



TOWN COUNCIL MEETING October 1, 2015



A quorum being duly present, Council President Jessica Rapp Grasseti called the October 1, 2015, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

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

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

The Pledge of Allegiance was led by President Rapp Grasseti, followed by a Moment of Silence.

PUBLIC COMMENT:

Rodney Livingstone spoke about incidents that involved Town Of Barnstable Police and himself.

Bo Chu announced his November 3, 2015 write-in campaign for the Precinct 9 Council seat.

John Reagan spoke about shooting range and hoped Council would not support the range; gunfire and assault gunfire.

Kevin Turner read a letter in support of the Craigville Beach bath house (Exhibit A).

Lauren Kelley discussed NStar spraying of pesticides. She asked to be placed on the agenda to speak about this issue and mentioned she was taking NStar to court to stop this spraying. She handed out a pamphlet regarding her company Protect Our Cape Cod Aquifer (Exhibit B).

COUNCIL RESPONSE TO PUBLIC COMMENT:

Councilor Dagwan suggested Rodney Livingstone's issues were more of a legal matter but offered him guidance to helpful resources. She thanked Kevin Turner and Laura Kelley for speaking out to stop the power line pesticide spraying project.

Councilor Hebert supported Lauren Kelley's wish to present at a future Council meeting. He hoped Council would approve a support letter against pesticide spraying.

Vice-President Canedy and Councilor Norman suggested hearing from both sides regarding pesticide spraying. President Rapp Grasseti added Mr. Duran was invited to speak at Council meeting but has not accepted the invitation.

TOWN MANAGER COMMUNICATIONS:

- Community Compact
- Dog Park Application
- Barnstable's Old King's Highway
- Shooting Range Survey
- Two Flu Clinics: October 14th – 9am – 11am and October 28th 3:00pm – 5:00pm.
- Mass Cultural budget
- Recycling and Waste Reduction grants
- Cobb Astreo Park
- Hurricane preparedness

ACT ON MINUTES:

Upon a motion duly made and seconded it was voted to accept as written the minutes of the September 17, 2015 meeting.

VOTE: PASSES UNANIMOUS

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

Saturday, October 3, 2015 Fall Festival has been cancelled due to the impending high winds.

- David Kanyock, Facilities Manager, Barnstable Public Schools, gave an update on capital projects for fiscal year 2013, 2014, 2015 and 2016. He added in 4 years there were 33 projects and 15 were completed out of 33. He noted spending for these projects was at 46 percent. (Exhibit C)

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. INTRO: 08/07/14, 09/18/14, 01/22/15, 05/21/15, 10/01/15

Mark Ellis, Assistant Town Manager gave the rationale using power point slides (Exhibit D). He discussed the history and current status of the shooting range land.

Councilor questions and comments

The state portion of the debris cleanup should to be paid by state. Is there an option of the 16.3 acres remaining in conservation and be treated in place? [Many unknowns still in this project]

Upon a motion duly made and seconded it was

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.

VOTE: CONTINUED TO A JANUARY 2016 TOWN COUNCIL MEETING - PASSES UNANIMOUS

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. INTRO: 08/07/14, 09/18/14, 01/22/15, 05/21/15, 10/01/15

Vice-President Canedy mentioned she will not be on Town Council after November 5th, 2015 and hoped the parcel will be protected.

Upon a motion duly made and seconded it was

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.

VOTE: CONTINUED TO A JANUARY 2016 TOWN COUNCIL MEETING - PASSES UNANIMOUS

2016-026 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$35,000 FOR THE INSTALLATION OF GROUNDWATER MONITORING WELLS AT THE BARNSTABLE SHOOTING RANGE INTRO: 09/17/15, 10/01/15

Daniel Santos, Director of Public Works gave the rationale.

Open Public Hearing and seeing no one Close Public Hearing.

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$35,000 be appropriated for the purpose of funding the installation of groundwater monitoring wells and other associated costs at the Barnstable Shooting Range, and that to meet this appropriation, that \$35,000 be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager 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.

