



Town Council Meeting
March 21, 2024



A quorum being duly present, President Felicia Penn called the March 21, 2024, Town Council meeting to order at 6:01PM.

An announcement was made by President Penn 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 8 or Channel 1072.

PRESENT: Charles Bloom, Seth Burdick, Kristine Clark John Crow, Matthew Levesque, Betty Ludtke, Jeffrey Mendes (9:45 PM zoom), Paul Neary, Felicia Penn, Paula Schnepf, Gordon Starr, Craig Tamash, Kristin Terkelsen

Vice President Craig Tamash introduced Councilor Ludtke to lead the Pledge of Allegiance. A moment of silence was led by Councilor Clark asking everyone to keep the families of Meghan Moore and Judy Desrochers in their thoughts and prayers.

President Penn read a letter previously sent to the Town Councilors (Exhibit A)

PUBLIC COMMENT:

Rob Brennan spoke about zoning issues as important issues we need to have input and share our expertise. Everyone should have the opportunity to speak during public comment. Please table the ad-hoc committees.

Tara Varga-Wallace stated “the laws are made by those who show up” we need to move forward with equitable housing. Asked that the ad-hoc be assured that proper procedures are followed, and all voices are heard.

Pete Sampou explained an electrical substation is a concentrated collection of transformers that enable electricity to be transmitted as different voltages securely and reliably. The dielectric fluid to be used is a highly mineral oil, it does not move through the soil, safer for our ground water.

Lynne Rhodes, current President of the National Association for the Advancement of Colored People (NAACP), looked for a one-bedroom apartment and found it was \$2,100 dollars monthly. Please we need transparency, we cannot afford to live here, and these prices are going to affect the economy.

Ella Sampou urged the Councilors to delay the vote of the ad-hoc committees. Barnstable form-based code is a success and has been held up as an example across our county. The Planner should be proud of this committee. Barnstable has an Affordable Housing Trust. This resolve puts too much power in one person,

Meaghan Mort stated it is apparent that the lack of transparency and a clear bias against those that are struggling. Leadership invites courage and cooperation, engages in teamwork. What

exactly does “we’re full and Cape Cod authentic” mean, a gentrified version of redlining. Allie Maloney owner of AMG Realty shared her thoughts on zoning, based on the ability to change fast enough to take advantage of the opportunities that come forward. Before form-based zoning, owners had few options. This provides housing, zoning by-laws are not meant to be stagnant.

Susanne Conley worries that dielectric fluid poses a danger to the water. Your constituents were speaking to a Town Council that was divided. We came here to be listened to, we were speaking to a distracted and divided Town Council. In the future give the well-informed citizens the consideration to listen to the opinions of your constituents.

Karen Maguire if things get this ugly nothing is going to be accomplished. Shame on us for getting to this point. Bickering among ourselves, things that are going on in the community, we must get together.

Mark Wirtanen said there is a pollution problem in West Barnstable north of Route 6A, the state created an underground drainage system which dumps right into someone’s yard. He has spoken to Representative Xiarhos, to the County Commissioners, and would like the Council to write a letter to the Governor to tell the Massachusetts Department of Transportation (DOT) to put in a system to clean this up. Help us out in West Barnstable

John Julius said this Council is doing a good job. I was the one who created the “we’re full” specifically for the village of Hyannis. Just simply for the water alone, we cannot have any more housing in Hyannis.

MaryAnn Barboza wants to get on the new ad-hoc Housing Committee. I remember when nothing was here but woods, don’t tell us we must go, this was our home first. Don’t think you are going to turn us away. I have every right to be here.

Carolyn Newman thanked the essential workers, said thank you for teaching our children, we need to change, let’s keep everything open and to the public. Properties are currently being sold to second or third homeowners. It needs to be done today; we need the public to be involved. Do the right thing for the public; housing is necessary, it is needed now.

Asia Graves we need housing, people have a right to live here. I will fight until the end to support housing. We need to have the public involved on the housing committees. Please do the right thing for the public.

Larry Morin the important thing in this process is a method by which we create an ad-hoc committee is to do a specific project for a specified amount of time and be open to the public.

Break for technical difficulties!

Zoom:

Tom Kirk do we have a definitive word on the Watershed Permit? The Comprehensive Wastewater Management Plan (CWMP) is the ever-changing document, subject to engineering plans; it all seems to be thrown out the window. Do we have the permit and when will this be resolved? Appreciate a response from the Town Council members.

Grove Harris we are perfectly positioned to do educational resourcing with the Wood Hole Oceanographic group. We need absolute transparency, education, and business to work on this process. We must reduce our energy use.

Christina Silva spoke about the housing crisis here. Would love to see the housing issue change, get the right people on the committee. Think about the people you would be affecting.

Lisa Nagle the ad-hoc committees need to be a strategic formation and I would like to be on one of these committees. This is a critical issue; we are losing people due to a lack of housing.
Close public comment

COUNCIL RESPONSE TO PUBLIC COMMENT:

(Ludtke) huge supporter of the ad-hoc committees; thinks President Penn did nothing wrong. Housing seems to be the priority. How did our housing production plan lapse? (Clark) The Ad-hoc committees will be a broader approach to serve residents. Have addressed the bad drainage on Route 6A with the Massachusetts Department of Transportation (Mass DOT). (Tamash) We do hear the public, some of us are silent, we may not agree with all of you, but your voice is heard. (Terkelsen) some of us are being judged before we have done anything. We are all here to work towards a better solution. (Levesque) the prior Council was working very hard on affordable housing; we have an award-winning Planning Department. The zoning hasn't changed, the fear is they can't move forward. We do have the expertise of our town manager and our planning board and the staff. Is there a way we can make it better; we are not running out of water in Hyannis. We need workforce housing. (Crow) defined the ad-hoc committee what it is to do, and then to be shut down, we are following the town code. Previously, the Town Council did not follow this process. We are asking for fairness, equal access to the town. (Levesque) advised by the Town Manager at that time was not being led properly by past leadership, protecting the people on the committee, it wasn't a balanced approach, it was time to bring the discussion to the dais. (Tamash) clarified a statement of "not building our way out of the housing problem" we must do something different, that's what I was referring to, we need affordable apartments. (Penn) the committees will allow for public comment, so even if you are not a member of the committee, you can have a voice. Process for participating on the committees, within 15 business days an application will be on the website (Barbosa) the committees are not formed yet? How will you pick the people? (Penn) current housing committee hasn't met in a year; the town needs to be more pro-active. Balance is necessary. (Schnepp) We do hear what you say, we take it into consideration. I would like to recommend that we work together.

