



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA

July 15, 2010

7:00 PM

Councillors:

Frederick Chirigotis
President

James H. Crocker
Vice President

Richard G. Barry
Janice L. Barton
Ann B. Canedy
Debra S. Dagwan
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
John T. Norman
Tom Rugo
James M. Tinsley

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

➤ ***Please note change in venue for this meeting:***

**KNIGHT AUDITORIUM, BARNSTABLE HIGH SCHOOL
744 WEST MAIN ST, HYANNIS**

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Recognition of Eagle Scout Spencer McKeown**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS,
BOARDS, COMMISSIONS, STAFF,
CORRESPONDENCE, ANNOUNCEMENTS AND
COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING: August 5, 2010

A. OLD BUSINESS

2010-157	Reappointments to a board/committee/commission (Second reading)	3 - 5
2010-158	Resolves & orders for an infrastructure expansion program (Public hearing) (Roll-call) ...	6 – 8
2010-159	Amend Chapter 240, Art II, Zoning Ordinance & Map (Joint public hearing with planning board) (Roll-call, 2/3)	9 - 11
2010-160	Amend Chapter 240, Article II, Zoning Ordinance & Map (Joint public hearing with planning board) (Roll-call, 2/3)	12 - 14

B. NEW BUSINESS

2011-001	Acceptance of a \$400 grant from the Cape Youth Force, a program of the Cape & Islands Youth Congress, the Cape Cod Foundation, Barnstable County UMASS Extension/4H, and YMCA/Cape Cod (May be acted upon)	15 – 16
2011-002	Acceptance of a \$773.78 gift for ongoing maintenance of the JFK/Korean War Memorial sites from Eagle Scout Spencer McKeown (May be acted upon)	17 – 18
2011-003	Amend the General Ordinances, Chapter 177 Sandy Neck Beach (Refer to public hearing August 5, 2010) (Roll-call)	19 – 20
2011-004	Amend the General Ordinances, Chapter 228 Vehicle Storage (Refer to public hearing August 5, 2010) (Roll-call)	21 – 23

Minutes —June 10, 2010 and June 17, 2010

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

The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-157
INTRO: 06/17/10, 07/15/10

2010-157 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

AGRICULTURAL COMMISSION

Max Kumin, 3826 Main Street, Cummaquid, as a member, to a term expiring 6/30/2013
Leslie Spencer, 151 Main Street, Cotuit, as a member, to a term expiring 6/30/2013

AIRPORT COMMISSION

Michael Dunning, 399 Old Jail Lane, Barnstable, as a member, to a term expiring 6/30/2013
Ronald Persuitte, 59 Colonial Way, West Barnstable, as a member, to a term expiring 6/30/2013

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Amanda Converse, 558 Lumbert Mill Rd, Centerville, as a member, to a term expiring 6/30/2013

BARNSTABLE HISTORICAL COMMISSION

George Jessop, 863 Bumps River Road, Centerville, as a member (architect representative), to a term expiring 6/30/2013

BARNSTABLE YOUTH COMMISSION

Reid Hall, BHS 744 W. Main Street, Hyannis, as an advisor member, to a term expiring 6/30/2013
Christine Farber, BHS 744 W. Main St., Hyannis, as an advisor member, to a term expiring 6/30/2013
Grace Crowell, BHS 744 W. Main Street, Hyannis, as a member, to a term expiring 6/30/2013
Lauren Logan, BHS 744 W. Main Street, Hyannis, as a member, to a term expiring 6/30/2013

BOARD OF HEALTH

Wayne Miller, 2231 Meetinghouse Way, West Barnstable, as a member, to a term expiring 6/30/2013

COMMUNITY PRESERVATION COMMITTEE

Marilyn Fifield, 49 Colonial Way, Barnstable, a member (Barnstable Historical Commission representative), to a term expiring 6/30/2013
Laura Shufelt, 1696 Osterville-West Barnstable Road, West Barnstable, as a member, to a term expiring 6/30/2013

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Thomas Michael, 170 Buckskin Path, Centerville, as a member, to a term expiring 6/30/2013
William Brower, 890 Santuit-Newtown Road, Marstons Mills, as a member, to a term expiring 6/30/2013