VOTE: PASSES 13 YES

2016-027 ORDER AMENDING THE GENERAL ORDINANCES OF THE CODE OF THE TOWN OF BARNSTABLE, CHAPTER 228, VEHICLES, STORAGE OF INTRO: 09/17/2015, 10/01/15

Vice-President Ann Canedy gave the rationale.

Open Public Hearing and seeing no one Close Public Hearing.

Councilor questions and comments

Clarification sailboats and farming vehicles do not have to be registered.

Upon a motion duly made and seconded it was

ORDERED: That the General Ordinances of the Code of the Town of Barnstable, Chapter 228, Vehicles, Storage of, be amended as follows:

SECTION 1: by adding to the title, after the word “vehicle” the words “and boats,” the title to read after amendment “Vehicles and Boats, Storage of.”

SECTION 2: by striking § 228-1, Limit of one vehicle on premises, and substituting the following.

“§ 228-1. Limit of boats and vehicles on premises.

No person shall have any unregistered boat, motor vehicle or trailer, any or all of which are required by law to be registered, or any part or portion thereof, ungaraged on premises owned, occupied or controlled by him or her at any time unless screened from neighbors' view and from public view by shrink wrap, fencing, evergreen trees or other plants capable of providing year-round screening.

VOTE: PASSES 13 YES

2016-028 ORDER AMENDING CODE OF THE TOWN OF BARNSTABLE GENERAL ORDINANCES BY ADDING CHAPTER 54 BUILDING AND PREMISES MAINTENANCE INTRO 09/17/15, 10/01/15

Councilor Jen Cullum gave the rationale.

Open Public Hearing

- Andi Carroll spoke about the disrepair and danger regarding the rental units near her home. She urged Council to support this ordinance.

Close Public Hearing

Upon a motion duly made and seconded 54-3C section was amended to include the language “vehicles and boats”.

Councilor questions and comments

Where is the monitoring of the Section 8 recipients who are contributing to the trash and debris blight within the neighborhoods?

VOTE: PASSES UNANIMOUS

Clarification of language needed regarding the rights of tenancy. Amend language to include “occupant responsible for removal of trash” Ruth Weil, Town Attorney, addressed the issue of one or two family homes or multi-family homes. Discussion with Council and Ruth Weil continued to make several iterations of the language on section 54-5.A (1). Section 54-7 B who is the enforcing authority?

Councilor Crocker (J) left the dais.

Upon a motion duly made and seconded amended language regarding section 54-7 B included “owner and occupant”

VOTE: PASSES UNANIMOUS

Councilor Crocker (J) returned to the dais.

Agenda Item was left open for Town Attorney and staff to discuss and revise language for Section 54-5.A (1).

Upon a motion duly made and seconded it was

ORDERED: That the General Ordinances of the Code of the Town of Barnstable be amended by deleting the existing Chapter 54, and by substituting in its place the following Chapter 54 Building and Premises Maintenance and by amending Chapter 1, Article I, Noncriminal Enforcement of Violations.

SECTION 1: by adding the following Chapter 54.

“Chapter 54. Building and Premises Maintenance”

§ 54-1. Purpose and intent.

The purpose and intent of this chapter is to eliminate nuisances in the Town. Nuisances such as trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas and impair the health, safety and general welfare of the inhabitants of the Town.

§ 54-2. Applicability; compliance with other regulations.

Every owner shall maintain premises in compliance with this chapter and with applicable provisions of the sanitary and building codes (hereinafter "code") and regulations. Every occupant shall comply with the provisions of § **54-5B**.

§ 54-3. Outdoor storage.

A. Indoor items, such as furniture, appliances, plumbing fixtures and bedding, shall be kept within enclosed structures after seven (7) calendar days; all other personal property shall be kept within enclosed structures or screened from public view after fifteen (15) calendar days. In no case shall property covered by this subsection be stored outdoors for a cumulative total of more than forty-five (45) calendar days in any calendar year.