State Representative Steven Xiarhos, State Representative Kip Diggs – Citation for Jean Challies, Police Chief: Chief Jean Challies received recognition for the outstanding team effort across several towns and police departments with a peaceful ending. Chief Challies thanked all the police officers who contributed to the good outcome of a tragic situation proving a team effort, a true demonstration of discipline and professionalism of our police department.

Update from Dr. John Cox, President, Cape Cod Community College and Sheila Vaughn, Director of Admissions: explained the initial phase of "MassReconnect" a more seasoned student body. Students have a choice of in-person classes, or remote participation.

Councilor questions and comments :(Schnepp) serving an older population, do you provide childcare (Cox) currently it is in initial discussion with the Young Men's Christian Association (YMCA), wellness is critically important role for the students. Sponsoring our first all-female team of technicians (Crow) thank you for doing this (Clark) can we have the presentation be available on our website (Cox) Yes (Terkelsen) how many nursing students in the class? (Vaughn) about 130 nursing students graduating every year. (Terkelsen) what is the limitation for expanding (Cox) space is the issue, but we have doubled the footprint, putting a pathway to increase the enrollment.

TOWN MANAGER'S COMMUNICATIONS: (Pre-Recorded) The Town Manager's report has been pre-recorded and is available to the Town Council and the public. The report will be prepared in written form and posted on the Town Manager's website as in the past. The Town Manager and staff will be available to answer any questions regarding the report as presented. The Town Managers communication for the period of March 6, through March 19, 2024, included an update on: (Exhibit B)

President Penn invited Mark Ells, Town Manager to update the Council from his Town Manager Report:

1. Availability to submit letters of interest for the Town of Barnstable's Representative to the Cape Cod Commission
2. Update on Budget Action Calendar
3. Update on the Town's Annual Comprehensive Audit Report
4. Update on Healey-Driscoll Administration's Commission on Clean Energy Infrastructure Siting and Permitting
5. Update on Vineyard Wind's Information regarding safety and compliance at Covell's Beach
6. Update on Cape Cod and Island Water Protection Fund Management Board approach to funding wastewater infrastructure projects.
7. Town of Barnstable received notice of eligibility for subsidy from the Cape Cod and Islands Water Protection Trust Fund (CCIWPF) for Qualified Projects identified in the "Draft 2024 Intended Use Plan for the Clean Water State Revolving Fund."
8. Following the Private Roads Workshop, a summary of how Town staff will proceed based on past and the most recent direction from Town Council
9. Update by the DPW on Water Resource Management planning including the Comprehensive Wastewater Management Plan

Councilor questions and comments:

(Starr) Do we have an answer about the Watershed permit? (Ells) the application was submitted, and it is still under review. Will ask again for a timeline from the DEP and bring the information back to the next Council meeting. (Schnepp) Close to our first hook-ups, what is the coordination between Department of Public Works (DPW) and the Health Department notifying the customers (Santos) working with the Health Division once a project is complete, we notify the Health Department, and they will then notify the homeowners it is time to hook-up. We will then send out a letter to do a sewer assessment. (Ells) within my report the fee hearings, major change in the sticker program. (Santos) Eliminating the sticker license plates will be recognized, more efficient and effective, saves money and staff time. (Clark) What is the update on the Swap Shop, (Santos) will be announced soon, hopefully in the next month. (Clark) how would people volunteer (Santos) call our office (Starr) When the new sticker due (Santos) July 1st (Starr) is in reference to the signage to say something positive about renewable energy (Ells) as soon as I get the information, with the Quick Response (QR) code, I will send it to you.

ACT ON PUBLIC SESSION MINUTES:

Upon a motion duly made and seconded, it was to accept the minutes of March 7, 2024, as presented.

VOTE: PASSES 11 YES, 1 ABSTENTION (Terkelsen)

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

(Clark) the next appointments committee meeting will be March 29, still accepting applications for other committees. (Levesque) March 23rd Easter egg hunt at Burgess Park. (Penn) The next water workshop is April 11th, can be watched live, submit your questions to the Councilors by April 10th. The Rotary Club home and garden show on Saturday at the Hyannis Youth and Community Center (HYCC) (Schnepp) outreach for the Local Comprehensive Planning Committee (LCPC) posted on the website (Neary) NSTAR just released the questions and answers from the Energy Facilities Siting Board (EFSB).

2024-166	RESOLVE ESTABLISHING CERTAIN AD HOC ADVISORY COMMITTEES INTRO: 03/07/2024, 03/21/2024.
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Karen Nober, Town Attorney gave the rationale and advised take separate votes.

