



# Town of Barnstable Town Council

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## MEETING AGENDA TOWN HALL HEARING ROOM May 4, 2017 7:00 PM

Original posted on 5/2/17@12:31pm  
Updated on 5/2/17@1:34pm to add  
Item 2017-145

### Councillors:

Eric R. Steinhilber  
President  
Precinct 2

James H. Crocker Jr.  
Vice President  
Precinct 5

John G. Flores  
Precinct 1

Paul Hebert  
Precinct 3

Frederick Chirigotis  
Precinct 4

William Crocker, Jr.  
Precinct 6

Jessica Rapp  
Grassetti  
Precinct 7

Debra S. Dagwan  
Precinct 8

James M. Tinsley  
Precinct 9

Sara Cushing  
Precinct 10

Philip N. Wallace  
Precinct 11

John T. Norman  
Precinct 12

Jennifer L. Cullum  
Precinct 13

Administrator:  
Cynthia A. Lovell

Administrative  
Assistant:  
Kelly Crahan

### 1. ROLL CALL

### 2. PLEDGE OF ALLEGIANCE

### 3. MOMENT OF SILENCE

### 4. PUBLIC COMMENT

### 5. COUNCIL RESPONSE TO PUBLIC COMMENT

- **Presentation by General Frank Magurn,  
Colonel Virginia Doonan, Colonel Patrick Keefe,  
Lieutenant Colonel Nathan Hippe,  
Captain Michael Andrew Clyburn, Joint Base Cape Cod**

### 6. TOWN MANAGER COMMUNICATIONS

### 7. ACT ON MINUTES (Including Executive Session)

### 8. COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements

### 9. ORDERS OF THE DAY

#### A. Old Business

#### B. New Business

### 10. ADJOURNMENT

**NEXT REGULAR MEETING: May 18, 2017**

| ITEM NO. | INDEX TITLE | PAGE |
|----------|-------------|------|
|----------|-------------|------|

**A. OLD BUSINESS**

|          |   |
|----------|---|
| 2017-138 | Appointments to a Board/Committee/Commission: <b>Human Services Committee:</b> Robin Gunderson, 160 Bay Road, Cotuit, as a representative member to a term expiring 6/30/20; <b>Renewable Energy Commission:</b> Gordon Starr, 85 Pilots Way West Barnstable, as a regular member to a term expiring 6/30/20; <b>Planning Board:</b> Fred Laselva, 358 Sea Street, Hyannis, as a regular member to a term expiring 6/30/20; <b>Housing Committee:</b> Hilda Haye, 22 Jacqueline Court, Centerville, as a regular member to a term expiring 6/30/20; <b>Economic Development Committee:</b> Britt Beedenbender, 415A Main Street, Centerville, as a regular member to a term expiring 6/30/19<br><b>(May be acted upon)</b> .....3 |
| 2017-139 | Order Proposing that the Town Council Petition the General Court for Legislation Providing for Certain Charter Amendments <b>(May be acted upon)</b> ..... 4-22   |
| 2017-140 | Amendments to the Administrative Code of the Town of Barnstable relating to the Community Services Department, the Regulatory Services Department and the Growth Management Department <b>(Public Hearing) (Roll Call)</b> .....23-35   |
| 2017-141 | Amendments to the Administrative Code of the Town of Barnstable Cable Television Advisory Committee <b>(Public Hearing) (Roll Call)</b> .....36-38  |
| 2017-142 | Amendments to the Administrative Code of the Town of Barnstable to reflect the change of the department name from the Growth Management Department to the Planning and Development Department <b>(Public Hearing) (Roll Call)</b> .....39-40  |

**B. NEW BUSINESS**

|          |   |
|----------|---|
| 2017-143 | Acceptance of a gift worth <b>\$13,150.00</b> for Community Shade Structures from the Glenna Kohl Fund for Hope for Dowses Beach in Osterville and Craigville Beach in Centerville <b>(May be acted upon)</b> ..... 41-42 |
| 2017-144 | Acceptance of gift in the amount of <b>\$3,397.77</b> from the Osterville Rotary Club for the Dowses Beach flag pole, flag and installation <b>(May be acted upon)</b> ..... 43-44  |
| 2017-145 | Resolve acceptance of a conservation restriction to be held by the Conservation Commission for 200 Communication Way, Barnstable, MA. Map 314, Parcel 038 <b>(May be acted upon)</b> .....45                              |

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Approve Minutes –April 27, 2017

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**Please Note:** The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda. Persons interested are advised, that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice. Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-138**  
**INTRO: 04/27/17, 05/04/17**

**2017-138 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

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

**Human Services Committee:** Robin Gunderson, 160 Bay Road, Cotuit, as a representative member to a term expiring 6/30/20; **Renewable Energy Commission:** Gordon Starr, 85 Pilots Way West Barnstable, as a regular member to a term expiring 6/30/20; **Planning Board:** Fred Laselva, 358 Sea Street, Hyannis, as a regular member to a term expiring 6/30/20; **Housing Committee:** Hilda Haye, 22 Jacqueline Court, Centerville, as a regular member to a term expiring 6/30/20; **Economic Development Committee:** Britt Beedenbender, 415A Main Street, Centerville, as a regular member to a term expiring 6/30/19

**SPONSOR:** Appointments Committee

| DATE            | ACTION TAKEN         |
|-----------------|----------------------|
| <u>04/27/17</u> | <u>First Reading</u> |
| _____           | _____                |

- Read Item
- Rationale
- Council Discussion
- Move/Vote

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-139**  
**INTRO: 04/27/17; 05/04/17**