CONSERVATION COMMISSION

F.P. Lee, 1081 Old Putnam Avenue, Osterville, as a member, to a term expiring 6/30/2013
Peter Sampou, 111 Cedar St., West Barnstable, as a member, to a term expiring 6/30/2013
Louise Foster, 204 Clamshell Cove Road, Cotuit, as a member, to a term expiring 6/30/2013

CULTURAL COUNCIL

Sandra Greene, 35 Walnut Street, Hyannis, as a member, to a term expiring 6/30/2013

DISABILITY COMMISSION

Jean Boyle, 24 West Hyannisport Circle, W. Hyannisport, as a member, to a term expiring 6/30/2013
Raffaele Kaddy, 25 Craigville Road, Hyannisport, as a member, to a term expiring 6/30/2013

ELDERLY & DISABLED TAXATION AID COMMITTEE

William Murdoch, Jr., 760 South Main Street, Centerville, as a member, to a term expiring 6/30/2013

HOUSING COMMITTEE

Merrill Blum, 94 Water View Circle, Centerville, as a member, to a term expiring 6/30/2013
Hillary V. Greene, 18 Valley Brook Road, Centerville, as a member, to a term expiring 06/30/2012
Ralph M. Krau, 10 Pram Road, Hyannis, as a member, to a term expiring 06/30/2012

HYANNIS MAIN ST. WATERFRONT HISTORIC DISTRICT COMMISSION

George Jessop, 863 Bumps River Road, Centerville, as an architect representative member, to a term expiring 6/30/2013
William Cronin, 402 South Street, Hyannis, as an alternate member, to a term expiring 6/30/2013
Marina Atsalis, 242 Ocean Street, Hyannis, as a member, to a term expiring 6/30/2013

JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE

Jaci Barton, 87 School St., Cotuit, as a member, to a term expiring 6/30/2013

JFK MEMORIAL TRUST FUND COMMITTEE

Henry Murphy, Jr., 243 South Street, Hyannis, as a member, to a term expiring 6/30/2013
Hugh Findlay, 500 Ocean Street #153, Hyannis, as a member, to a term expiring 6/30/2013

LAND ACQUISITION AND PRESERVATION COMMITTEE

Stephen Farrar, 860 River Rd., Marstons Mills, as a member, to a term expiring 6/30/2013
Laura Cronin, 402 South St., Hyannis, as a member, to a term expiring 6/30/2013

LICENSING AUTHORITY

Paul Sullivan, 209 Longview Drive, Centerville, as a member, to a term expiring 6/30/2013

OLD KING'S HIGHWAY HISTORIC DISTRICT COMMITTEE

George Jessop, 863 Bumps River Road, Centerville, as an architect representative member, to a term expiring 6/30/2013

PERSONNEL ADVISORY BOARD

Stephen Whitmore, 1391 Hyannis Road, Barnstable, as a member, to a term expiring 6/30/2013
Paul Sullivan, 209 Longview Drive, Centerville, as a member, to a term expiring 6/30/2013

PUBLIC WORKS COMMISSION

Allen Morrisey, 69 Country Club Drive, Cummaquid, as a member, to a term expiring 6/30/2013
Albert Baker, 30 Wakeby Road, Marstons Mills, as a member, to a term expiring 6/30/2013

RECREATION COMMISSION

Katherine Pina, 49 Windmill Lane, Cotuit, as a member, to a term expiring 6/30/2013
Joseph O'Brien, 65 Trinity Place, Centerville, as a member, to a term expiring 6/30/2013
Andrew Gauthier, 48 Eastwood Lane, Cotuit, as a member, to a term expiring 6/30/2013

SANDY NECK BOARD

Lynn Heslinga, 1649 Hyannis Rd, Barnstable, as a member, to a term expiring 6/30/2013
William Carey, 171 Harbor Point Road, Cummaquid, as a member, to a term expiring 6/30/2013

SCHOLARSHIP COMMITTEE

Deborah Hill, 70 Fernbrook Lane, Centerville, as a member, to a term expiring 6/30/2013

TRUST FUND ADVISORY COMMITTEE

Linda Gadkowski, 131 Pond View Drive, Centerville, as a member, to a term expiring 6/30/2013
William Murdoch, Jr., 760 South Main Street, Centerville, as a member, to a term expiring 6/30/2013

WATERWAYS COMMITTEE

Frederick Komenda, 65 Elliot Road, Centerville, as a member, to a term expiring 6/30/2013

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-158

INTRO: 06/17/10, 07/15/10

2010-158 RESOLUTIONS & ORDERS FOR INFRASTRUCTURE EXPANSION PROGRAM

The Town Council adopts the following.