B. Functional outdoor items, such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, construction materials, while construction is ongoing, proceeding in good faith and in a timely manner and commenced under a valid building permit if required, boats and inventory, (where such outdoor storage of inventory is in compliance with zoning), shall not be subject to the requirements of this section.

C. Motor vehicles, boats and trailers shall be kept in compliance with Chapter **228**, Vehicles, Storage of.

§ 54-4. Stagnant water.

Water shall not be permitted to continuously stagnate outside of any building or structure for more than 10 days except under natural conditions. Nothing in this chapter 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. Owners' responsibilities.

(1) 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 and for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

(2) The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units that are 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. Occupants' responsibilities.

(1) 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 occupants shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse that is stored outside a building or structure is properly covered. Said occupants shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse.

(2) Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling that contains one or two units and that 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. Screening Requirements for Receptacles.

All outdoor rubbish and garbage storage areas shall be located in an area which is screened from public view. Said screening may be in the form of fencing, evergreen trees or other plants capable of providing year-round screening, located around the refuse storage area in such a manner to block the view of the rubbish and garbage storage area from the neighbors and from other persons passing-by, provided that receptacles may be placed in the open near a street within 24 hours of scheduled collection and disposal by a contractor as provided in this chapter and returned to a screened location within 24 hours thereafter. Receptacles shall be located in such a manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street,

§ 54-6. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

OCCUPANT

Any person who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

OWNER

Any person who alone or severally with others has legal title to buildings, structures or 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.

§ 54-7. Enforcement; removal or abatement of nuisance.

A. The Director of the Health Department or her or his designee is hereby designated as the enforcing authority for this chapter.

B. The enforcing authority shall notify the owner and occupant, in writing, of any alleged violation or violations of this chapter and order the owner or occupant to remove or abate the nuisance by a date certain not more than 10 days after service of notice of the violation(s); provided, however, that if the violation is determined to be such that the public health and safety will be jeopardized by that delay, the enforcing authority 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. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through noncriminal, criminal or civil proceedings, and no action shall preclude any other enforcement action or actions. Each day of continued violation may be deemed a separate offense.

C. In addition to any penalties or enforcement actions hereunder, after final determination of three 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 30 days of submission and, if unpaid thereafter, shall be subject to a municipal charges lien as provided in MGL c. 40, § 58.

§ 54-8. Interpretation of provisions; severability; period of effect.

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

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

SECTION 2: by amending section 1-3, Schedule of Fines, of Article I, Noncriminal Enforcement of Violations, of Chapter 1, General Provisions, of the General Ordinances by adding after “Ch. 51, Numbering of Buildings \$50” the following in the respective columns: “Ch. 54 Building and Premises Maintenance \$100 ” in the respective columns.

2016-029 ORDER AMENDING CODE OF THE TOWN OF BARNSTABLE GENERAL ORDINANCES CHAPTER 224 VACANT AND FORECLOSING PROPERTIES INTRO: 09/17/15, 10/01/15
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Vice-President Canedy gave the rationale.

Open Public Hearing and seeing no one Close Public Hearing.

Councilors Cullum and Crocker (J) left the dais.

Upon a motion duly made and seconded it was

ORDERED: That the General Ordinances of the Code of the Town of Barnstable, Chapter 224, Vacant and Foreclosing Properties, be amended as follows:

Section 1. That § 224-4B shall be amended as follows:

By striking § 224-4 B (1) (c) and § 224-4 B (1) (h) in their entirety and by sequentially re-lettering the remaining paragraphs thereunder.

By adding a new § 224-4 B (1) (k) as follows:

(k) Drain all water from the plumbing between September 15 and June 15 of each calendar year to guard against burst pipes.”

And by striking § 224-4 B (2) (a) in its entirety and by sequentially re-lettering the remaining paragraphs thereunder.

So that § 224-4B as revised shall now read:

B. Owner or mortgagee responsibilities.

(1) Any owner or mortgagee of a vacant property, having taken ownership or possession as provided in Subsection A (1) of this § 224-4, shall also comply with the following within the time periods set forth in Subsection A:

(a) Register the property as a mortgagee irrespective of entry into ownership or possession as a mortgagee as provided under § 224-3A.