**2017-139 AN ORDER PROPOSING THAT THE TOWN COUNCIL PETITION THE GENERAL COURT FOR LEGISLATION PROVIDING FOR CERTAIN CHARTER AMENDMENTS**

**ORDERED** that the Town Council submit a petition to the Great and General Court of the Commonwealth for a special act incorporating the following proposed amendments to the Charter of the Town of Barnstable:

**“AN ACT AMENDING THE CHARTER OF THE CITY KNOWN AS 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.*

**SECTION 1.** Part II of the Charter of the city known as the Town of Barnstable adopted by the voters on April 11, 1989 and which is on file in the office of the archivist, as is provided in section 12 of Chapter 43B of the General Laws, is hereby amended by inserting a new subsection Section 2-1 (d) as follows:

(d) Term Limits

No person elected to serve as a Town Councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the Town Council beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular election for the balance of the unexpired term; provided, however, the retiring Councilor shall continue to serve until a successor is qualified.

**SECTION 2.** Part II of said Charter is hereby further amended by striking out section 2-5 and inserting in place thereof the following section:

Section 2-5 Filling of Vacancies

If a vacancy occurs in the office of Councilor during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled at that regular election; otherwise, the Council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election.

**SECTION 3.** Part II of said charter is hereby further amended by striking out subsection 2-8(c) and inserting in place thereof the following subsection (c):

Section 2-8 (c) Charter Objection

(c) Charter Objection. Except for an emergency measure as defined in section 2-8(b), on the first occasion that the question on adoption of a measure is put to the town council, if a single member

objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

**SECTION 4.** Part II of said charter is hereby further amended by striking out the following last sentence contained in Section 2-11:“No person elected to serve as a town councilor may serve more than three consecutive terms of office.”

**SECTION 5.** Part III of said charter is hereby amended by striking out sections 3-1 to 3-7 inclusive and inserting in place thereof the following six sections:

#### Section 3-1. Elective Offices in General

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

#### Section 3-2. Eligibility

Any voter shall be eligible to hold any elective town office provided that, no person shall simultaneously hold more than one elective town office.

#### Section 3-3. School Committee

(a) Composition, Terms of Office. There shall be a school committee composed of five members elected by and from the voters at large.

(b) Term of Office. The terms of school committee members shall be four years beginning on the second Monday following election and continuing until a successor is qualified. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire at each regular election.

[Amended by Town Council vote December 1993; approved by Act of Legislature May 31, 1994]

(c) Powers and Duties. The school committee shall have general charge and superintendence of the public schools of the town. The powers of the school committee shall include, but need not be limited to: appoint a superintendent of schools, and all other officers and employees associated with the school, fix their compensation, define their duties and discharge them; make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the charter, ordinance or other council vote.

#### Section 3-4. Town Clerk

(a) Election. A town clerk shall be elected by and from the voters at large.

(b) Term of Office. The town clerk shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified.

[Amended by Town Council vote December 1993; approved by Act of Legislature May 31, 1994]

(c) Powers and Duties. The town clerk shall be the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

(d) Clerk of the Council. Unless otherwise provided by the town council the town clerk shall be the clerk of the council and shall give notice of all meetings of the town council to its members and to the public,

keep a record of its proceedings and perform such duties as may be assigned by the charter, by ordinance, or by other council vote.

### Section 3-5. Housing Authority

(a) **Composition, Election.** There shall be a housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) **Term of Office.** The terms of the housing authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election.

(c) **Powers and Duties.** The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

### Section 3-6. Filling Vacancies

If a vacancy occurs in the office of town clerk whether by failure to elect or otherwise, the town council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith.

If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

**SECTION 6.** Part VI of said charter is hereby amended by striking out the word “ten” in Section 6-6 and inserting in place thereof the word “five”.

**SECTION 7.** Part VII of said charter is hereby amended by striking out sections 7-1 to 7-5 inclusive and inserting in place thereof the following four sections:

#### Section 7-1 Town Elections

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

#### Section 7-2 Regular Election

##### (a) Signature Requirements

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than fifty signatures from said precinct.

##### (b) Information to Voters

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

##### (c) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

#### Section 7-3 Precincts

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

#### Section 7-4 Application of State Laws

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

**SECTION 8.** Part IX of said charter is hereby amended by inserting under Section 9-4 the following definition:

**MEASURE:**-The word “measure” shall mean matters to come before the town council which are inherently legislative in nature, including, without limitation, ordinances, charter amendments, appropriations, loan orders, lease approvals, contract approvals and eminent domain authorizations. “Measure” shall not encompass any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, without limitation, appointments, resolutions, proclamations, tax classification votes and petitions to the General Court.

**SECTION 9.** Part X of the Charter is hereby amended by striking out Section 10-7(b) and inserting in place thereof the following:

The incumbent in the office of Tax Collector shall continue to serve in said office until the completion of the current elected term.

**SECTION 10.** Part X of said Charter is hereby further amended by inserting under Section 10-7(k)(1) the words “a Town Collector.”

**SECTION 11.** The Town Clerk for the Town of Barnstable shall cause the following question to be placed on the official ballot to be used in the Town of Barnstable at the biennial town election to be held on November 7, 2017: Shall an act entitled “An Act amending the charter of the Town of Barnstable” be accepted.

The Town Attorney shall prepare a summary of the proposed special act to amend the Charter which shall appear on the ballot along with the question provided in this section.

If a majority of votes cast to the question is in the affirmative, the Town of Barnstable shall be taken to have accepted the amendments to the Charter of the Town of Barnstable, but not otherwise.