SECTION 1. RESOLVED: the Town Council requests that the Town Manager present an appropriation or appropriations totaling up to \$3,000,000.00 per year for the taking, layout and improvement of certain private ways as town ways.

SECTION 2. RESOLVED: the Town Council requests that the Town Manager present an appropriation and borrowing authorization or authorizations totaling up to \$162,000,000 for the expansion and extension of sewers.

SECTION 3. ORDERED: that Chapter 184, Sewers and Water, of the General Ordinances of the Code of the Town of Barnstable be amended by adding the following § 184-12 to Article II Collection of Sewer Use Charges.

“§ 184-12. Proportionate share of sewer betterment costs assessment charges.

Fifty percent (50%) of the costs or charges for sewer construction shall be assessed to parcels or owners of land in the manner provided in chapters 80 or 83 of the General Laws as applicable. This section shall not apply to costs or charges for sewer connection or use.”

SECTION 4. ORDERED that Chapter 184, Sewers and Water, of the General Ordinances of the Code of the Town of Barnstable be further amended by re-numbering §§ 184-12 and 184-13 of Article III Collection of Water Use Charges as §§ 184-13 and 184-14, respectively.

SECTION 5. ORDERED: that the Town’s local occupancy excise tax under M.G.L. c. 64G, §3A on the rental of rooms in hotels, motels, lodging houses and bed and breakfast establishments within the town be amended by increasing the rate from 4% to the rate of 6%.

SECTION 6. ORDERED: that the Town accepts the provisions of M.G.L. c. 64L, § 2(a) to impose a local sales tax on the sale of restaurant meals originating within the town of Barnstable by a vendor at the rate of .75 percent of the gross receipts of the vendor from the sale of restaurant meals.

SECTION 7. ORDERED: that the Town Manager submit a petition to the General Court of the Commonwealth for a Special Act to establish a sewer construction fund in the Town of Barnstable and authorizing the allocation to the sewer fund of receipts from the meals tax under M.G.L. c. 64L, § 2(a) and hotel/motel tax rates in excess of 4% under M.G.L. c. 64G, §3A.

“AN ACT ESTABLISHING A SEWER CONSTRUCTION FUND FOR THE TOWN OF BARNSTABLE

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

ITEM# 2010-158 (Continued)

SECTION 1. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Barnstable is hereby authorized to establish a Sewer Construction Fund to receive revenue under section three A of chapter sixty-four G of the General Laws, in the manner set forth in section two, and may appropriate monies in said fund for sewer construction.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the amount of the excise collected under section two A of chapter sixty-four L of the General Laws by the town of Barnstable beginning with fiscal year two thousand and eleven shall be credited to the Sewer Construction Fund without further appropriation.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the amount of the excise based on rates in excess of 4% collected under section three A of chapter sixty-four G of the General Laws by the town of Barnstable beginning with fiscal year two thousand and eleven shall be credited to the Sewer Construction Fund without further appropriation.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, any interest shall be added to and become part of the Sewer Construction Fund. The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

SECTION 5. This act shall take effect upon its passage.

SECTION 8. ORDERED: that the following question be placed on the ballot for the annual election to be held on November 2nd, 2010. **BALLOT QUESTION- CREATION OF A STABILIZATION FUND FOR SEWER SYSTEM INFRASTRUCTURE EXPANSIONS AND IMPROVEMENTS AND PRIVATE ROAD TAKINGS AND REPAIRS**

“Shall the Town of Barnstable be allowed to assess an additional \$3,750,000 in real estate and personal property taxes for the purposes of funding the sewer system stabilization fund (\$750,000) and for the purposes of funding the private road stabilization fund (\$3,000,000) for the fiscal year beginning July 1, 2010?”

SPONSORS: Councilors Janice Barton, Tom Rugo, and James Tinsley

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read item	
___ Rationale	
___ Council discussion	
___ Move/vote	

BARNSTABLE TOWN COUNCIL

ITEM# 2010-158
INTRO: 06/17/10, 07/15/10

SUMMARY

TO: Town Council
FROM: Town Council Sewer Finance Subcommittee
DATE: June 11, 2010
SUBJECT: Sewer Financing Recommendations

The Town Council Sewer Finance Subcommittee met April 29, May 6 and May 13, 2010 and was tasked with formulating a financing plan with respect to sewer financing.

