



Town Council Meeting
March 16, 2023



A quorum being duly present, President Matthew Levesque called the March 16, 2023, Town Council meeting to order at 7:06 PM.

An announcement was made by President Levesque 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: Nikolas Atsalis, Kristine Clark, Paul Cusack, Jessica Rapp Grasseti, Matthew Levesque, Betty Ludtke, Jeffrey Mendes, Paul Neary (7: 06 PM), Paula Schnepp, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber. Absent: Jennifer Cullum

The Pledge of Allegiance was led by President Levesque followed by a moment of silence for the people of Ukraine.

**PUBLIC COMMENT:
(In-person)**

John Julius mentioned the three Barnstable items which were under discussion: Conservation Law Foundation (CLF) potential lawsuit, opposition to the Dockside and the proposed 312 units at 35 Scudder Lane. He felt the 1998 Cape Cod Land Bank was enacted to help preserve and protect the land areas. He was opposed to the 35 Scudder Project.

Luc-Andre Sader, Youth Commission Chair, thanked the Council for keeping the water quality safe. He spoke about the upcoming Per –and polyfluoroalkyl substances (PFAS) community event. He explained the event was scheduled for March 25, 2023 from 1-3 pm at the 529 Main Street building. This event will have a panel, short films and studies to discuss and educate the public regarding PFAS and water quality.

(zoom) None
Close public comment

Councilor Response to Public Comment:

(Clark) thanked both speakers for their information. (Shaughnessy) Felt a compromise should be met regarding what to do with the land and the need for housing. (Starr) said Luc-Andre did a great job at the job fair.

TOWN MANAGER'S COMMUNICATIONS: (Levesque) The Town Manager's report has been prerecorded and the written form will be available to all on the Town Manager's page on the website. (Exhibit A)

1. November 7, 2023 Town Election
2. Barnstable Youth Commission hosted their 7th annual Job Fair
3. Budget Action Calendar for fiscal year 2024

4. Bond Underwriters bid on March 8, 2023
5. Proposed regulatory changes to Title 5 and Watershed Permit regulations
6. Town Manager Grant of Locations Regulations Providing Standards for the Placement of Wireless Communication facilities in the Public Right of Ways
7. Beach Parking Stickers
8. 3 Municipal properties declared surplus
9. The Barnstable Superintendent of Schools proposed Fiscal year 2024
10. Update on Comprehensive Wastewater Management Plan

Councilor questions and comments:

(Starr) Asked about the nomination papers for the November 7th Town elections (Murphy) explained the Town election nomination papers would be available in the Town Clerk's office on Friday, March 17th. The election is for 3 School Committee seats, 2 Housing Committee seats and all 13 Town Council seats. All nomination papers must be submitted to the Board of Registrars by 4 PM on Friday September 15, 2023.

Bond (Ells) We have a triple A bond rating. (Milne) we are diversified no risky investments. There will be more information in April meeting regarding Chapter 70 Aid. (Ells) Policy growth dollars are our tax dollars. (Milne) discussed the Student Opportunity Act. It is in the 3rd year of 6 year program. Due to three areas: overall enrollment, increase in English language, and increase in disadvantaged students Barnstable will receive more aid. Property value keeps aid down but the three areas gave us a bump in aid for this year.

(Anthony) discussed the bidding process for municipal sale of 3 properties.

(Rapp Grassetti) added the Comprehensive Wastewater Management Plan presentation from Griffith Beaudoin was excellent.

(Atsalis) asked about the wireless communication facilities located in the public rights of way. (Ells) noted there would be a public hearing via zoom on March 23, 2023 at 2:00pm for the proposed amendment to the Town Manager, Regulations, Part IV of the code, to adopt grant of location regulations. These regulations provide application procedures and standards for construction of wireless communication facilities located in the rights of way.