(b) As may be required by the Fire Chief for commercial property, 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 Building Commissioner and certify space utilization plans as accurate twice annually, in January and July.

(c) 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 Prevention Initiative Board up Procedures or provide twenty-four-hour on-site security personnel on the property.

(d) Post "No Trespassing" signs on the property.

(e) Ensure that structures are maintained in sound condition.

(f) Maintain lawns and shrubs free from excessive overgrowth.

(g) Maintain the property in accordance with the Barnstable Zoning Ordinance, definition of "maintenance" in this chapter, and any other provision of this chapter; and dispose of trash, debris and pools of stagnant water as provided in Chapter 54 of the Town of Barnstable General Ordinances concerning the maintenance of property.

(h) Maintain all fences around swimming pools or install fences as required by Chapter 210 of the Barnstable General Ordinances and maintain existing fences or install fences around spas.

(i) Provide the Fire Chief and Building Commissioner with the name, local address, telephone number and e-mail address of a responsible person, if different from the person named in the registration under § 224-3A, who can be contacted in case of emergency and cause the name and contact number to be marked on the front of the property as may be required by the Fire Chief or Building Commissioner.

(j) Maintain liability insurance on the property and furnish the Building Commissioner with a copy of said certificate of insurance.

(k) Drain all water from the plumbing between September 15 and June 15 of each calendar year to guard against burst pipes.

(2) A mortgagee of foreclosing property shall additionally provide the following:

(a) Schedule inspections with the Building Commissioner and Health Director, who may at his or her discretion include the Fire Chief, within a reasonable time after notification under Subsection A(1) in order to confirm that the land and the interior of all structures comply with the provisions of this chapter and/or identify the provisions with which the property does not comply and establish a program to bring the property into full compliance; and

(b) Notify the Building Commissioner in writing when the property is sold or transferred.”

Section 2. That § 224-8 shall be amended as follows

By striking paragraphs § 224-8B, § 224-8C and § 224-8D in their entirety and by adding the following as a new § 224-8B:

B. If the owner fails to pay or reimburse the Town within 30 days of the notice of expenses, the Town may, as part of any court order sought pursuant to § 224-6 or by a separate civil action, seek to recover the balance due for reimbursement of its expenses incurred pursuant to this section and establish a lien on the property to be recorded in the Barnstable County Registry of Deeds or Land Registration.

So, as revised § 224-8 shall now read:

“§ 224-8. Expenses for court-ordered inspection and securing and cleaning of property.

The Building Commissioner may demand reimbursement for the expenses incurred by the Town for actions taken to inspect and secure the property, clean the property, and remove any stagnant pools of water, rubbish, overgrowth of vegetation and snow under a court order obtained pursuant to § 224-7.

A.

The Building Commissioner shall provide the owner or mortgagee with a written statement of all associated costs.

B.

If the owner fails to pay or reimburse the Town within 30 days of the notice of expenses, the Town may, as part of any court order sought pursuant to § 224-6 or by a separate civil action, seek to recover the balance due for reimbursement of its expenses incurred pursuant to this section and establish a lien on the property to be recorded in the Barnstable County Registry of Deeds or Land Registration.”

Section 3. That § 224-10 be amended as follows:

By striking out § 224-10 Review of Provisions in its entirety and by substituting in its place the following:

“§ 224-10 Severability.

The provisions of this article are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.”

VOTE: PASSES 11 YES (Cullum and Crocker (J) left dais)

Town Council took a 10 minute break at approximately 9:24 pm.

Councilors Cullum and Crocker (J) returned to the dais.

2016-031 APPROPRIATION AND LOAN ORDER OF \$450,000.00 FOR REPAIRS AND RENOVATIONS TO THE CRAIGVILLE BEACH BATHHOUSE INTRO: 09/17/15, 10/01/15

Daniel Santos, Director of Public Works gave the rationale. He discussed the Craigville Beach bath house regarding the inside and outside of the building, feasibility study, floodplain and renovation plan.