The subcommittee recommendations for Council consideration: a.) Increase the hotel tax to 2%; increase the meals tax to .75%; and specifically dedicate or earmark the revenues of same to wastewater capital projects. Additionally, the subcommittee recommended that fifty percent (50%) of the cost of improvements or charges for making and repairing sewers shall be assessed to parcels or owners of land.

In addition, the subcommittee adopted Option 6A and Option 6F as presented by the Director of Finance in a previously prepared spreadsheet. The components of Option 6A represent: a sewer betterment amount or contribution of 50%; a hotel/motel tax increase of 2%; adoption of a meals tax increase of 0.75% and an operating budget contribution of \$0. The preceding represents an increase in the property tax levy of \$3,750,000 to be achieved by town wide vote.

Relative to the second option, the components of 6F represent: a sewer betterment amount or contribution of 50%; a hotel/motel tax increase of 2%; adoption of a meals tax increase of 0.75% and an operating budget contribution of \$1,250,000. The preceding represents an increase in a property tax levy of \$0.

Option 6A includes 3 million dollars a year for the taking and repair of private roads. Option 6F does not allocate funds for private road repair.

The estimated tax rate impact of the tax levy increase is \$0.28 and will affect a homeowner with a median value home of \$311,000 by some \$87.29 in year 1.

A. OLD BUSINESS (Joint hearing with the Planning Board) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-159

INTRO: 06/17/10, 07/15/10

2010-159 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

ORDERED:

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

Section 1

By amending the official zoning map of the Town of Barnstable as shown on a map on file with the Town Clerk entitled " **Proposed Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District Map** " dated June 17, 2010 and "Proposed Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June xx, 2010.

Section 2:

By deleting Section 240-37.1 and adding in its place new Section 240-37.1 **Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District** to the Zoning Ordinance of the Town of Barnstable, Chapter 240 of the General Ordinances of the Code of the Town of Barnstable, Article III, District Regulations to read as follows:

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers in mapped portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area

B. Establishment of district. The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled " Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

C. Prohibition. Within the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District, the construction and/or installation of docks and piers is prohibited,

unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.

D. Re-establishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.

E. Expansion of existing docks or pier. For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.

F. Definitions.
Dock and Pier. The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.

Seasonal. The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year.

(From Ch. 702 Private Docks and Piers, 703-2 Definitions)

G. Enforcement. Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall be subject to penalty and fines pursuant to §240-123 of the Town of Barnstable Code

SPONSORS: Councilors Rick Barry and Ann Canedy

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-159
INTRO: 06/17/10, 07/15/10

TO: Town Council
FROM: Councilor Rick Barry
DATE: June 11, 2010
SUBJECT: Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

SUMMARY: This amendment to the Zoning Ordinance prohibits construction of new docks and piers and prohibits expansion of existing of docks and piers in the recreational shellfish area and shellfish relay areas.

BACKGROUND: This proposed amendment to the zoning ordinance would change the Temporary Recreational Shellfish Area and Shellfish Relay Overlay District to a permanent zoning district - the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District. This Overlay District will include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June XX, 2010, filed with the Town Clerk, up to and including the area seaward of the mean high water line. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers for motorized vessels and limiting the expansion of existing docks and piers for motorized vessels in these areas identified as significant habitat for recreational shellfishing and shellfish propagation.

The areas identified for inclusion in the overlay district are areas deemed to possess significant shellfish habitat by the Town's Natural Resource Department Shellfish Biologist. On April 18, 2007, the Barnstable Shellfish Committee voted unanimously to support the proposed Recreational Shellfish Area and Shellfish Relay Area Overlay District.

A. OLD BUSINESS (Joint hearing with the Planning Board) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-160

INTRO: 06/17/10, 07/15/10

2010-160 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

Section 1

Recreational Shellfish Area and Shellfish Relay Area Overlay District Map

That the official zoning map of the Town of Barnstable is hereby amended by adding the Boundary of the Recreational Shellfish Area and Shellfish Relay Area Overlay District as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Proposed Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June XX, 2010.

Section 2

Recreational Shellfish Area and Shellfish Relay Area Overlay District

That Chapter 240, Zoning Ordinance is hereby amended by deleting § 240-37.1 and adding in its place new § 240-37.1 Recreational Shellfish Area and Shellfish Relay Area Overlay District.