- **Cape Cod Commission 2022 Year in Review by Kristy Senatori, Executive Director**

Krist Senatori handed out a paper copy of the presentation. (Exhibit B) She discussed the 2022 year review of the Cape Cod Commission Projects. This was a review not a comprehensive look. She mentioned the big issues were water quality of coastal waters and housing. She introduced Sarah Colvin, Cape Cod Communication, and Fred Chirogotis Representative from Barnstable. The issues discussed were the 890 fresh ponds across Cape Cod of which only ten percent were monitored. She noted local, regional, the 15 municipalities and the stakeholders on Cape Cod needed to address water quality. She added the cost of a single family home on Cape Cod was \$890,000 which a prospective buyer would need to be earning \$210,000 a year to afford the mortgage. She added the median income on Cape Cod was \$82,000 per year.

ACT ON PUBLIC SESSION MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of March 2, 2023 as presented.

VOTE: PASSES 11 YES 1 ABSTAIN (ATSALIS)

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

(Atsalis) Main Street Centerville Roadway & Pedestain Improvements – Public Discussion - April 4th, 2023 6 pm at the Barnstable Adult Community Center.

(Clark) April 1st - 9 am -12 pm Throw out your household hazardous waste at the Barnstable Transfer Station.

(Schnepp) Appointment Committee - slate of candidates going to the April 6th Town Council meeting - there are board, committee and commission vacancies. Aqua Fund this is a fund to help resident with sewer hookup. Town wide Easter Egg Hunt April 1st at 10:00 am – put on by Marstons Mills Village Association

- Summary of Town of Barnstable Communications Survey by Lynne Poyant, Director (Exhibit C)

Lynne Poyant, Communications Director discussed the 2023 Town Communication Survey which accompanied the annual Town Census mailing. The communication survey garnered 6500 survey responses, the department was originally hoping for 2000 responses. She spoke about the January 2020 need to hire a communication director. She mentioned the different platforms for communication, nextdoor, Instagram, facebook, snapchat etc. Not all were a good fit with the town due to the inability to record and have it available to our public.

Councilor questions and comments:

(Atsalis) asked if the respondents were interested in the Comprehensive Wastewater Management Plan? (Poyant) Yes. (Mendes) we need to engage our younger demographic, working families, etc. (Poyant) We are working on it. We do work the Youth Community to try to engage our youth. (Mendes) Recommend utilizing the school age children to help educate the families using flyers, etc. Councilors suggested using a searchable website, using close caption for meetings, they liked the popularity of e-news due to newspaper having very little to say about local events.

Break – 9:15 PM back

<p>2023-133 APPROPRIATION ORDER IN THE AMOUNT OF \$22,700 FOR THE PURPOSE OF ACQUIRING THE FEE IN MOTHER’S PARK ROAD BY EMINENT DOMAIN FOR SEWER AND WATER AND GENERAL MUNICIPAL PURPOSES INTRO: 02/02/2023, 03/16/2023</p>

Upon a motion duly made and seconded it was

ORDERED: Provided that the Town Council has first voted to abandon Mother’s Park Road as a public way, the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under Chapter 79 of the General Laws of Massachusetts, or otherwise acquire for sewer and water and general municipal purposes the fee through, under, across, and on Mother’s Park Road, Centerville, as more fully shown on a plan to be filed in the office of the Town Council, for the installation, operation, maintenance, repair, relocation, and replacement of sewer and water lines and infrastructure for the same and for all purposes for which such infrastructure is commonly used in the Town of Barnstable, and that to fund the same, that **\$22,700** be provided from the reserves in the Sewer Construction and Private Way Improvement Special Revenue Fund, and that the Town Manager is authorized to contract for

and expend said appropriation for such purposes and accept any gifts or grants in relation thereto.

Any trees, buildings, and other structures located within said roads are not included in this Order and the owners of the same may have a period of up to sixty (60) days after the recording of the Order of Taking to remove the same.

The names and addresses of the owners of said interests taken and their mortgagees as far as can be ascertained by the Town are as set forth on Exhibit A attached hereto, along with any awards, if any, for damages sustained by said owners.

Betterments will be assessed for the associated sewer and water improvements made by the Town of Barnstable.