**SECTION 12.** This act shall take effect upon its passage.

## **BARNSTABLE TOWN COUNCIL**

**ITEM#2017-139**  
**INTRO: 04/27/17; 05/04/17**

### **SUMMARY**

**TO:** Town Council  
**THROUGH:** Mark S. Eells, Town Manager  
**FROM:** Jennifer Cullum, Chair, Charter Review Subcommittee  
**DATE:** April 13, 2017  
**SUBJECT:** Order Proposing that the Town Council Petition the General Court for Legislation Providing for Certain Charter Amendments

**BACKGROUND:** Section 9-1 of the Charter states that “[t]he Charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth and any laws of the Commonwealth enacted to implement said constitutional amendment.” The Charter Review Subcommittee was tasked with reviewing all areas of the existing charter. The subcommittee, comprised of five Councilors and two at-large members, met approximately 16 times. Included in the discussions were the Director of Finance, the Town Clerk and the Town Collector. An update was provided to the Town Council on November 19, 2015 and a workshop was conducted before the Town Council on August 11, 2016. At the workshop, the Town Council discussed possible additional changes, voted to accept the subcommittee’s final report and referred the matter back to the Subcommittee to present an agenda item to the Town Council incorporating the proposed charter amendments in the form of a Special Act.

**RATIONALE:** Identifying potential Charter changes was a collaborative effort with input from town staff, members of the public, elected officials and the two at-large members of the subcommittee.

Certain proposed amendments have been discussed over the years. The current Town Clerk and her predecessor had requested the elimination of preliminary elections because of the cost factors involved. The Citizen Advisory Committee has requested changing the long term forecast from ten years to five years as that being a more useful metric. With regard to the proposed change in the Town Collector’s position from an elected to an appointed position, a survey of similarly sized communities revealed that the majority had appointed collectors, reflecting the trend toward ensuring that town collectors possess professional credentials to fulfill the position’s responsibilities. The proposed amendment would not take effect until the current Town Collector has completed her term of office.

Other proposed amendments represent efforts to clarify certain provisions of the Charter about which questions have been raised. The existing “term limits” provision of the Charter, found under Prohibitions (Section 2-11), states that a Town Councilor shall serve no more than three terms; Questions have arisen as to how that provision should be interpreted when a four year term is truncated by an event, such as a redistricting or a vacancy. The proposed amendment, now under a separate “term limits” Section 2-1(d), states the prohibition as “No person elected to serve as a Town Councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater.” Another charter provision that has raised concerns in the past is the Charter objection provision, Section 2-8 (c). The proposed amendment does not subject emergency measures to the Charter objection process and eliminates the provision that if two Councilors object, the measure will not be heard until the next regular Council meeting.

The proposed amendment to Section 2-5, Filing of Vacancies, is a housekeeping measure proposed by the Town Clerk to eliminate the anachronistic reference to a “special election within the general election.”

Finally, a definition of measure was added because while the Charter references “measure” in several sections, it is currently undefined.



Below you will find the existing Charter provision, a redlined version of the proposed change to that provision and a “clean” text of the Charter provision incorporating the proposed amendment.

## **Part II of Charter**

### **CURRENT CHARTER TERM LIMITS (UNDER PROHIBITIONS)**

#### **Section 2-1 Composition; Eligibility; Election and Term**

(a) Composition

There shall be a Town Council which shall exercise the legislative powers of the town. One Councilor shall be elected from each precinct.

(b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of Councilor. A member of the town council who shall remove from one precinct to another during the term for which such Councilor was elected shall cease to be a member of the town council, provided however, a Councilor with six months or less remaining on the term for which such Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

(c) Election and Term

The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

#### **Section 2-11 Prohibitions**

No Councilor shall, while a member of the town council, hold any other compensated town office or position. No former Councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or employment following service as a member of the town council. No person elected to serve as a Town Councilor may serve more than three consecutive terms of office.

### **REDLINED VERSION OF PROPOSED TERM LIMITS**

#### **Section 2-1 Composition; Eligibility; Election and Term**

(a) Composition

There shall be a Town Council which shall exercise the legislative powers of the town. One Councilor shall be elected from each precinct.

(b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of Councilor. A member of the town council who shall remove from one

precinct to another during the term for which such Councilor was elected shall cease to be a member of the town council, provided however, a Councilor with six months or less remaining on the term for which such Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

(c) Election and Term

The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

(d) Term Limits

No person elected to serve as a Town Councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the Town Council beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular election for the balance of the unexpired term; provided, however, the retiring Councilor shall continue to serve until a successor is qualified.

**Section 2-11 Prohibitions**

No Councilor shall, while a member of the town council, hold any other compensated town office or position. No former Councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the Town Council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the Town Council from returning to such office or employment following service as a member of the Town Council. ~~No person elected to serve as a Town Councilor may serve more than three consecutive terms of office.~~

**CLEAN PROPOSED AMENDED TERM LIMITS**

**Section 2-1 Composition; Eligibility; Election and Term**

(a) Composition

There shall be a Town Council which shall exercise the legislative powers of the town. One Councilor shall be elected from each precinct.

(b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of Councilor. A member of the town council who shall remove from one precinct to another during the term for which such Councilor was elected shall cease to be a member of the town council, provided however, a Councilor with six months or less remaining on the term for which such Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

(c) Election and Term

The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

(d) Term Limits

No person elected to serve as a Town Councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the Town Council beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular election for the balance of the unexpired term; provided, however, the retiring Councilor shall continue to serve until a successor is qualified.

**Section 2-11 Prohibitions**

No Councilor shall, while a member of the Town Council, hold any other compensated town office or position. No former Councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the Town Council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the Town Council from returning to such office or employment following service as a member of the Town Council.