Upon a motion duly made and seconded it was:

Councilor Neary made a motion to suspend the provisions of the Town Council Rule 11A as it relates to the appointment of registered voters by the Town Council President to the ad hoc committees set forth in this item in order that such appointments shall be made by vote of the Town Council after recommendation from the Appointments Committee; seconded by Councilor Burdick

Discussion: (Neary) this motion would have any applicants go through the normal process and the Appointments Committee would make the recommendation. (Ludtke) Don't agree with the amendment, the rules say that the President makes the appointments, this rule should stay in place, we owe that support to the President to complete this. (Starr) disagree, we need to work on our perception to the public (Levesque) it's a checks and balances type of thing; in the spirit of transparency (Neary) what I am trying to do is quell this tension this can be done with the Appointments Committee, it is a way to remove this optic (Bloom) concerned about the Appointments Committee it has a full schedule, if the closing date is going to be within the next three weeks we won't have the time. Have complete faith in the President's choices. (Penn) Perhaps an amendment to have the Appointments Committee have an additional meeting to discuss these applications. (Neary) what is the last date of the application (Penn) 15 days for the public to apply. (Nober) vote the motion as made because it doesn't specify a date (Penn) that is not tight enough, it's willy nilly (Nober) maybe amend this by a certain date (Schnepp) logistical issue by creating 5 committees at once, resident or citizen participation, difficult to select a few citizens to have the input. Usually, two readings can we suspend that now or in the future if necessary (Nober) You can do that at the meeting. (Terkelsen) half of the time we want change and then we don't want change, we are in a circular conversation (Crow) In my opinion we should stick by the Town Council rules, we should not set a precedence (Schnepp) going forward with this motion, we are not removing a lot of what is in the Town Council Rules, (Tamash) in this case I think it is a good idea because of the controversy that has been created, transparency will be helpful

For clarity: repeated the first motion by Neary.

Councilor Neary made a motion to suspend the provisions of the Town Council Rule 11A as it relates to the appointment of registered voters by the Town Council President to the ad hoc committees set forth in this item in order that such appointments shall be made by vote of the Town Council after recommendation from the Appointments Committee.

A motion to amend the above motion to add "by May 1st" was duly made and seconded.

VOTE: PASSES 11 YES, 1 NO (Burdick)

Upon a motion to suspend the provisions of the Town Council Rule 11A as it relates to the appointment of registered voters by the Town Council President to the ad hoc committees set forth in this item in order that such appointments shall be made by vote of the Town Council after recommendation from the Appointments Committee by May 1st.

VOTE; FAILS 6 YES (Levesque, Neary, Tamash, Starr, Schnepf, Burdick) 6 NO (Terkelsen, Ludtke, Penn, Crow, Bloom, Clark)

(Nober) recommended a motion be made to separate the votes on each of the five committees.

Upon a motion duly made and seconded it was to take separate votes on each of the five committees set forth in Item 2024-166 and assign separate consecutive letters to each such vote, beginning with 2024-166 A

Discussion:

(Terkelsen) the goal on this is to maybe vote on two committees and not the rest until another time (Nober) to take separate votes on each committee.

VOTE: PASSES 11 YES, 1 NO (Crow)

Councilor Tamash made a motion that the Committee to Review the Town Council Rules and the Town Code will be item number 166A, motion duly seconded.

VOTE: PASSES UNANIMOUS 2024-166A

Upon a motion duly made and seconded it was

RESOLVED: That, in accordance with Section 241-8 of Chapter 241 of the Town Administrative Code, the Town Council does hereby establish the ad hoc advisory committees listed below to assist the Town Council in carrying out the Council's responsibilities. The committees shall be limited to the purposes noted below and shall serve only for the specified time periods; provided that the time periods may be extended by the Town Council President at the request of a committee chair if additional time is needed to complete the work of the committee. In accordance with Town Council Rule 11A, the President of the Council shall designate the members of these committees, as further described below. Committees shall have an odd number of members. The committees shall be subject to and shall comply with the Open Meeting Law. All committee meetings shall include a period for public comment. The committee chairs shall provide regular reports to the Town Council at Town Council meetings.

- **2024-166A Committee to Review Town Council Rules and the Town Code**
Members: 5 Councilors
Purpose: Work closely with the Town's Legal staff to review the documents to ensure consistency with existing process and practices and recommend revisions to the Council.
Time Period: Complete work and make recommendations to the Council by October 31, 2024.

Discussion:

(Schnepp) what is the expectation logistics for these meetings? (Penn) each committee will pick a time, will have staff support, will decide on hybrid or zoom or in person, will be videotaped and have minutes. (Schnepp) will each committee have its own page (Penn) no, it will be on the Town Council page (Starr) we can only use this room and the Selectmen's Conference Room so it can be taped, concerned about the schedule. (Penn) there is plenty of time available (Schnepp) is this during the day many people are working (Penn) maybe we do it at noon while having lunch, we need to be flexible (Levesque) there is a challenge of meeting at noon, people complained about the time frame.

VOTE: PASSES UNANIMOUS

- **2024-166 B Committee to Review the Purpose, Composition, Functionality and Effectiveness of the Standing Committees of the Town**

Members: 5 Councilors

Purpose: Work with Town staff to review the standing committees of the Town, particularly advisory committees, to determine their effectiveness and whether there is a current need for such committees.

Time Period: Complete work and make recommendations to the Council by March 31, 2025.

Discussion:

(Starr) will this committee reorganize committees or create new committees (Penn) the scope of the committee, some might morph into other committees (Terkelsen) this committee would bring this back a full report to the full Council (Penn) Yes

VOTE: PASSES UNANIMOUS

- **2024-166C Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements--**

Members: 5 Councilors and may include up to 4 registered voters in the Town (provided that the total membership shall be an odd number)

Purpose: Work with the Town's Planning & Development staff to review and reassess recently adopted zoning changes, review the Town's use of regulatory agreements, and make recommendations to the Council.

Time Period: Complete work and make recommendations to the Council by October 31, 2024.

Discussion:

(Starr) thinks this is too broad, are we looking back to home based businesses, etc. (Penn) up to the committee (Starr) It seems that form-based zoning is the issue, we should take that out and deal with it on the dais (Penn) Why wouldn't you have the committee work on it (Starr) If there are people who don't understand it have Elizabeth Jenkins come in to explain it (Penn) I just don't understand what you are afraid of (Penn) no one is taking away the zoning that has passed here, after the committee does the work it will come back to the Council (Schnepp) big endeavor to go backwards, that 7 of the sitting Councilors passed this zoning, uncertainty has an effect (Penn) if it is in the pipeline now it is not going to be a problem (Schnepp) not sure we will have the votes, concerned about the regulatory agreements and how they are perceived, now that we have very specific form-based zoning, this particular committee raises issues for me, is there a value to bring in voters (Nober) going forward basis for the purpose of the

regulatory agreements and how do we want to use that, that was the intent of the language (Schnepp) Concerned at this time looking at recent zoning that we have passed. (Levesque) I agree with Councilors Starr and Schnepp, don't understand going backwards, we came to a compromise, worked hard on the 15 amendments made it good (Penn) if it is good, it will stay as it is (Levesque) we came to a good compromise. (Nober) the original language was enforcement, it is not a Council issue it is a staff issue (Penn) nothing wrong going back to do a review (Ludtke) Liaison to the Main St. Historic Commission, we put this form-based code on top of a historic district, it does need a second look, there is something amiss (Tamash) not so much the recent zoning, but the wheelwrights and tinkers, looking at this as to look at the zoning, this works but this doesn't work. (Levesque) our zoning does need to be updated.