Open Public Hearing

- Meg Loughlin read a letter out loud from David Sauro from the Centerville Civic Association who hoped Council would support this agenda item (Exhibit E).

Close Public Hearing

Councilor questions and comments

The bath house is disgusting it needs to be improved. Improvements include improving in support and lower levels? [Yes]

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$450,000 be appropriated for the purpose of funding the repairs and renovations to the Craigville Beach bathhouse, and that to meet this appropriation, the Town Treasurer with the approval of the Town Manager, is authorized to borrow \$450,000.00 and that the Town Manager 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.

VOTE: PASSES 13 YES

2016-028 ORDER AMENDING CODE OF THE TOWN OF BARNSTABLE GENERAL ORDINANCES BY ADDING CHAPTER 54 BUILDING AND PREMISES MAINTENANCE INTRO 09/17/15, 10/01/15

Amended language for agenda item brought back to Town Council.

Councilor questions and comments

The language should strengthen the responsibility of the owner.

Upon a motion duly made and seconded it was

Amended language section 54-5A (1) add “or to and” and section 54-5A. (1) Add “The owner shall be responsible for disposal of rubbish, garbage and other refuse at a permitted transfer station or facility unless contracted for by the tenant” and remove “and the final collection and”.

VOTE: PASSES 11 YES 2 NO (Chirigotis and Canedy)

ORDERED: That the General Ordinances of the Code of the Town of Barnstable be amended by deleting the existing Chapter 54, and by substituting in its place the following Chapter 54 Building and Premises Maintenance and by amending Chapter 1, Article I, Noncriminal Enforcement of Violations.

SECTION 1: by adding the following Chapter 54.

“Chapter 54. Building and Premises Maintenance”

§ 54-1. Purpose and intent.

The purpose and intent of this chapter is to eliminate nuisances in the Town. Nuisances such as trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas and impair the health, safety and general welfare of the inhabitants of the Town.

§ 54-2. Applicability; compliance with other regulations.

Every owner shall maintain premises in compliance with this chapter and with applicable provisions of the sanitary and building codes (hereinafter "code") and regulations. Every occupant shall comply with the provisions of § **54-5B**.

§ 54-3. Outdoor storage.

A. Indoor items, such as furniture, appliances, plumbing fixtures and bedding, shall be kept within enclosed structures after seven (7) calendar days; all other personal property shall be kept within enclosed structures or screened from public view after fifteen (15) calendar days. In no case shall property covered by this subsection be stored outdoors for a cumulative total of more than forty-five (45) calendar days in any calendar year.

B. Functional outdoor items, such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, construction materials, while construction is ongoing, proceeding in good faith and in a timely manner and commenced under a valid building permit if required, boats and inventory, (where such outdoor storage of inventory is in compliance with zoning), shall not be subject to the requirements of this section.

C. Motor vehicles, boats and trailers shall be kept in compliance with Chapter **228**, Vehicles, Storage of.

§ 54-4. Stagnant water.

Water shall not be permitted to continuously stagnate outside of any building or structure for more than 10 days except under natural conditions. Nothing in this chapter 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. Owners' responsibilities.

(1) 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/or other refuse. The owner shall be responsible for disposal of rubbish, garbage and/or other refuse at a permitted transfer station or facility unless contracted for by the tenant.

(2) The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units that are 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. Occupants' responsibilities.

(1) 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 occupants shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse that is stored outside a building or structure is properly covered. Said occupants shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse.

(2) Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling that contains one or two units and that 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. Screening Requirements for Receptacles.

All outdoor rubbish and garbage storage areas shall be located in an area which is screened from public view. Said screening may be in the form of fencing, evergreen trees or other plants capable of providing year-round screening, located around the refuse storage area in such a manner to block the view of the rubbish and garbage storage area from the neighbors and from other persons passing-by, provided that receptacles may be placed in the open near a street within 24 hours of scheduled collection and disposal by a contractor as provided in this chapter and returned to a screened location within 24 hours thereafter. Receptacles shall be located in such a manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street,

§ 54-6. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

OCCUPANT

Any person who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

OWNER

Any person who alone or severally with others has legal title to buildings, structures or 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.