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers for motorized vessels in portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area
 - (c) To implement recommended actions 4.3.3.1 regarding public shellfish propagation, and 7.2.3.2.1 regarding amending the regulatory framework for docks and piers, of the Town of Barnstable Coastal Resource Management Plan: Three Bays and Centerville River Systems (November 2009).

- B. Establishment of district.** The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled " Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet X of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet X of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

- C. **Prohibition.** Within the Recreational Shellfish Area and Shellfish Relay Area Overlay District, the construction and/or installation of docks and piers for motorized vessels is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited. Seasonal piers for non-motorized vessels may be constructed or installed within the Recreational Shellfish Area and Shellfish Relay Area Overlay District subject to review and approval in accordance with Chapter 703 of the Town of Barnstable Code, Private Docks and Piers.

- D. **Re-establishment of damaged or destroyed nonconforming docks or piers.** The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.

- E. **Expansion of existing docks or pier.** For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.

- F. **Definitions.**
Dock and Pier. The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.
Motorized boat. A vessel at any time entirely or partly propelled by power other than muscular or wind power.
Non-motorized boat. - a vessel at all times entirely propelled by muscular or wind power.
Seasonal. The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year.
(From Ch. 702 Private Docks and Piers, 703-2 Definitions)

- G. **Enforcement.** Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Overlay District, such as use of a dock or pier by a motorized vessel if said dock is permitted for use by non-motorized vessels, shall be subject to penalty and fines pursuant to §240-123 of the Town of Barnstable Code

SPONSOR: Councilor Janet Joakim

DATE	ACTION TAKEN
------	--------------

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-160
INTRO: 06/17/10, 07/15/10

TO: Town Council
FROM: Councilor Janet Joakim
DATE: June 11, 2010
SUBJECT: Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

SUMMARY: This proposed amendment to the zoning ordinance would change the Temporary Recreational Shellfish Area and Shellfish Relay Overlay District to a permanent zoning district - the Recreational Shellfish Area and Shellfish Relay Area Overlay District. This Overlay District will include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June XX, 2010, filed with the Town Clerk, up to and including the area seaward of the mean high water line. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers for motorized vessels and limiting the expansion of existing docks and piers for motorized vessels in these areas identified as significant habitat for recreational shellfishing and shellfish propagation.

The areas identified for inclusion in the overlay district are areas deemed to possess significant shellfish habitat by the Town's Natural Resource Department Shellfish Biologist. On April 18, 2007, the Barnstable Shellfish Committee voted unanimously to support the proposed Recreational Shellfish Area and Shellfish Relay Area Overlay District.

BACKGROUND/ANALYSIS/RATIONALE: The Coastal Resources Management Committee (CRMC) was created by Town Council action to address the issues raised during the 2007 Recreational Shellfish and Shellfish Relay Overlay District zoning ordinance hearings. The CRMC began their work as soon as the committee was constituted. Their task from the Town Council was to update the 1990 Camp Dresser McKee Coastal Resources Management Plan which included the Three Bays, Easy Bay and the Centerville River coastal areas. This group led by the Chair, Bob Jones, met twice a month from May 2008 to November 2009 and completed the November 2009 "Coastal Resource Management Plan: Three Bays and Centerville River Systems (CRMP)." The CRMC submitted the final copy of the updated plan to the Council in December 2009. The CRMC participated in a workshop to discuss the details of the CRMP with Town Council at a workshop meeting in February of 2010. This plan includes strategies and recommendations to address coastal use issues examined by the committee during their extensive and deliberative public process. This legislation is a priority action for implementation of the CRMP in recognition of the current moratorium which expires on August 31, 2010.

STAFF ASSISTANCE: Carole Ridley, GMD Consultant
Jo Anne Miller Buntich, Director of Growth Management

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-001
INTRO: 07/15/10**

2011-001 ACCEPTANCE OF A \$400 GRANT FOR THE HYCC

RESOLVED: That the Town of Barnstable hereby accepts a grant of \$400 to the Barnstable Youth Services Division from the from the Cape Youth Force, a program of the Cape & Islands Youth Congress, the Cape Cod Foundation, Barnstable County UMASS Extension/4H, and YMCA/Cape Cod to cover speaker costs for the Barnstable Youth Education and Support (YES) Group.