**CURRENT CHARTER FILLING OF VACANCIES**

**Section 2-5 Filling of Vacancies**

If a vacancy occurs in the office of Councilor occurs during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled by a special election within that regular election; otherwise, the council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election, provided no preliminary election shall be held. (Amended by Town Council item 9 1-03-02 on 6/20/91; amendment approved by voters 11/5/91).

**REDLINED PROPOSED AMENDED FILLING OF VACANCIES**

**Section 2-5 Filling of Vacancies**

If a vacancy occurs in the office of Councilor ~~occurs~~ during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled ~~by a special election within at~~ that regular election; otherwise, the Council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the Charter governing regular elections shall, so far as they are apt, apply to said special election, ~~provided no preliminary election shall be held~~. (Amended by Town Council item 9 1-03-02 on 6/20/91; amendment approved by voters 11/5/91).

**CLEAN PROPOSED AMENDED FILLING OF VACANCIES**

**Section 2-5 Filling of Vacancies**

If a vacancy occurs in the office of Councilor during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled at that regular election; otherwise, the Council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as

they are apt, apply to said special election. (Amended by Town Council item 9 1-03-02 on 6/20/91; amendment approved by voters 11/5/91).

## **CURRENT CHARTER OBJECTION PROVISION**

### **Section 2-8 Measures; Emergency Measures; Charter Objection**

#### **(c) Charter Objection**

On the first occasion that the question on adoption of a measure is put to the Town Council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the Town Council whether regular or special. If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. *(Changed by legislative action dated August 3, 1995).*

## **REDLINED VERSION OF PROPOSED AMENDMENT TO CHARTER OBJECTIONS**

### **Section 2-8. Measures; Emergency Measures; Charter Objection.**

#### **(c)**

Charter Objection. - Except for an emergency measure as defined in section 2-8(b), On the first occasion that the question on adoption of a measure -is put to the Town Council, -if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the Town Council whether regular or special. If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. -  
[Changed by legislative action dated August 3, 1995]

## **CLEAN VERSION PROPOSED AMENDED CHARTER OBJECTION TO CHARTER OBJECTION PROVISION**

### **Section 2-8. Measures; Emergency Measures; Charter Objection.**

(c) Charter Objection. Except for an emergency measure as defined in section 2-8(b), on the first occasion that the question on adoption of a measure is put to the Town Council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the Town Council whether regular or special. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

## **Part III**

### **TOWN COLLECTOR**

#### **Section 3.1**

The Town Collector would become an appointed rather than elected position. The legislation would specify that the amendment would become effective at the expiration of the term of the Town Collector in office at the time of the adoption.

## **CURRENT CHARTER PROVISION ELECTED TOWN COLLECTOR**

### **Section 3-1 Elective Offices in General**

In addition to the Town Council, the offices to be filled by the voters shall be a School Committee, a Town Clerk, a Town Collector and a Housing Authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

### **Section 3-5 Town Collector**

#### **(a) Election**

A Town Collector shall be elected by and from the voters at large.

#### **(b) Term of Office**

The Town Collector shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature May 31, 1994)

#### **(c) Powers and Duties 8**

The Town Collector shall be responsible for the collection of all accounts due and payable to the town. Town officials and Town agencies, from time to time, shall commit to the Town Collector for collection all accounts due and payable to the town, listed against the parties obligated to assume and pay the same. The Town Collector shall pay over to the Town Treasurer all collections received with any sums received in interest. The Town Collector shall have the powers and duties provided that office by the laws of the Commonwealth, the Charter, ordinance or other Council vote.

### **Section 3-7 Filling Vacancies**

If a vacancy occurs in the office of Town Clerk or Town Collector whether by failure to elect or otherwise, the Town Council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The Town Council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. If a vacancy occurs in the membership of the School Committee or Housing Authority whether by failure to elect or otherwise, the President of the Town Council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the Town Council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the School Committee or Housing Authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

### **REDLINED VERSION ELIMINATING ELECTED COLLECTOR**

#### **PART III Elected Town Offices**

### **Section 3-1 Elective Offices in General**

In addition to the Town Council, the offices to be filled by the voters shall be a School Committee, a Town Clerk; ~~a town collector~~ and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

### **~~Section 3-5 Town Collector~~**

~~(a) Election~~

~~A town collector shall be elected by and from the voters at large.~~

~~(b) Term of Office~~

~~The town collector shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature May 31, 1994.)~~

~~(c) Powers and Duties~~

~~The town collector shall be responsible for the collection of all accounts due and payable to the town. Town officials and town agencies, from time to time, shall commit to the town collector for collection all accounts due and payable to the town, listed against the parties obligated to assume and pay the same. The town collector shall pay over to the town treasurer all collections received with any sums received in interest. The town collector shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.~~

**Section 3-56 Housing Authority**

(a) Composition, Election

There shall be a Housing Authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) Term of Office

The terms of the Housing Authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election. (Amended by vote of Town Council Dec. 1993 - Approved by Act of Legislature May 31, 1994)

(c) Powers and Duties

The Housing Authority shall make studies of the housing needs of the town and shall provide programs for housing. The Authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

**Section 3-67 Filling Vacancies**

If a vacancy occurs in the office of Town Clerk ~~or town collector~~ whether by failure to elect or otherwise, the Town Council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The Town Council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. If a vacancy occurs in the membership of the School Committee or Housing Authority whether by failure to elect or otherwise, the President of the Town Council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the Town Council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and

commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the School Committee or Housing Authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

## **PROPOSED CLEAN AMENDED SECTION 3 ELIMINATING ELECTED TOWN COLLECTOR**

### **PART III**

#### **Elected Town Offices**

##### **Section 3-1 Elective Offices in General**

In addition to the Town Council, the offices to be filled by the voters shall be a School Committee, a Town Clerk and a Housing Authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

##### **Section 3-2 Eligibility**

Any voter shall be eligible to hold any elective town office provided that, no person shall simultaneously hold more than one elective town office.