5-minute break

Councilor Mendes has joined the meeting.

Move the question!

Vote: 10 YES, 3 NO (Levesque, Mendes, Schnepp)

Roll Call: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepp, Starr, Tamash, Terkelsen

On 2024-166C

VOTE: PASS 7 YES, 6 NO (Burdick, Levesque, Mendes, Neary, Schnepp, Starr)

Roll Call: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepp, Starr, Tamash, Terkelsen

- **2024-166D Committee to Assess and Recommend Strategies for Housing Creation Within the Town**

Members: 5 Councilors; may include member from the Planning Board, 1 member from the Housing Committee and 1 member from the Comprehensive Financial Advisory Committee; may include up to 3 registered voters in the Town (provided that the total membership shall be an odd number)

Purpose: Recommend strategies for the creation of housing to serve year-round residents and seasonal workers. The committee shall review the Cape Cod Commission's Regional Housing Strategy, the proposed state housing bond bill, and the Town's Housing Production Plan, with a goal of recommending 2-4 strategies for the Town to adopt, along with recommendations for implementation and resources needed.

Time Period: Complete work and make recommendations to the Council by September 30, 2024.

Discussion:

(Crow) suggest we put this into effect and get working (Levesque) could you tell us if this is what you envisioned (Schnepp) Originally thought it would be Councilor committee, to prioritize at a regional level and bringing in expertise, feeling a little ambivalent.

(Levesque) Another suggestion we have a Housing Committee that plays a key advisory role, why aren't we trying to focus on that (Penn) after discussions with Planning and Development this committee could enhance, while the other committee reorganizes; the Town Council needs to be more proactive and then refer to us, it is not productive right now.

Problem with Channel 18, break - back on without a break

(Penn) The committee doesn't have to work on the whole thing (Neary) this is a bad optic (Mendes) can't vote for this in good faith I only heard part of it.

VOTE: PASSES 10 YES, 2 NO (Levesque, Neary) 1 ABSTAIN (Mendes)

Roll Call: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

- **2024-166E Committee to Recommend Policy with Respect to the Town's Acquisition and Disposition of Property and Development of Town-Owned Property**

Members: 5 Councilors and up to 4 registered voters in the Town (provided that the total membership shall be an odd number)

Purpose: Develop recommendations for Town policy on the acquisition and disposition of property and the development of Town-owned property.

Time Period: Complete work and make recommendations to the Council by March 31, 2025

Discussion:

(Levesque) We own a lot of property and we didn't know exactly what we owned, concern that type of clustering affordable housing, will we need additional staff or partners (Penn) depends on what the goals of the committee are, disposition of the airport would be a huge study first (Nober) with the exception of the airport the use of the property is under the purview of the Town Manager, (Starr) the Jenkins bog came up with a right of first refusal (Nober) putting together a policy on that (Schnepf) this should be a Councilor only committee (Terkelsen) if it really is to drive policy I agree with Paula (Schnepf) Upon a motion duly made and seconded it was to amend to read the committee would be comprised of five Councilors only (Starr) I would go with three, (Penn) that could make quorum issues (Ludtke) like the idea of having residents on this committee, creative ways for land use, keep the registered voters. (Terkelsen) they can still do public comment? (Penn) Yes (Mendes) I agree with Councilor Terkelsen, a better recourse with the resident's input.

VOTE: On Amendment PASSES 11 YES, 1 NO (Ludtke), 1 ABSTENTION (Penn)

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

VOTE: As Amended PASSES 12 YES, 1 NO (Starr)

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

2024-167 ACCEPTANCE OF A GIFT OF A USED PING PONG TABLE TO SUPPORT THE HYANNIS YOUTH AND COMMUNITY CENTER INTRO: 03/21/2024
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Chris Gonella, Director of Community services gave the rationale

Upon a motion duly made and seconded it was

RESOLVED: That, in accordance with General Laws Chapter 44, Section 53 ½, the Town Council does hereby accept a gift of a used Ping Pong table from a donor who would like to remain anonymous for use by the Hyannis Youth and Community Center.

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

2024-168 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION INTRO 03/21/2024

Upon a motion duly made and seconded it was to suspend the rules and vote this evening.

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Comprehensive Financial Advisory Committee:** Thomas Keane, as a regular member, to a term expiring 06/30/2026.

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

2024-169 RESOLVE APPROVING A LETTER REGARDING THE VETERAN TAX WORK-OFF PROGRAM INTRO: 03/21/2024.

Town Attorney, Karen Nober gave the rationale.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby approve sending a letter in the form as presented at this meeting regarding the veteran tax work-off program.

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

2024-170 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION EXEMPTING THE POSITION OF POLICE CHIEF IN THE TOWN OF BARNSTABLE FROM THE CIVIL SERVICE LAW INTRO: 03/21/2024

Town Attorney, Karen Nober gave the rationale.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council hereby directs the Town Manager to submit a petition to the General Court of the Commonwealth for a special act exempting the position of Police Chief in the Town of Barnstable from the civil service law, as follows:

“AN ACT EXEMPTING THE POSITION OF POLICE CHIEF IN THE TOWN OF BARNSTABLE FROM THE CIVIL SERVICE LAW

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. Notwithstanding any general or special law to the contrary, the position of police chief in the city known as the town of Barnstable shall be exempt from chapter 31 of the General Laws.