**VOTE: OPEN AND CONTINUE AGENDA ITEM AS WRITTEN TO THE APRIL 6, 2023
COUNCIL MEETING – PASSES - UNANIMOUS**

2023-139	ORDER APPROVING AN AMENDMENT TO THE 1992, 1995 AND 1997 AGREEMENTS BETWEEN THE TOWN AND THE WOODS HOLE, MARTHA'S VINEYARD AND NANTUCKET STEAMSHIP AUTHORITY INTRO: 03/02/2023, 03/16/2023
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Andy Clyburn, Assistant Town Manager gave the rationale. He explained the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (Steamship) wanted to extend the maximum length of their ships. The Town wanted to the consolidate the three agreements into a single document. Bob Davis, General Manager gave an overview of the PowerPoint presentation. Bob Jones discussed the history of the Steamship.

Councilor questions and comments:

(Atsalis) questioned the Steamship as to why these items were not addressed: paying no property taxes, no demarcation fee, trucks and cars causing traffic issues, why was New Bedford not utilized as another docking area. Compensation is needed from the Steamship. (Davis) explained a Request for Proposal went out but they had not received any submittals. New Bedford did not have a facility and could only run limited runs due to the sailtime. (Mendes) inquired what was the Town receiving for continued Steamship presence in Hyannis? The agreements were signed when Barnstable was a smaller Town we are now a Town of roughly 50,000. (Steinhilber) there are lots of issues to work out. We need concrete answers. (Shaughnessy) Had no problem with the bigger boats and agreed with a master agreement but had issues with damage to South Street and how best to fix it. This could be the agreement for the next 30 years. (Clark) We should look at embankments fees and the 50 cents per ticket payments which is split 75/25 with the Town of Yarmouth. Councilors questioned Steamship's lack of involvement with dredging the harbor they utilize. (Rapp Grasetti) recommended Steamship should be involved financially in the annual dredging.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorize the Town Manager to negotiate and execute an Amendment to the July 16, 1992 Agreement, the February 27, 1995 Memorandum of Understanding Relative to the Agreement dated as of July 16, 1992, and the November 6, 1997 Amendment to the Agreements Dated July 16, 1992 and February 27, 1995, between the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (the "SSA") and the Town of Barnstable ("Town") (collectively, the "Agreements"), to increase the permitted maximum overall length of any of the SSA's vessels to two hundred forty-five feet (245'); provided that the execution of such

Amendment shall be contingent on said Amendment expressly including language in which the Town and the SSA agree to work collaboratively to consolidate the Agreements and the Amendment authorized herein into one new agreement which would supersede and replace those separate agreements (the "Superseding Agreement"). Such consolidation would be for administrative convenience only to reflect in one document the current terms and conditions of those individual agreements and to remove outdated, expired, and/or superseded language. The Town Manager is hereby authorized to negotiate and execute the Superseding Agreement as described herein.
VOTE: MOVED TO CONTINUE AGENDA ITEM TO A LATER DATE TO DISCUSS WITH THE STEAMSHIP AUTHORITY – PASSES 11 YES 1 NO (LUDTKE)

**2023-140 APPROPRIATION ORDER IN THE AMOUNT OF \$34,500 FOR BURIAL EQUIPMENT FOR THE DEPARTMENT OF PUBLIC WORKS CEMETERY PROGRAM
INTRO: 03/02/2023, 03/16/2023**

Dan Santos Public Works Director gave the rationale.
Open Public Hearing seeing no one close Public Hearing

Upon a motion duly made and seconded it was
ORDERED: That the sum of **\$34,500** be appropriated for the Department of Public Works Structures & Grounds Division Cemetery Program for the purpose of purchasing burial equipment used by Town staff to maintain cemeteries and perform interments in Town cemeteries, and to meet such Appropriation, that **\$34,500** be provided from the Town's Sale of Cemetery Lots Special Revenue Fund.