##### **Section 3-3 School Committee**

###### **(a) Composition, Terms of Office**

There shall be a School Committee composed of five members elected by and from the voters at large.

###### **(b) Term of Office**

The terms of School Committee members shall be four years beginning on the second Monday following election and continuing until a successor is qualified. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire at each regular election. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature - May 31, 1994)

###### **(c) Powers and Duties**

The School Committee shall have general charge and superintendence of the public schools of the town. The powers of the School Committee shall include, but need not be limited to: appoint a Superintendent of schools, and all other officers and employees associated with the school, fix their compensation, define their duties and discharge them; make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town. The School Committee shall have all the powers and duties given to School Committees by the laws of the Commonwealth, the Charter, ordinance or other Council vote.

##### **Section 3-4 Town Clerk**

###### **(a) Election**

A Town Clerk shall be elected by and from the voters at large.

###### **(b) Term of Office**

The Town Clerk shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature May 31, 1994)

(c) Powers and Duties

The Town Clerk shall be the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall have the powers and duties provided that office by the laws of the Commonwealth, the Charter, ordinance or other Council vote.

(d) Clerk of the Council

Unless otherwise provided by the Town Council the Town Clerk shall be the clerk of the Council and shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform such duties as may be assigned by the Charter, by ordinance, or by other Council vote.

### **Section 3-5 Housing Authority**

(a) Composition, Election

There shall be a Housing Authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) Term of Office

The terms of the Housing Authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election. (Amended by vote of Town Council Dec. 1993 - Approved by Act of Legislature May 31, 1994)

(c) Powers and Duties

The Housing Authority shall make studies of the housing needs of the town and shall provide programs for housing. The Authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

### **Section 3-6 Filling Vacancies**

If a vacancy occurs in the office of town clerk whether by failure to elect or otherwise, the Town Council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The Town Council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. If a vacancy occurs in the membership of the School Committee or Housing Authority whether by failure to elect or otherwise, the President of the Town Council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the Town Council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith.



Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

## Part VI

### **LONG TERM FINANCIAL FORECAST**

#### **Section 6-6**

Consistent with the recommendation made by Comprehensive Financial Advisory Committee and the Director of Finance, the amendment would require an annual five year forecast rather than the annual ten year forecast currently required.

### **EXISTING TEN YEAR FORECAST**

#### **Section 6-6 Long Term Financial Forecast**

The Town Manager shall annually prepare a ten year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town; revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

### **REDLINED LONG TERM FORECAST CHANGING TEN YEAR TO FIVE YEAR**

#### **Section 6-6 Long Term Financial Forecast**

The Town Manager shall annually prepare a ~~ten~~ five year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town; revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the Town Council and shall be available to the public for inspection.

### **CLEAN COPY OF PROPOSED REVISION**

#### **Section 6-6 Long Term Financial Forecast**

The Town Manager shall annually prepare a five year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town; revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

## Part VII

### **EXISTING PRELIMINARY ELECTION CHARTER PROVISION**

#### **Nominations and Elections**

#### **Section 7-1 Town Elections; General and Preliminary**

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year. On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates. (Amended by Town Council item #93-106; Amendment passed by Act of Legislature August 6, 1993)

## **Section 7-2 Preliminary Elections**

### **(a) Signature Requirements**

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than twenty five signatures from said precinct.

### **(b) Ballot Position**

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the Town Clerk in the presence of such candidates or their representatives as may choose to attend such drawings.

### **(c) Determination of Candidates for Election**

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number to be so elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which but for said tie vote would entitle a person receiving the same to have the person's name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence thereof, there be printed on such ballots the names of candidates exceeding twice the number to be elected.

### **(d) Nomination of Candidates;**

#### **Conditions Making Preliminary Election Unnecessary**

If at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been filed with the Town Clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the Town Clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any precinct or precincts of the town, no preliminary election shall be held in any such precinct or precincts.

## **Section 7-3 Regular Election**

### **(a) Information to Voters**

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

### **(b) Ballot Position**

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the Town Clerk in the presence of such candidates or their representatives as may choose to attend.

**Section 7-4 Precincts**

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

**Section 7-5 Application of State Laws**

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

## REDLINED CHANGES ELIMINATING PRELIMINARY ELECTION

### **Section 7-1 Town Elections; ~~General and Preliminary~~**

The regular town election shall be held on the first Tuesday following the first Monday in ~~November of each odd-numbered year. On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates. (Amended by Town Council item #93-106; Amendment passed by Act of Legislature August 6, 1993).~~

#### **Section 7-2 Preliminary Elections**

##### **(a) Signature Requirements**

~~The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than twentyfive signatures from said precinct.~~

##### **(b) Ballot Position**

~~The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend such drawings.~~

##### **(c) Determination of Candidates for Election**

~~The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number to be so elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.~~

~~If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which but for said tie vote would entitle a person receiving the same to have the person's name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence thereof, there be printed on such ballots the names of candidates exceeding twice the number to be elected.~~

##### **(d) Nomination of Candidates;**

##### **Conditions Making Preliminary Election Unnecessary**

~~If at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been filed with the town clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the town clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any precinct or precincts of the town, no preliminary election shall be held in any such precinct or precincts.~~

### **Section 7-23 Regular Election**

#### **(a) Signature Requirements**

~~The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than~~

fifty signatures from said precinct.