SECTION 2. This act shall not impair the civil service status of any incumbent holding the position of police chief in the city known as the town of Barnstable on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.”

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

2024-171 ORDER AUTHORIZING AN INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF BARNSTABLE, YARMOUTH, AND SANDWICH FOR THE PURPOSES OF ESTABLISHING A REGIONAL EMERGENCY COMMUNICATIONS CENTER HOSTED BY AND LOCATED WITHIN THE TOWN OF BARNSTABLE INTRO: 03/21/2024

Discussion:

(Starr) will this require a new building in Barnstable?

(Clyburn) Yes, this will facilitate phase one and two of design, so we are looking at a three to five year time frame to complete.

Upon a motion duly made and seconded it was

ORDERED: That the Town Council does hereby authorize the execution and delivery by the Town Manager of an Intermunicipal Agreement (IMA) with the Towns of Yarmouth and Sandwich for a term of twenty-five years, substantially in the form of the agreement on file in the Town Council office, for the purpose of establishing a Regional Emergency Communications Center hosted by the Town of Barnstable, which will combine the towns’ resources to provide cost efficient, shared and effective emergency and 911 dispatch services from a single primary location within the Town of Barnstable.

VOTE: TO A SECOND READING ON APRIL – PASSES 13 YES

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

2024-172 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 1 GENERAL PROVISIONS, ARTICLE I NONCRIMINAL ENFORCEMENT OF VIOLATIONS, AND INSERTING A NEW CHAPTER 185 KNOWN AS “STORMWATER MANAGEMENT AND ILLICIT DISCHARGE CONTROL” INTRO: 03/21/2024

Upon a motion duly made and seconded it was

ORDERED: That the Code of the Town of Barnstable be amended as follows:

SECTION 1. By amending Chapter 1, Article I, Section 1-2 as follows:

- A. By renumbering Subsection A(10) as Subsection A(11).
- B. By striking out in Subsection A(9) the word “and” as appearing after the semi-colon.
- C. By inserting after Subsection A(9) a new subsection “A(10) The Director of Public Works and his designees; and”

SECTION 2. The schedule of fines in Chapter 1, Article I, Section 1-3 is hereby amended by inserting after Chapter 184 the following:

“Ch. 185 Stormwater Management or IDDE
 First offense \$100
 Second or subsequent offense \$300”

SECTION 3. The schedule of fines in Chapter 1, Article I is hereby amended by inserting the following new Section 1-6.2:

“§ 1-6.2: Fines for the Violation of Department of Public Works Regulations

Offense	Fine
Violation of Stormwater Management and IDDE Regulations	
First offense	\$100
Second or subsequent offense	\$300”

SECTION 3. The Code of the Town of Barnstable is hereby amended by inserting after Chapter 184 a new Chapter 185 as follows:

“Chapter 185 Stormwater Management and Illicit Discharge Control

Article I General Provisions

- § 185-1 **Authority.**
- § 185-2 **Introduction.**
- § 185-3 **Purpose.**
- § 185-4 **Definitions.**
- § 185-5 **Administration.**
- § 185-6 **Regulations.**
- § 185-7 **Enforcement.**
- § 185-8 **Entry Upon Land to Perform Duties**
- § 185-9 **Severability.**

Article II Illicit Discharge Control

- § 185-10 **Purpose and Objectives.**
- § 185-11 **Prohibited Activities.**
- § 185-12 **Exempt Activities.**
- § 185-13 **Emergency Suspension of Storm Drainage System Access**
- § 185-14 **Notification of Hazardous Material Spills.**

Article III Construction and Post Construction Stormwater Management

- § 185-15 **Purpose and Objectives.**

- § 185-16 **Prohibited Activities.**
- § 185-17 **Exempt Activities.**
- § 185-18 **Waivers and Provisions for Relief.**
- § 185-19 **Surety.**

Article I General Provisions

§ 185-1 Authority.

Chapter 185 of the General Ordinances is adopted in accordance with the regulations of the federal Clean Water Act found at 40 C.F.R. 122.34, as amended, the Massachusetts 401 Water Quality Certification regulations found at 314 C.M.R. 9.00 *et seq.*, Section 6 of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, and the Charter of the Town of Barnstable.

§ 185-2 Introduction.

The United States Environmental Protection Agency has identified Disturbance of Land and polluted stormwater runoff as major sources of water pollution. Regulation of Illicit Connections and Discharge of Pollutants is necessary for the protection of the Town of Barnstable's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:

- (1) Impairment of water quality and reduced flow in estuaries, lakes, ponds, streams, rivers, wetlands, and groundwater.
- (2) Contamination of drinking water supplies.
- (3) Alteration or destruction of aquatic and wildlife habitat.
- (4) Flooding.
- (5) Erosion of stream channels; and
- (6) Overloading or clogging of municipal catch basins and storm drainage systems.

§ 185-3 Purpose.

The purpose of this Chapter is to comply with the conditions and requirements set forth in the Massachusetts General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer System by:

- (1) establishing the Town of Barnstable's legal authority, including that of its Department of Public Works, to prohibit, investigate, and eliminate illicit discharges into the Town's Municipal Drainage System and implement appropriate enforcement procedures and actions; and
- (2) establishing and enforcing a program to reduce Pollutants in any stormwater runoff discharged to the Municipal Storm Drain System from all construction activities that result in a Land Disturbance of greater than or equal to one acre so that it is not transported in stormwater and allowed to discharge to a water of the U.S. through the Town's MS4.

- (3) Prohibiting and eliminating Illicit Connections, the Discharge of Pollutants, safeguarding the public health, safety, environment, and general welfare, protecting aquatic resources and wildlife habitat, protecting the quality and health of water resources, conserving groundwater supplies, and fostering climate change resiliency.