VOTE: PASSES 12 YES

ROLL CALL Atsalis, Clark, Cusack, Rapp Grasseti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber

Upon a motion duly made and seconded it was to refer agenda items 2023-141 through 2023-145 to individual Public Hearings to be held on April 6th, 2023 as written

VOTE: TO PUBLIC HEARING ON APRIL 6th PASSES UNANIMOUS

2023-141 APPROPRIATION ORDER IN THE AMOUNT OF \$65,000 FOR THE DEPARTMENT OF COMMUNITY SERVICES GOLF ENTERPRISE FUND OPERATING EXPENSES INTRO: 03/16/2023

Upon a motion duly made and seconded it was
ORDERED: That the sum of **\$65,000** be appropriated for the Department of Community Services Golf Enterprise Fund Fiscal Year 2023 Operating Expenses, and to meet such appropriation, that **\$65,000** be provided from the Golf Enterprise Fund Reserves.

VOTE: TO PUBLIC HEARING ON APRIL 6th PASSES UNANIMOUS

**2023-142 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$195,000 FROM THE COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR THE COMPLETION OF THE CAPE COD RAIL TRAIL PHASE 3 ENGINEERING SERVICES
INTRO: 03/16/2023**

Upon a motion duly made and seconded it was
ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of One Hundred and Ninety Five Thousand Dollars (**\$195,000**) be appropriated and transferred from the amount set aside for Open Space/Recreation within the Community Preservation Fund for the purpose of funding the completion of the Cape Cod Rail Trail Phase

3 Engineering Services. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

VOTE: TO PUBLIC HEARING ON APRIL 6th PASSES UNANIMOUS

2023-143 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$300,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR THE PURPOSE OF FUNDING CAPE COD RAIL TRAIL, PHASE 4 – PRE-25% DESIGN SERVICES INTRO: 03/16/2023

Upon a motion duly made and seconded it was

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of **\$300,000** be appropriated and transferred from the amount set aside for Open Space/Recreation within the Community Preservation Fund for the purpose of funding Cape Cod Rail Trail, Phase 4 – Pre-25% Design Services. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

VOTE : TO PUBLIC HEARING ON APRIL 6th PASSES UNANIMOUS

2023-144 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$300,000 FROM COMMUNITY PRESERVATION FUNDS FOR THE RESTORATION AND PRESERVATION OF THE UNITARIAN CHURCH OF BARNSTABLE, 3330 MAIN STREET, BARNSTABLE, MA INTRO: 03/16/2023

Upon a motion duly made and seconded it was

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of Three Hundred Thousand Dollars (**\$300,000**) be appropriated for the purpose of funding the restoration and preservation of the Unitarian Church of Barnstable located at 3330 Main Street, Barnstable, MA, Assessors Map 299, Parcel 041, and to fund this appropriation that **\$261,000** be transferred from the amount set aside for Historic Preservation within the Community Preservation Fund and **\$39,000** be transferred from the Undesignated Fund Balance within the Community Preservation Fund. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

VOTE: TO PUBLIC HEARING ON APRIL 6th PASSES UNANIMOUS

2023-2023-145 ORDER AMENDING ARTICLE II, SEWER ASSESSMENTS, CHAPTER 184 SEWERS AND WATER OF THE GENERAL ORDINANCES INTRO: 03/16/2023

Upon a motion duly made and seconded it was

ORDERED: That Article II, Sewer Assessments, Chapter 184 Sewers and Water, of the General Ordinances of the Code of the Town of Barnstable shall be amended as follows:

SECTION 1: By deleting § 184-9.7 in its entirety and inserting the following new § 184-9.7 in its place:

§ 184-9.7. Sewer connection costs.

Property owners must select and contract with a contractor to connect their property to the completed section of sewer. Property owners may elect to privately pay directly to the contractor the entire cost of connection or may choose to enter into an agreement with the Town under which the Town will pay the connection costs upon completion and

will then finance and assess 100% of the costs plus interest back to the property owner as an additional and separate sewer assessment. The apportionment of such assessment and the applicable interest rate thereon shall be in accordance with Section 184-9.8 hereof.”

SECTION 2: By amending the heading of § 184-9.9 to insert the words “and suspension” after the word “Deferral” so that it reads: “Deferral and suspension of charges.”

SECTION 3: By further amending § 184-9.9 by deleting in Subsection B the word “assessment” and inserting the words “use charges” in its place.