(b)a) Information to Voters

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

(c)b) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

### **Section 7-34 Precincts**

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

### **Section 7-45 Application of State Laws**

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

## **PROPOSED CHARTER CHANGE ELIMINATING PRELIMINARY ELECTIONS**

### **Nominations and Elections**

#### **Section 7-1 Town Elections**

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

#### **Section 7-2 Regular Election**

(a) Signature Requirements

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than fifty signatures from said precinct.

(b) Information to Voters

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

(c) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

#### **Section 7-3 Precincts**

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

**Section 7-4 Application of State Laws**

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

**Part IX**

**AMENDING SECTION 9-4 TO ADD DEFINITION OF MEASURE**

**Section 9-4 Definitions.**

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

(i)

MEASURE:--The word "measure" shall mean matters to come before the town council which are inherently legislative in nature, including ordinances, charter amendments, appropriations, loan orders, lease approvals and eminent domain authorizations. "Measure" shall not encompass any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, without limitation, appointments, resolutions, proclamations, tax classification votes, contract approvals, and petitions to the General Court.

**Part X AMENDING SECTION 10-7 COLLECTOR TRANSITION AND APPOINTMENT**

Section 10-7. Time of Taking Effect.

(b) The incumbent in the office of tax collector shall continue to serve in said office until the completion of the current elected term.

(k)(1)

The town manager shall appoint subject to the approval of the town council:

- a town attorney
- a town accountant/director of finance
- a town collector
- a town treasurer
- a police chief
- a director of personnel
- a building commissioner
- a director of civil defense
- an inspector of animals
- the constables
- a dog officer
- the fence viewers
- a forest fire warden
- a gas inspector
- a harbor master and, all other officers, department heads, and employees for whom no other method of appointment is provided.

**A. OLD BUSINESS (Public Hearing) (Roll Call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM #2017-140  
INTRO: 04/27/17; 05/04/17**

**2017-140 AMENDMENTS TO THE ADMINISTRATIVE CODE RELATING TO THE COMMUNITY SERVICES DEPARTMENT, THE REGULATORY SERVICES DEPARTMENT AND THE GROWTH MANAGEMENT DEPARTMENT.**

**ORDERED:**

**Section 1.** That Section 241-47.10 of the Administrative Code, “Community Services Department” be amended by striking Section 241-47.10 in its entirety and substituting in place thereof the following:

§ 241-47.10 Community Services Department

The Community Services Department, located within the Operational Branch, provides an array of recreation, social and leisure time services to the citizens of Barnstable that appeal to a wide range of ages and interests as well as those that will preserve, protect and enhance our natural environment. The Department also provides liaison with the Veterans' Services District.

A. Recreation Division.

- (1) Mission. The Recreation Division is committed to providing safe and healthy leisure and recreational opportunities of a general and specialized nature to improve the quality of life in our community through exceptional and affordable programs and services.
- (2) Authorities and responsibilities. Recreation is responsible for the development and delivery of a variety of educational, social, recreational and counseling services to the residents of Barnstable. The major responsibility is to provide services in a manner that eliminates duplication of services, maximizes existing personnel resources, and utilizes a variety of volunteer programs to diversify the effectiveness of programming. It services the community's entire population, as well as servicing the tourism population on a seasonal basis.
- (3) Organizational components.
  - a. The Recreation Division administers four programs to ensure efficient accomplishment of program objectives with a minimum of duplication. Programs are as follows:
    - 1) Leisure Services provides and coordinates leisure activities through programs such as basketball, softball, open gym, Sunshine, Friday night social, sailing, karate, dance, tennis, playground program, track and field, baseball, theater, floor hockey, volleyball, gymnastics, community youth centers, after-school soccer, special events and special needs programs.
    - 2) Aquatics provide and maintain aquatic services at the 16 Town of Barnstable beach sites. Services in the aquatic program include general supervision, operating the gate attendant program, bathhouse attendants, overseeing the police program, water safety, and a swim program.
    - 3) The Youth Services program is dedicated to creating successful youth and family services programs through the Hyannis Youth and Community Center and other municipal and school buildings. These programs include the Youth Commission and its Youth Advisory Group, and follow the tenets of America's Promise: Prevention, Skills Education, Caring Adults, and Service Learning.
    - 4) The Hyannis Youth and Community Center program provides ice programs and Youth Center activities. Ice activities include two NHL regulation ice rinks, one of which is the Lt. Joseph P. Kennedy Jr. Memorial Skating Rink and provides a public skating program, hockey activities and figure skating instruction. Youth Center activities include a Teen Center and basketball/volleyball courts and other dry floor activities.
- (4) Interrelationships.

- a. Town Manager. Recreation interacts with the Town Manager for the purpose of program approval, budgeting, expenditure, grant assistance, as well as scheduling of facility use and coordination.
- b. Other departments. It interacts with Public Works on a regular basis to prepare, maintain, and improve facilities. Work order requests are utilized. The Recreation Director and Public Works Superintendent meet to review facilities management issues. Police Department interaction takes place in scheduling of recreation programs, special details, patrols public safety and coordination of recreational services with public safety concerns.
- c. Interaction with the Regulatory Services Department relates to land use for passive and active recreation. School Department interaction concerns utilization of school gyms, fields, coordination of special needs activities with the School Department's Special Needs Division; scheduling activities for the Hyannis Youth and Community Center and athletic fields, and beach areas.
- d. Multiple-member boards. Recreation provides administrative support to the Recreation Commission and the Youth Commission, implementing the policies of said committees through the promulgation of rules and regulations that are subject to approval by the Town Manager.