This Chapter seeks to meet that purpose through the following objectives:

- (1) To prevent Pollutants from entering the Town of Barnstable's municipal storm drain system, Waters of the Commonwealth.
- (2) To prohibit Illicit Connections and unauthorized discharges to the municipal storm drain system.
- (3) To require the removal of all such Illicit Connections.
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

§ 185-4 Definitions.

For the purposes of this Chapter, the following terms shall have the following meaning:

ABUTTER

The Owner(s) of land sharing a common boundary or corner with the site of the proposed activity in any direction, including, but not limited to, land located directly across a street, way, creek, river, stream, brook, or canal.

ANIMAL WASTE

Feces, urine, or other excrement, urea, or similar substances emitted by animals (including any form of livestock, poultry, or fish). The term Animal Waste includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically found with such waste.

APPLICANT

Any Person applying for or requesting a Stormwater Management Permit for proposed Disturbance of Land activity.

BEST MANAGEMENT PRACTICE or BMP

Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the Commonwealth. BMPs also include treatment requirements, operating procedures, and practices to control animal waste, plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

CERTIFICATE OF COMPLETION

A document issued by the Department of Public Works upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

CLEARING

Any activity that removes vegetative surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

CONSTRUCTION AND DEMOLITION WASTE:

Waste from the building materials and rubble resulting from the construction, remodeling, repair, or demolition of buildings, pavements, roads, or other structures. Construction and demolition waste includes but is not limited to:

- (1) Discarded building materials such as: concrete, bricks, asphalt pavement, masonry, plaster, gypsum wallboard, metal, lumber, and wood.
- (2) Concrete truck washout.
- (3) Chemicals.
- (4) Litter; and
- (5) Sanitary waste.

DEPARTMENT

The Department of Public Works of the Town of Barnstable.

DIRECTOR

The Director of the Department of Public Works or his or her designee.

DISCHARGE OF POLLUTANTS

The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Waters of Commonwealth from any source.

DISTURBANCE OF LAND

Action to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of topsoils.

DRAINAGE FACILITY

Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage, or infiltration.

EROSION

The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

GRADING

Changing the level or shape of the ground surface.

GROUNDWATER

Water beneath the surface of the ground including confined or unconfined aquifers.

ILLICIT CONNECTION

A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system or into the Waters of the Commonwealth, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or

toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Ordinance.

ILLCIT DISCHARGE

Direct or indirect discharge to the municipal storm drain system or into the Waters of the Commonwealth that is not composed entirely of stormwater, except as exempted in Section 185-13. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

IMPERVIOUS SURFACE

Any material or structure on or above the ground surface that prevents or delays water from infiltrating into the underlying soil, or causes water to runoff in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, roads, driveways, parking lots, sidewalks, rooftops, patios, storage areas, concrete or asphalt paving, gravel/dense-graded crushed stone areas, and soil densely compacted by human activity.

INFEASIBLE

Not technologically possible, or not economically practicable and achievable in light of best industry practices.

LOW IMPACT DEVELOPMENT or LID

An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing, and mitigating impacts with natural, non-structural and structural measures.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS or STANDARDS

The Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection ("DEP") under the authority of the Massachusetts Wetlands Protection Act, G.L. c. 131 § 40, and the Massachusetts Clean Waters Act, G.L. c. 21, §§ 23-56, and further defined in the Wetlands Protection Act Regulations (310 CMR 10.00) and the 401 Water Quality Certification Regulations (314 CMR 9.00). The Stormwater Management Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4 or MUNICIPAL STORM DRAIN SYSTEM

The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention, or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Barnstable.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE PERMIT or NPDES Permit

A permit issued by the United States Environmental Protection Agency ("EPA") or issued jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to Waters of the United States.

NEW DEVELOPMENT

Any construction activities or Disturbance of Land resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) on an area that has not previously been developed to include impervious cover.

NONPOINT SOURCE

Any source of water pollution that does not meet the definition of Point Source.

NON-STORMWATER DISCHARGE

Discharge to the municipal storm drain system not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN

A plan setting up the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL

The point where stormwater flows out from a Point Source which is a discernible, confined, and discrete conveyance into Waters of the Commonwealth.

OWNER

A person with a legal or equitable interest in property.

PERSON

An individual, group of individuals, partnership, association whether incorporated or unincorporated, firm, company, trust, estate, corporation, business organization, agency, authority, department, or political subdivision of the Commonwealth of Massachusetts, public or quasi-public corporation or body, or any other legal entity or its legal representative, or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE

Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

POLLUTANT

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or Nonpoint Source, that is or may be introduced into any sewage treatment works, Municipal Storm Drain System, or Waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (1) Paints, varnishes, and solvents.
- (2) Oil and other automotive fluids.
- (3) Non-hazardous liquid and solid wastes and yard wastes.
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables;
- (5) Pesticides, herbicides, and fertilizers.
- (6) Hazardous materials and wastes; sewage, fecal coliform, and pathogens.

- (7) Dissolved and particulate metals.
- (8) Animal wastes.
- (9) Rock, sand, and soils.
- (10) Construction and Demolition Waste; and
- (11) Noxious or offensive matter of any kind.

PROCESS WASTEWATER

Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

PROFESSIONAL ENGINEER or P.E.

A Professional Engineer licensed as a civil engineer by the Commonwealth of Massachusetts in good standing.

RECHARGE

The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through soil.

REDEVELOPMENT

Any construction, Disturbance of Land, or improvement of impervious surfaces resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development.

REVIEWING AGENT

The Department or a person or position in the Department designated in writing by the Director responsible for enforcing this Chapter. The Reviewing Agent shall be considered a designee of the Director and Enforcing Agent under Chapter 1, Article I of the Code.

STABILIZATION

The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or minimize erosion.

STORMWATER

Rainwater, snow melt, surface water runoff, and drainage.

STORMWATER MANAGEMENT PERMIT

The written approval granted by the Department of Public Works to undertake a Disturbance of Land activity pursuant to a Stormwater Permit Application.

STORMWATER MANAGEMENT PLAN

A plan required as part of the application for a Stormwater Management Permit.