§ 54-7. Enforcement; removal or abatement of nuisance.

A. The Director of the Health Department or her or his designee is hereby designated as the enforcing authority for this chapter.

B. The enforcing authority shall notify the owner and occupant, in writing, of any alleged violation or violations of this chapter and order the owner or occupant to remove or abate the nuisance by a date certain not more than 10 days after service of notice of the violation(s); provided, however, that if the violation is determined to be such that the public health and safety will be jeopardized by that delay, the enforcing authority 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. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through noncriminal, criminal or civil proceedings, and no action shall preclude any other enforcement action or actions. Each day of continued violation may be deemed a separate offense.

C. In addition to any penalties or enforcement actions hereunder, after final determination of three 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 30 days of submission and, if unpaid thereafter, shall be subject to a municipal charges lien as provided in MGL c. 40, § 58.

§ 54-8. Interpretation of provisions; severability; period of effect.

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

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

SECTION 2: by amending section 1-3, Schedule of Fines, of Article I, Noncriminal Enforcement of Violations, of Chapter 1, General Provisions, of the General Ordinances by adding after "Ch. 51, Numbering of Buildings \$50" the following in the respective columns: "Ch. 54 Building and Premises Maintenance \$100 " in the respective columns.

VOTE: PASSES 13 YES

2016-030 ACCEPTANCE OF GRANT FROM THE EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS OFFICE OF COASTAL ZONE MANAGEMENT FY2016 COASTAL COMMUNITY RESILIENCE GRANT PROGRAM IN THE AMOUNT OF \$157,930 INTRO: 10/1/2015

Joanne Miller Buntich, Director of Growth Management gave the rationale.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts the grant award in the amount of \$157,930 from the Executive Office of Energy and Environmental Affairs Office of Coastal Zone Management FY 2016 Coastal Communities Resilience Grant Program for the purpose of hiring a consultant to complete a scientific study of the sedimentation processes for the segment of the Cape Cod Bay shoreline extending from the Cape Cod Canal to the easterly side of Barnstable Harbor, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSESS UNANIMOUS

2016-032 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 10/01/15

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoint the following individuals to a multiple-member board/committee/commission:

YOUTH COMMISSION: Lilly Sethares, 141Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/16; Sean Smith, 141Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/16; Caleb Sonnabend, 141Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/16; Alison Wolfe, 141Bassett Lane, Hyannis, MA as a regular member to a term expiring 06/30/16

PLANNING BOARD: Holly Brockman-Johnson, 94A Sea Street, Hyannis, as a regular member to a term expiring 06/30/18

VOTE: REFERRED TO SECOND READING ON 10/15/15-PASSES UNANIMOUS

2016-033 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 10/01/15

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council reappoint the following individuals to a multiple-member board/committee/commission:

PERSONNEL BOARD: Thomas Geiler, as a regular member to a term expiring 06/30/18.

SHELLFISH COMMITTEE: Richard Haskell, as a member at large to a term expiring 06/30/18.

VOTE: REFERRED TO A SECOND READING ON 10/15/15-PASSES UNANIMOUS

2016-034 ACCEPTANCE OF GRANT FROM THE EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS OFFICE OF COASTAL ZONE MANAGEMENT FY2016 COASTAL COMMUNITY RESILIENCE GRANT PROGRAM IN THE AMOUNT OF \$148,500 INTRO: 10/01/15

Daniel Santos, Director of Public Works gave rationale.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby accepts the grant award in the amount of \$148,500 from the Executive Office of Energy and Environmental Affairs Office of Coastal Zone Management FY2016 Coastal Communities Resilience Grant Program, for the purpose of hiring a consultant to explore various conceptual design alternatives for addressing the severe erosion and primary dune loss that has occurred at the Sandy Neck public beach facility, and that the Town Manager be authorized to contract for and expend the grant funds for the purpose stated herein.