SPONSOR: Town Manager John C. Klimm

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-001
INTRO: 07/15/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: July 6, 2010
SUBJECT: \$400 Grant from the Cape Youth Force, a program of the Cape & Islands Youth Congress, the Cape Cod Foundation, Barnstable County UMASS Extension/4H, and YMCA/Cape Cod

BACKGROUND: The Barnstable Youth Education and Support (YES) Group was created in 2009 to offer youth an opportunity to engage in discussion and be informed on topics important to them. The Barnstable Youth Services Division offers staff support and the Barnstable Youth Commission facilitates these forums. We have been fortunate to have the support of the Commonwealth of Massachusetts' Department of Mental Health at these forums to ensure that appropriate support is offered if necessary. While trying to get the speakers to address the topics brought up by our youth, it was discovered that some speakers, because of their credentials, require a fee. Youth Services Coordinator Sally-Ann Imes and Youth Commission Chair Lauren Logan, then a junior at Barnstable High School, wrote a grant to the Cape Youth Force to help with these expenses.

The Cape Youth Force is a youth-led philanthropic program run by a committee of high school students from across Cape Cod. The initiative seeks to make the community a better place by supporting projects that positively affect youth on the Cape & Islands. The Cape Youth Force is a program of the Cape & Islands Youth Congress, The Cape Cod Foundation, Barnstable County UMASS Extension/4H, and YMCA/Cape Cod. The initiative was made possible with funding from individual contributions and two funds at the Community Foundation: the Community Fund for Young People and the Priscilla M. Cotter Fund for Youth Activities.

The Community Services Department and Youth Services Division are deeply appreciative from the Cape Youth Force, a program of the Cape & Islands Youth Congress, the Cape Cod Foundation, Barnstable County UMASS Extension/4H, and YMCA/Cape Cod for their support.

FISCAL IMPACT: None

STAFF ASSISTANCE: Sally-Ann Imes, Youth Services Coordinator

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

2011-002
INTRO: 07/15/10

2011-002 ACCEPTANCE OF GIFT-2 LIFEGUARD TOWER CANOPIES, SUNSCREEN & DISPENSERS

RESOLVED, That the Town Council does hereby accept a gift of two lifeguard tower canopies, sunscreen and two sunscreen dispensers with a total value of approximately \$3,500, from the Glenna Kohl Fund for Hope to be used by the Barnstable Recreation Division for Dowses Beach.

SPONSOR: Town Manager John C. Klimm

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-002
INTRO: 07/15/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: July 6, 2010
SUBJECT: Acceptance of gift of two lifeguard tower canopies, sunscreen and two sunscreen dispensers from the Glenna Kohl Fund for Hope for Dowses Beach (Total value approximately \$3,500).

BACKGROUND: Glenna Kohl was a longtime Barnstable Recreation Division employee whose life was cut short in November 2008 after a courageous three year battle with melanoma. Glenna was a much loved lifeguard at Dowses Beach prior to her diagnosis. Her colleagues in the Recreation Division have worked with Glenna's parents – Colleen and Bob – to ensure that the mission of the Glenna Kohl Fund for Hope is carried out. The mission is to carry on Glenna's work to bring awareness to everyone about the dangers of melanoma and the importance of early detection and prevention of this deadly disease. They held their first annual "Piggy Trot" on May 23, 2010. It was a 3.7 mile road race held at Dowses Beach in Osterville. There were 323 registered runners and over 400 people in attendance.

RATIONALE: Melanoma is the most serious type of skin cancer. It begins in skin cells called melanocytes. Melanocytes are the cells that make melanin, which gives skin its color. Melanin also protects the deeper layers of the skin from the sun's harmful ultraviolet (UV) rays. When people spend time in the sunlight, the melanocytes make more melanin and cause the skin to tan. This also happens when skin is exposed to other forms of ultraviolet light (such as in a tanning booth). If the skin receives too much ultraviolet light, the melanocytes may begin to grow abnormally and become cancerous. This condition is called melanoma. The lifeguard canopies were made by the Barnstable Canvas Company and are made of 100 percent acrylic fabric and welded with aluminum piping. The two lifeguard tower canopies, sunscreen and two sunscreen dispensers will provide users of Dowses Beach with awareness while protecting those who serve in lifeguard positions.

FISCAL IMPACT: There is no fiscal impact.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance.