SURFACE WATER DISCHARGE PERMIT

Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;

HAZARDOUS MATERIAL

Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous Material shall include, but not be limited to, substances defined as "oil," "hazardous materials," "hazardous substances," "hazardous waste," "toxic substances," "pollutants," or "contaminants" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 *et seq.*; Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802 *et seq.*; and Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6903 *et seq.*; M.G.L. c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000 and/or applicable federal and Massachusetts law now or hereafter enacted, including any synthetic or organic chemical, biological, or infectious waste or material.

WASTEWATER

Any sanitary waste, sludge, or septic tank or cesspool contents, and water that during manufacturing, cleaning, or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE

A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH

All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, Great Ponds, springs, impoundments, estuaries, wetland resource areas, coastal waters, groundwaters, and vernal pools, as well as waters of the United States.

WETLAND RESOURCE AREAS

Areas within the jurisdiction of the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in Chapter 237, Wetlands Protection Ordinance, of the Code of the Town of Barnstable, as amended.

§ 185-5 Administration.

The Department shall administer, implement, and enforce this Chapter. Any powers granted to or duties imposed upon the Department may be delegated in writing by Director to employees or agents of the Department or a Reviewing Agent.

§ 185-6 Regulations.

The Department may promulgate rules and regulations, including a fee schedule, to effectuate the purposes of this Chapter after conducting one public hearing to receive comments on any proposed revisions. Failure by the Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Chapter.

§ 185-7 Enforcement.

- A. The Director and any Reviewing Agent may enforce this Chapter and orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies available at law, including by non-criminal disposition under Chapter 1, Article I and as provided in Section 185-7.
- B. Notices of violations and enforcement orders.
 - (1) The Director and any Reviewing Agent may issue a written notice of violation or enforcement order to enforce the provisions of this Chapter or the regulations thereunder, which may include requirements to:
 - (a) Cease and desist from construction or land-disturbing activity until there is compliance with this Chapter and the stormwater management permit;
 - (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operations and maintenance plan;
 - (c) Maintain, install, or perform additional erosion and sediment control measures;
 - (d) Perform monitoring, analyses, and reporting;
 - (e) Satisfactorily address and repair adverse impacts resulting directly or indirectly from a malfunction of the stormwater management system and/or erosion and sediment control system;
 - (f) Cease and desist from unlawful discharges, practices, or operations;
 - (g) Cease and remove illicit connections or discharges to the municipal storm drain system;
 - (h) Remediate any release of hazardous materials and contamination in connection therewith, and/or
 - (i) Undertake actions determined by the Director to be required for compliance with this Chapter and the regulations thereunder.
 - (2) If the Director or Reviewing Agent determines that abatement or remediation of adverse impacts is required, the enforcement order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property Owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.
- C. After completing all measures necessary to abate the violation, the person violating this Chapter or the regulations thereunder, if known, and the property Owner shall be notified of the costs incurred by the Town of Barnstable, including administrative costs. The

violator or property Owner may file a written protest objecting to the amount or basis of costs with the Director within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Director affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property Owner and shall constitute a lien on the Owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. c. 59, § 57, after the thirty-first day at which the costs first become due.

- D. Upon request of the Director, the Town Manager and Town Attorney may take legal action for enforcement under civil law. Upon request of the Director, the Chief of Police and Town Attorney may take legal action for enforcement under criminal law. Upon request of the Director, municipal boards and officers, including any police officer, natural resource officer, or other officer having police powers, shall have the authority to assist the Director, authorized employees of the Department and any Reviewing Agent in enforcement.
- E. Civil Relief. If a person violates the provisions of this Chapter, permit, notices, or order issued thereunder, the Town may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation and may seek all other remedies available by law.
- F. Noncriminal Disposition. The Town may elect to utilize the noncriminal disposition procedure in G.L. c. 40, § 21D in which case the Director or Reviewing Agent shall be the enforcing person. Any person who violates any provision of this Chapter, the regulations thereunder, including any order or permit issued thereunder, may be punished by a penalty under the non-criminal disposition statute, G.L. c. 40, § 21D. The penalties for each offense for violating this Chapter and the regulations thereunder are the same as the fines specified for each offense in Chapter 1, Article 1, Section 1-3, Ch. 185, and Chapter 1, Article 1, Section 1-6.2 of the Code. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Appeals. The decisions or orders of the Director or Reviewing Agent shall be final. Further relief shall be to a court of competent jurisdiction.
- H. Remedies not exclusive. The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law.

§ 185-8 Entry Upon Land to Perform Duties.

To the extent permitted by law, the Director, the Department, its Reviewing Agents, and authorized contractors may enter upon privately owned property for the purpose of performing their duties under this Chapter and regulations with reasonable notice to the Owner and/or other person in control of the property to set a mutually-agreeable time for such entry and inspection and may make or cause to be made such examinations, surveys, or sampling as the Director or Department deems reasonably necessary.

§ 185-9 Severability.

If any provision, paragraph, sentence, or clause of this Chapter shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE II ILLICIT DISCHARGE CONTROL

§ 185-10 Purpose and Objectives.

- A. The purpose of this Article is to prohibit and eliminate Illicit Connections; Discharge of Pollutants; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.
- B. This Article seeks to meet that purpose through the following objectives:
 - (1) To prevent pollutants from entering the Town of Barnstable's municipal storm drain system, Waters of the Commonwealth.
 - (2) To prohibit Illicit Connections and unauthorized discharges to the municipal storm drain system.
 - (3) To require the removal of all such Illicit Connections.
 - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

§ 185-11 Prohibited Activities.

The following are prohibited unless exempted by this Article:

- A. Illicit Discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the Waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works.

§ 185-12 Exempt Activities.

The following activities are exempt from the requirements of this Article:

- A. Discharge or flow pursuant to a valid Stormwater Management Permit issued by the Department.
- B. Discharge or flow resulting from firefighting activities.