SECTION 4: By further amending § 184-9.9 by adding the following new Subsections C, D, E, F and G:

- C. In accordance with and subject to the provisions of Section 13B of Chapter 80 of the General Laws, the Town Manager shall, upon the application of the owner of real property on which a sewer assessment has been imposed, if such owner is receiving an exemption from property taxes under clause Forty-first A of Section 5 of Chapter 59 of the General Laws with respect to such property, enter into a deferral and recovery agreement with such owner on behalf of the Town. Any such application shall be filed with the Town Manager within six months after notice of the assessment has been sent. In the case of each such deferral and recovery agreement entered into by the Town Manager and the property owner, the Town Manager shall record in the Barnstable County Registry of Deeds a statement of his or her action which shall constitute a lien upon the land covered by such agreement for such sewer assessment. Such statement shall name the name the owner or owners and shall include a description of the land. The filing fee for any such statement recorded by the Town Manager shall be paid by the owner or owners of such real property.
- D. The provisions of Section 13B of Chapter 80 of the General Laws are hereby accepted by reference as a part of the general ordinances of the Town.
- E. In accordance with and subject to the provisions of Section 5 of Chapter 61 of the General Laws, land classified as forest land under said Chapter 61 is subject to a sewer assessment to such pro rata extent that the service or facility financed by such assessment is used for improving the forest production use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in forest production use and shall become due and payable as of the date when the use of the land is changed. Interest shall be computed from the date of the change in use.
- F. In accordance with and subject to the provisions of Section 18 of Chapter 61A of the General Laws, land classified as agricultural or horticultural under said Chapter 61A, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in agricultural or horticultural use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.

- G. In accordance with and subject to the provisions of Section 13 of Chapter 61B of the General Laws, land classified as recreational under said Chapter 61B, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the recreational capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in classified recreational use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.

SECTION 5: By deleting “§ 184-9.10. Abatements” in its entirety and inserting the following new § 184-9.10 in place thereof:

“§ 184-9.10. Abatements.

- A. Petition for Abatement. The owner of any property on which a sewer assessment has been imposed under this Article II may file with the Town Manager a petition for abatement of such assessment on a form provided by the Department of Public Works within six months of the date of notice of such assessment. The Town Manager shall act on such petition within four months of the date of its filing. If the Town Manager fails to act within that time, the petition is deemed to be denied. The Town Manager shall give written notice to the petitioner of his or her decision within ten days after it has been made. The filing of such petition does not stay the payment of the sewer assessment, which must be paid as assessed. If the abatement petition is allowed, the appropriate refund will be made by the Town in accordance with M.G.L. c. 80, § 5.
- B. Appeal of Denial of Abatement. A property owner who is aggrieved by the refusal of the Town Manager to abate a sewer assessment in whole or in part may, within thirty days after notice of the decision of the Town Manager, file an appeal in the Superior Court pursuant to M.G.L. c. 80, § 7, or, alternatively, appeal such decision within said thirty day period to the Barnstable County Commissioners pursuant to M.G.L. § 10. If the Town Manager fails to act on a petition within four months of the date of its filing, the property owner shall have sixty days after the expiration of such four month period to file an appeal.”

SECTION 6: By adding the following new “§ 184-9.11. Municipal lien”:

§ 184-9.11. Municipal lien.

Deferred Recording Procedure. The provisions of Section 12 of Chapter 80 of the General Laws, with respect to deferring the recording of the required information for sewer assessments authorized by M.G.L. c. 83 until after the project is completed, assessments are made, and bills issued, and then only for those properties where the assessment was not paid in full within the thirty day period for paying without incurring interest, are hereby accepted by reference as a part of the general ordinances of the Town.

VOTE: TO PUBLIC HEARING ON APRIL 6th PASSES UNANIMOUS

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

VOTE: PASSES UNANIMOUS

Adjourned at 10:37 PM

Respectfully submitted,

Janet E. Murphy
Assistant Town Clerk

NEXT MEETING: April 6, 2023

Exhibits

- A. Town Manager Update
- B. Cape Cod Comssion 2022 Year in Review Presentation
- C. Communication Survey Presentation