## B. Golf Division.

- (1) Mission. Barnstable Golf is dedicated to providing, operating and maintaining affordable, self-supporting public golf facilities, while protecting them for the future, by maintaining and improving the courses, buildings, and equipment. Golf Course Management strives to provide programs that enrich recreational opportunities, while being fiscally responsible to the residents and taxpayers of the Town of Barnstable.
- (2) Authorities and responsibilities. Golf is responsible for the development and delivery of a variety of educational, social, and recreational programs for the residents of Barnstable. The major responsibility is to provide services in a manner that eliminates duplication of services and maximizes existing personnel resources. It services the community's golfing population as it is an enterprise account and the users of the service pay for the service. It also services the tourism population on a seasonal basis.
- (3) Organizational components: The Golf Division is dedicated to operating and maintaining an attractive, affordable, and self-supporting public golf facility. The two facilities are the Olde Barnstable Fairgrounds Municipal Golf Course, which is an eighteen-hole golf course located in Marstons Mills, and the Hyannis Golf Course, which is also an eighteen-hole golf course located in Hyannis. The golf component is self-supporting through an enterprise account. It is responsible for all aspects of operating the golf course. The primary services are as follows:
  - a. Membership offers residents the opportunity to play year-round golf at a responsible rate. It provides the players with organized events, scheduled activities and a sense of belonging to a top golf facility.
  - b. Junior golf provides the Barnstable youth with affordable recreation, trains the juniors in the rules, etiquette, and swing technique, provides a home for the high school golf team, plus tournaments, clinics and competitions of various kinds are organized throughout the season.
  - c. Fee players are provided with a quality service, a high level of conditioning, and a pace of play attracting visitors from all parts of New England to make the Olde Barnstable Fairgrounds and the Hyannis Golf Course their choice of courses. Combined, the courses are open to the public seven days a week, year round.
  - d. Pro shops at both courses consist of a full line of equipment, fashions, and accessories that are always stocked.
  - e. Driving ranges offers the serious golfer an area to practice all parts of the game.



- f. Maintenance provides continuous improvements of each course. The condition of each course is essential to its future. Cooperative efforts with conservation, Audubon and other environmental groups will improve public relations. A beautification program to improve the aesthetic value of the facility is ongoing.
- g. A tournament schedule provides high quality events for members, local charities, and state and local associations.
- h. Restaurants provide food and beverages for customers prior, during, and after golfing. It also offers non-golfers an opportunity to visit the facility and enjoy the scenery.

(4) Interrelationships.

- a. Town Manager. Golf interacts with the Town Manager for the purpose of program approval, budgeting, expenditure, as well as scheduling of facility use and coordination.
- b. Other departments. It interacts with Recreation on a regular basis to prepare, maintain, and improve programs.
- c. Interaction with the Regulatory Services Department relates to land use for passive and active recreation.
- d. Multiple-member boards. Golf provides administrative support to the Golf Committee, implementing the policies of said committee through the promulgation of rules and regulations that are subject to approval by the Town Manager.

C. Marine and Environmental Affairs Division.

- (1) Mission. Marine and Environmental Affairs provides administration of the Town waterways, safety and marina program and the protection, preservation, management and enhancement of the Town's natural and wetland resources, including Sandy Neck.
- (2) Authorities and responsibilities. Marine and Environment Affairs is responsible for enforcement and promulgation of mooring regulations, marina rules and regulations subject to approval of the Town Manager, the federal Clean Water Act (in conjunction with U.S. Coast Guard)[1] and Town ordinances concerning vessel use in public waters; enforcement of state boating laws; the placement and maintenance of the Town's private aids to navigation; approval of moorings; slip contracts and supervision of four Town marinas which operate as an enterprise account; inspection of Town ways to water; harbor patrols; and collection of fees and charges at various marinas, ramps, and for mooring permits. Public safety activities include the placement and maintenance of aids to navigation, compliance activities, emergency response activities and technical assistance to the Waterways Committee. It is responsible for the administration of programs and the enhancement and protection of resources relative to the Town property at the Sandy Neck Barrier Beach which operates as an enterprise account; programming relative to shellfish protection, propagation, and management pursuant to MGL c.130; implementation of conservation land management plans; herring run management; and provides assistance to federal, state, and other local agencies in projects of mutual concern. It enforces statutes (MGL c. 90B, 130, 131; MGL c. 266, § 113; and MGL c. 270, § 16), ordinances, rules and regulations relative to shellfish, fish and game, marine and recreational vehicles, conservation regulations, illegal disposal and taking of timber, berries, etc. It is responsible for answering complaints or other matters pertaining to animals within the Town; enforcement of all laws relating to the care, custody and control of dogs, pursuant to MGL c.140, § 136S through § 174; MGL c. 266, § 47; and MGL c. 272, § 77 through § 98; Chapter 108, Hazardous Materials, and Chapter 24, Animals, Article I, Regulation of Dogs, of the Code of the Town of Barnstable.[1]Editor's Note: See 33 U.S.C. § 1251 et seq.

(3) Organizational components.

- a. Marine Affairs Section. Marine Affairs is responsible for administration and management of the Town waterways safety program, including daily supervision of Town docks, moorings, boat ramps and Town waters, and the promotion of public safety for persons

and property on the waterways. The mooring program serves to provide adequate space for harbor users and for the safety of moored boats.

- b. Environmental Affairs Section. Environmental Affairs is responsible for the protection, preservation, management and enhancement of the Town's natural and wetland resources as well as the promotion of public safety for persons, property and animals.

(4) Interrelationships.

