Council requests the Environmental Protection Agency to exercise its authority to undertake a discretionary review.

IT IS FURTHER RESOLVED, that, in the event placement of oil-filled equipment is approved at this substation location, impervious containment, satisfactory to the Barnstable Town Council, Barnstable Town Manager, Barnstable Water District and Hyannis Water Board, is provided to protect the sole source aquifer and the Town's public wells against oil spills.

IT IS FURTHER RESOLVED that the Barnstable Town Council directs the Barnstable Town Manager and/or designee to express this strong opposition of the Town Council in all matters related to this proposed placement.

RATIONALE:

1. All of Cape Cod depends exclusively for its drinking water on a series of underground lakes collectively known as the Sole Source Aquifer. Poison that water and the very livelihood of thousands of Barnstable residents and employees will be put at risk because one gallon of oil will render undrinkable at least 5,000,000 gallons of water, per MADEP regulations.
2. To accommodate the Cape Wind project's impact on the regional electric grid, Cape Wind and NSTAR recently petitioned the Energy Facilities Siting Board to approve the installation of equipment at the NSTAR substation on Communication Way, Barnstable. Through litigation, we have learned that the equipment will collectively contain 1,534 gallons of so-called dielectric oil which is used to cool electrical elements of supporting equipment.
3. As part of the litigation, NSTAR and Cape Wind reluctantly provided Material Safety Data Sheets for the two types of dielectric fluid that they propose to use at the site.
4. The MSDS sheets demonstrate that the dielectric fluids contain very dangerous chemicals and they also provide a number of warnings, including:
 - **“Prevent material from entering storm sewers, ditches, or drains that lead to waterways”.**
 - **“Do not allow product to reach ground water, waterways, or sewage systems”.**

- **“Do not release into the environment. Do not let product enter drains. Dam up”.**
 - **“Keep container tightly closed in a dry and well-ventilated place. . . Provide impermeable floor.”**
 - **“Destroy the product by incineration (in accordance with local and national regulations. Do not dispose of waste into sewer.”**
5. If these highly toxic oils reach groundwater under any circumstances, they would reach Barnstable Fire District and Hyannis Water Department wells in as little as seven or eight days and would likely cause the wells to be closed, pending an expensive and time-consuming cleanup.
 6. The worst case cost estimate to place impervious containment under the oil-filled equipment is about equal to 0.00015% of the publicized cost of the Cape Wind project, or about \$240,000.
 7. The Town’s water quality experts cite critical variables that must be thoroughly studied and understood in order to determine the likelihood that a dielectric spill could reach groundwater and time within which that disaster would unfold. The variables include at the very least groundwater height below the substation (unknown), viscosity of the dielectric fluid (unknown), solubility of the dielectric fluid in storm water (unknown), porosity of the ground beneath the substation (unknown), and rate of hydraulic flow under the substation when wells are drawing (unknown).
 8. Cape Wind and NSTAR have refused to conduct such testing and refuse to provide impervious containment basins under the oil-filled equipment.
 9. A spill of less than five gallons of cleaning fluid in Independence Park closed a Fire District well for 18 years and cost \$1,000,000 to remediate.
 10. A spill that closes more than one well would leave the Hyannis system with no emergency reserve. A closure of two Hyannis wells would cause mandatory water rationing to be implemented. There could be similar effects on the Barnstable Fire District water supply, depending on the number of wells affected.
 11. The risk created for Barnstable residents is completely unacceptable. Cape Wind and NSTAR’s refusal to mitigate this critical public health risk that they alone will have created is intolerable.

SPONSOR: Councilor Ann Canedy

DATE	ACTION TAKEN
_____	_____
_____	_____

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