- C. The following non-stormwater discharges or flows are exempt from this Article, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
- (1) Waterline flushing.
 - (2) Flow from potable water sources.
 - (3) Natural springs.
 - (4) Natural flow from riparian habitats and wetland resource areas.
 - (5) Lawfully diverted stream flow.
 - (6) Rising groundwater.
 - (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20) or uncontaminated pumped groundwater, unless otherwise regulated or prohibited by the Department pursuant to regulations hereunder.
 - (8) Landscape irrigation or lawn watering.
 - (9) Water from individual residential car washing.
 - (10) Discharge from street sweeping.
 - (11) Dye testing provided notification is given to the Department prior to the time of the test.
 - (12) Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.
 - (13) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment; and
 - (14) Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Barnstable Town Manager, Town Council or Board of Health.

§ 185-13 Emergency Action by Department.

The Department may issue an enforcement order, or a verbal directive in an emergency to be followed by a written order, to suspend municipal storm drain system access to any person or property when such suspension is necessary to address or stop an actual or threatened discharge of pollutants that presents risk of harm to the public health, safety, welfare or the environment. If any person fails to comply with the verbal directive or enforcement order, the Department may take all reasonable steps, at the expense of the owner, permittee or other person responsible for the discharge of pollutants, to prevent or minimize harm to the public health, safety, welfare or the environment, including without limitation entering private property to disconnect the property from the municipal storm drain system or abate a discharge of pollutants to waters of the Commonwealth.

§ 185-14 Notification of Hazardous Material Spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or Waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Department, local Fire District, and Barnstable Police Department.

ARTICLE III
CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

§ 185-15 Purpose and Objectives.

- A. The purpose of this Article is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.
- B. This Article seeks to meet that purpose through the following objectives:
 - (1) Establish the Department as the Town department with the authority to ensure compliance with the provisions of this Article and any regulations issued hereunder through a review process, inspections, monitoring, and enforcement.
 - (2) Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post construction monitoring.
 - (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserves and/or restores the health of local water resources such as lakes, ponds, streams, rivers, wetlands, embayment's and groundwater; and
 - (4) Ensure compliance with requirements of the NPDES General Permit for Stormwater Discharges from MS4 and other applicable federal and state mandates.

§ 185-16 Prohibited Activities.

- A. No construction activity, including clearing, grading, or excavation that results in a Disturbance of Land equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town may commence without first obtaining a Stormwater Management Permit issued by the Department, and in accordance with any regulations promulgated hereunder by the Department.
- B. The Applicant and/or Owner is responsible for ensuring all required local, state, federal, and/or other permit or license approvals are obtained prior to commencing any Disturbance of Land activities.

§ 185-17 Exempt Activities.

The following are exempt from the requirements of this Article:

- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
- (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;
- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;

- (4) Normal maintenance and improvements of the Town of Barnstable publicly owned roadways and associated drainage infrastructure, as defined in Section 903-7 B.(6); and/or
- (5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board.

§ 185-18 Waivers and Provisions for Relief.

- A. The Director may waive strict compliance with any requirement of this Article or regulations promulgated under this Chapter, where:
 - (1) Such action is allowed by federal, state and local statutes and/or regulations;
 - (2) Is in the public interest;
 - (3) A public safety issue exists; and/or
 - (4) It is consistent with the purpose and intent of this Article.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Article does not further the purposes or objectives of this Article. The Department may require documentation to be submitted and stamped by a Professional Engineer.

§ 185-19 Surety.

The Department may require the permittee to post before the start of Disturbance of Land or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security or financial assurance mechanism. The form of the bond or financial assurance shall be approved by the Department, and be in an amount deemed sufficient by the Department to ensure that the work will be completed in accordance with the permit. If the project is phased, the Department may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit, but the bond may not be fully released until the Department has received a final inspection and issued a Certificate of Completion in accordance with the regulations promulgated hereunder.”

VOTE: TO A PUBLIC HEARING ON 4-4-2024 PASSES 13 YES

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen

**2024-173 AUTHORIZATION TO EXPEND A META-12 GRANT FROM THE MASSACHUSETTS DEPARTMENT OF ENERGY RESOURCES IN THE AMOUNT OF \$15,000 FOR THE PURPOSE OF FUNDING ASSISTANCE ON ENERGY RELATED PROJECTS OR RENEWABLE ENERGY PLANNING AND FEASIBILITY EVALUATIONS
INTRO: 03/21/2024**

David Anthony Director of Asset Management gave the rationale

Discussion:

(Terkelsen) are you hiring someone to help Sean (Anthony) Yes (Levesque) this is a part of the federal grant program, up to 50 million dollars, to qualify we had participated in the offshore wind (Anthony) We technically qualify for this as a community that hosts offshore wind. However, for the final part of the project we need an additional offshore wind project to qualify. (Levesque) does Vineyard wind qualify, no it has to be an additional wind project. (Levesque)

what is the value of your proposal (Anthony) asking for the grant to help determine.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Municipal Energy Technical Assistance (META-12) grant in the amount of **\$15,000** from the Massachusetts Department of Energy Resources for the purpose of funding energy assistance on energy related projects or renewable energy planning and feasibility evaluations.

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepp, Starr, Tamash, Terkelsen

(Ells) to clarify the first item on the Town Manager communication. The appointment of the Cape Cod Regional Technical High School representative falls to the Town Council not the Town Manager, Cape Cod Commission appointment needs to be done for April 24th for a three year term. Opened it up for people who are interested to serve in that capacity, It is my intent to use the same process as we used for the Local Comprehensive Planning Committee (LPCP). The chair of the Appointments Committee, and an additional Appointments Committee member to assist me in the review of the applications, although this is an appointment by the Town Manager. This will come before the Town Council for approval.

VOTED TO ADJOURN:

VOTE: PASSES UNANIMOUS

VOTE: PASSES 13 YES.

ROLL CALL: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepp, Starr, Tamash, Terkelsen

Adjourned at 10:45 PM

Respectfully submitted,

Ann M Quirk
Town Clerk

NEXT MEETING: April 4, 2024

Exhibits

- A. Fellow Councilors letter
- B. Town Manager update