STAFF ASSISTANCE: Patti Machado, Assistant Director of Recreation

B. NEW BUSINESS (Refer to public hearing 08/05/10) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-003
INTRO: 07/15/10**

2011-003 AMEND GENERAL ORDINANCES, CHAPTER 177 SANDY NECK BEACH

ORDERED:

SECTION I

Chapter 177 of the General Ordinances (Sandy Neck) is hereby amended by striking out Chapter 177, Article 1 and inserting in place thereof the following:

ARTICLE 1. Operation of Motor Vehicles.

§ 177-1. Operation of a vehicle within a closed area on Sandy Neck Beach. No person shall operate a motor vehicle on Sandy Neck Beach except within marked open sections of the front beach off road vehicle corridor and on the beach access trail.

§ 177-2. Operation of a vehicle on Sandy Neck Beach without a valid permit.

No person shall operate a motor vehicle on Sandy Neck Beach without first obtaining a Sandy Neck off road vehicle permit.

§ 177-3. Violations and penalties.

Any person violating this chapter shall be punished by a fine not more than \$200 for each offense.

SECTION 2

The schedule of fines in Article I, Section 1-3 of the General Ordinances are hereby amended by striking out the lines related to Chapter 177, Article I and inserting in place thereof the following:

Code Chapter/Section	Subject	Fine
Ch. 177, Art. I	Vehicle within a closed area (Sandy Neck Beach Park)	\$150
Ch. 177, Art. I	Vehicle without a valid permit (Sandy Neck Beach Park)	\$150

SECTION 3

The schedule of fines in Article 1 of the General Ordinances is hereby amended by adding the following new section, §1-6.1:

§1-6.1: Fines for the Violation of Marine and Environmental Affairs Division Regulations

Offense	Fine
Sandy Neck Beach Regulations	
Violation of regulation	\$50

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-003
INTRO: 07/15/10

SUMMARY

TO: Town Council
FROM: Lynne M. Poyant, Director of Community Services
DATE: July 6, 2010
SUBJECT: Town of Barnstable Ordinance changes for § 177-1, § 177-2 and § 177-3 as well a schedule of fines for Sandy Neck Beach Regulations

BACKGROUND: The Town Ordinances, as they pertain to Sandy Neck Beach, are outdated. They include multiple references to the Sandy Neck Governing Board which has been disbanded for many years. In addition, the ordinances refer to the off road vehicle permit as an “inspection sticker” which is confusing to the public and the court system. With regard to fines, the dollar amount is not defined for violations of the regulations. In addition, the fine amount for driving on the beach in many cases is less than the cost of an off road vehicle permit. This makes driving illegally on the beach less expensive than purchasing a permit and obtaining and obeying the rules and regulation of the beach.

RATIONALE: By updating the Town Ordinances, the public will have a better understanding of the Town laws as they pertain to driving a vehicle on Sandy Neck Beach. In addition, citations issued will be more defensible in the court system with improved and comprehensible language defining the violation. Finally, fines for regulation violations will be clearly delineated and not subject to individual interpretation.

FISCAL IMPACT: There will be a minimal increase in revenue as fines for violations will increase.

STAFF ASSISTANCE:

Nina Coleman, Sandy Neck Park Manager
Ruth J. Weil, Town Attorney

B. NEW BUSINESS (Refer to public hearing 08/05/10) (Roll-call)

BARNSTABLE TOWN COUNCIL

**2011-004
INTRO: 07/15/10**

2011-004 AMEND GENERAL ORDINANCE. C. 228, VEHICLE STORAGE

ORDERED: That the General Ordinances of the Code of the Town of Barnstable are hereby amended by striking Chapter 228 and inserting the following Chapter 228.

“CHAPTER 228

VEHICLE, BOAT, RECREATIONAL AND CONTAINER STORAGE

§ 228-1. Purpose and Intent.

The purpose and intent of this chapter is to promote beneficial and convenient relationships between the natural resources of the Town and its inhabitants.

§ 228-2. Unregistered motor vehicle and trailer storage.

No person shall at any time have more than one unregistered motor vehicle or trailer or any part or portion thereof, ungaraged, on premises owned, occupied or controlled by said person.

§ 228-3. Boat and registered trailer storage.

- A. No person shall at any time have more than two boats greater than twenty-one feet in length clearly visible on premises owned, occupied or controlled by said person.
- B. No person shall at any time have more than two registered trailers clearly visible on premises owned, occupied or controlled by said person.