VOTE: PASSESS UNANIMOUS

2016-035 APPROPRIATION AND LOAN ORDER OF \$490,000 FOR BARNSTABLE HARBOR OUTER ENTRANCE CHANNEL DREDGE PROJECT INTRO: 10/01/15

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$490,000 be appropriated for the purpose of funding the dredging of Barnstable Harbor outer entrance channel, and that to meet this appropriation, the Town Treasurer with the approval of the Town Manager, is authorized to borrow \$490,000 and that the Town Manager 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.

VOTE: REFERRED TO A PUBLIC HEARING ON 10/15/15-PASSES UNANIMOUS

2016-036 RESOLVE FOR ACCEPTANCE OF GIFT OF A PERMANENT EASEMENT FOR WETLAND MITIGATION, MAIN STREET, COTUIT, MA INTRO: 10/01/15

Daniel Santos, Director of Public Works gave rationale.

Upon a motion duly made and seconded it was

RESOLVED: That the gift of a Permanent Easement for Wetland Mitigation purposes in the area shown as "Easement for Wetland Mitigation 1,711 ± S.F." on a plan entitled "Easement Plan" prepared for the Town of Barnstable dated May 29, 2015, to include the right to enter upon the Wetland Mitigation area to create wetlands and install and plant plantings be accepted and that the Town Manager is authorized to receive, execute and record any documents necessary for this purpose.

VOTE: PASSES UNANIMOUS

2015-037 APPROPRIATION TRANSFER AND LOAN ORDER OF \$323,386 PURSUANT TO TEMPORARY REPAIR TO PRIVATE ROADS PROGRAM REGARDING GOVERNOR'S WAY, BARNSTABLE, MA INTRO: 10/01/15

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$323,386 be appropriated for the purpose of making temporary repairs to Governor's Way, Barnstable, MA. a private road within the Town of Barnstable, MA. and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, be authorized to borrow \$304,000, and that the sum of \$19,386 be transferred from available funds remaining in Town Council appropriation order 2013-066, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, and that betterments be assessed, and the Town Manager is further authorized to accept any grants and/or gifts in relation thereto.

VOTE: REFERRED TO A PUBLIC HEARING ON 10/15/15-PASSES UNANIMOUS

2016-038 APPROPRIATION AND TRANSFER ORDER OF \$82,000 FROM THE TOWN'S CAPITAL TRUST FUND FOR ADDITIONAL FUNDS FOR THE AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANT RESTROOMS AT THE HYANNIS GOLF COURSE INTRO: 10/01/15

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$82,000 be appropriated for the purpose of additional funding for Americans with Disabilities Act (ADA) compliant restrooms at Hyannis Golf Course; and to meet this appropriation, that \$82,000 be transferred from the Capital Trust Fund.

VOTE: REFERRED TO A PUBLIC HEARING ON 10/15/15-PASSES UNANIMOUS

2016-039 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$145,000 FOR IMPLEMENTATION OF A GLOBAL POSITIONING SYSTEM(GPS)-BASED AUTOMATIC VEHICLE LOCATION(AVL) SYSTEM FOR THE DEPARTMENT OF PUBLIC WORKS INTRO: 10/01/15

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$145,000 be appropriated for the purpose of funding the implementation of a Global Positioning System-based Automatic Vehicle Location (AVL) system for the Department of Public Works (DPW), and that to meet this appropriation, that \$145,000 be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: REFERRED TO A PUBLIC HEARING ON 10/15/15-PASSES UNANIMOUS

ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED to adjourn.

Unanimous

Adjourned at 10:25 PM

Respectfully submitted,

Janet E. Murphy
Assistant Town Clerk – Town of Barnstable

NEXT REGULAR MEETING: October 15, 2015

EXHIBITS:

- A) Kevin Turner letter
- B) POCCA pamphlet
- C) Barnstable Schools Capital Projects Update
- D) West Barnstable Shooting Range Update
- E) David Sauro letter