§ 228-4. Mobile home, recreational trailer, and camper storage.

- A. No person shall at any time have any mobile home clearly visible on premises owned, occupied or controlled by said person except as provided in § 228-7(A)(7).
- B. No person shall at any time have more than two recreational trailers clearly visible on premises owned, occupied or controlled by said person.
- C. No person shall at any time have more than two campers clearly visible on premises owned, occupied or controlled by said person.

§ 228-5. Container and equipment storage.

- A. No person shall at any time have any containers with a capacity of five (5) or more cubic yards clearly visible on premises owned, occupied or controlled by said person.
- B. No person shall at any time have any motorized earth moving equipment clearly visible on premises owned, occupied or controlled by said person.

§ 228-6 Compliance.

- A. Each unit listed in §§ 228-3(A), 228-3(B), 228-4(A), 228-4(B), 228-4(C), 228-5(A) and 228-5(B) other than a boat stored on a registered trailer shall be considered as a single unit for purposes of compliance with this chapter. Not more than two of the same or different units listed in §§ 228-3(A), 228-3(B), 228-4(B), 228-4(C), 228-5(A) and 228-5(B) shall be stored on premises other than in compliance with the requirements of this chapter. The combination of a boat stored on a registered trailer shall be considered a single unit for purposes of compliance with this chapter.
- B. A unit required to be stored in compliance with this chapter shall not be considered clearly visible if the following dimensions are screened from view from any vantage point on each lot directly

abutting or directly across a way abutting the premises which contains a dwelling but only up to the top of the first floor of any single dwelling or the top of the first story of any multiple dwelling:

- (1) the full length and width; and
- (2) the full height if the unit is six (6) feet or less high; or
- (3) if the unit is more than six (6) feet high, by a well maintained fence or natural objects six (6) feet high, buildings or natural objects more than six (6) feet high, or any combination thereof.

- C. Screens shall consist of buildings, natural objects, well maintained fences, or any combination thereof not attached to the unit which blocks the unit from view and are in compliance with all applicable laws, ordinances and regulations.
- D. A unit or units required to be stored in compliance with this chapter shall be grouped in one storage area.

§ 228-7. Nonapplicability.

- A. This chapter shall not apply to the following.
 - (1) To governmental entities and government premises.
 - (2) To any unit used for agricultural purposes on the premises.
 - (3) To any unit listed in §§ 228-3(B), 228-5(A) and 228-5(B) for the duration of work allowed under a permit issued for the premises.
 - (4) To premises duly licensed under the provisions of Chapter 140 of the General Laws.
 - (5) To boats while secured on the shore of the premises or at a pier.
 - (6) To trailers and tents permitted under the provisions of §§ 240-9(A) – (D).
 - (7) To one (1) mobile home stored in compliance with § 240-45, which shall not be considered in determining the number of mobile homes stored on the premises for purposes of compliance with this chapter.
 - (8) To a vacant lot or a lot which contains a building or buildings partly or completely without a dwelling or dwellings except buildings accessory to a dwelling on the same lot. A unit is not required to be screened from view from a vacant lot or a lot with a building or buildings some or all of which does not or do not contain a dwelling or dwellings.

§ 228-8. Penalties.

Any person failing to comply with this chapter or remove a unit not in compliance with this chapter, or any part or portion thereof, within seven days after notice by the Building Commissioner, or his designee, the Board of Health or its designees, or the Police Department of the Town, shall be subject to a fine of not more than \$300. Each day during any portion of which a violation continues to exist, shall constitute a separate offense.

§ 228-9. Severability.

Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect.”

SPONSOR: Council Vice President James H. Crocker

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-004

INTRO: 07/15/10

SUMMARY

TO: Town Council
FROM: Councilor James H. Crocker
DATE: July 8, 2010
SUBJECT: Order amending storage code general ordinance Chapter 228

BACKGROUND: Chapter 162 sections 1 and 2 require a public hearing for an ordinance amendment.

The amendments are brought forward with a concern for property rights, an effort to reduce cost of enforcement, and the hope of bringing harmonious feelings toward neighbors and neighborhoods.

This legislative item is to further clarify unregistered vehicle storage and additional items such as boats, mobile homes and construction equipment and to define storage methods to promote beneficial and convenient relationships between the natural resources of the Town and its inhabitants.

FISCAL IMPACT: No expense is anticipated. A savings of municipal time and enforcement dollars is expected.