- a. Town Manager. Marine and Environmental Affairs interacts with the Town Manager with respect to approval of rules and regulations relative to moorings and marinas, fees and charges resulting therefrom, and approval of rules and regulations, including, but not limited to, shellfish regulatory matters, fish and game, and all fees and charges resulting therefrom. Interaction further occurs relative to implementation of the Town's property and facilities management plan, approval of programs, budgets, expenditures, and other programs as necessary. Interaction also occurs through the Town Manager's responsibilities pursuant to state law and local ordinance concerning restraining orders, banishment and disposition of dangerous dogs.
- b. Other departments. It interacts with Conservation on waterway-related project applications and implementation of conservation land management plans, and land use; Recreation to maintain passive recreational facilities and placement of recreational devices; Public Works for land management maintenance and maintenance of Town landings, vehicle maintenance, and equipment use, erosion control projects, moth infestations, snow fence construction, building maintenance, mapping, GIS; Police for law enforcement issues concerning complaint investigation, abandoned/recovered motor vehicles, land search/rescue operations; Fire Districts for underwater search/recovery; Fire Districts and Health Division for oil spill cleanup and pollution response and investigation; Health Division for animal bites and quarantines; and Town Clerk for census and dog licensing matters; Assessing and Collector concerning mooring permit issuance/boat excise tax.
- c. Multiple-member boards. It provides administrative and technical support to the Waterways Committee, to the Shellfish Committee, and to the Sandy Neck Board and interacts with the Conservation Commission, Recreation Commission, and other boards as necessary.

D. Senior Services Division.

- (1) Mission. Senior Services assesses the needs of those citizens age 60 and over living in Town. It designs and creates programs to meet those needs, advocates and educates the community on those issues affecting the elderly, and enlists the support and the funding for the programs from federal, state, Town, and other public and private organizations.
- (2) Authorities and responsibilities. Senior Services provides a wide and diverse array of programs designed to meet the needs of elders that includes, but is not limited to, the following: outreach, medical education and assistance, supportive day care, social, recreational and educational programming, counseling, information and referral, newsletters, financial, nutrition, and transportation. Services are developed and provided through staff, volunteers and cooperative efforts with community groups and agencies. It also serves as a resource to other departments and community groups concerning issues having an impact on elders, as well as regularly assessing needs and developing financial resources.
- (3) Interrelationships.
  - a. Town Manager. Senior Services interacts with the Manager primarily for program approval, budget expenditures, secondarily and through the section for all other matters.
  - b. Other departments. Senior Services interacts with Public Works relative to facilities program preparation, maintenance, and improvement. It interacts with the Health Division for cooperation in providing appropriate health services. Ongoing interaction with all other departments and organizational components to insure accomplishment of its goals and objectives is commonplace.

- c. Multiple-member boards. Senior Services provides administrative support to the Council on Aging and receives advisory information regarding program service delivery.
- d. Other interactions. Senior Services interacts with appropriate community agencies and groups as well as state agencies to seek effective accomplishment of the departmental programming.

E. Administration, Community Relations and Public Information Division

- (1) Mission. Administration, Community Relations and Public Information oversees the day-to-day operations of the Community Services Department and provides media and communication strategies for the Town to provide the Town’s residents and visitors with timely and accurate information relative to municipal government.
- (2) Authorities and responsibilities. The Administration, Community Relations and Public Information Division provides a wide and diverse array of programs designed to meet the needs of the community that includes government, education and public access television, website, weekly and monthly newsletters, press releases, social media and other communication channels. Services are developed and provided through staff, volunteers and cooperative efforts with community groups and agencies. It also serves as a resource to other departments concerning media issues.
- (3) Interrelationships.
  - a. Town Manager. Administration, Community Relations and Public Information interacts with the Manager primarily for the dissemination of information to the public, program approval and budget expenditures.
  - b. Other departments. Administration, Community Relations and Public Information interacts with all Town Departments for the dissemination of information to the public.
  - c. Multiple-member boards. Administration, Community Relations and Public Information provides administrative support to the Cable Television Advisory Committee and interacts with other boards as necessary.
  - d. Other interactions. Administration, Community Relations and Public Information interacts with appropriate community agencies and groups to seek effective accomplishment of departmental programming.

F. Veterans' Services District.

- (1) Mission. Veterans' Services provides assistance in obtaining benefits from federal, state, and local programs for veterans and their dependents, as well as aiding them financially for ordinary living expenses and medical needs.
- (2) Authorities and responsibilities. Veterans' Services operates within the Town of Barnstable as part of a Veterans' Services District, pursuant to MGL c. 115. It provides aid and assistance to veterans and/or their dependents, secures appropriate benefits for this service group, and provides outreach, counseling, medical and other support services. It is headquartered in Barnstable.
- (3) Interrelationships.
  - a. Town Manager. Veterans' Services interacts with the Town Manager, as the Manager is a member of the District Board. The Manager approves programs, budgets, and coordinates the District employee benefits through its financial offices.
  - b. Other departments. It interacts with the Finance Director and the Town Treasurer to provide the financial needs of the veteran in an acceptable manner under law and in a timely fashion and with Assessing to assist veterans with real estate tax abatements.”

**Section 2.** That Section 241-47.15 of the Administrative Code, “Growth Department Management Department” be amended by striking Section 241-47.15 in its entirety and substituting in place thereof the following:

“§ 241-47.15 Planning and Development Department.

The mission of the Planning and Development Department is to preserve the character of the seven villages and improve the quality of life for Town residents by developing and implementing land use strategies while promoting consistent sustainable economic redevelopment in Hyannis through the interdisciplinary coordination of municipal departments. The Department is comprised of four programs: Regulatory Review, Comprehensive Planning, Community Development, and Economic Development.

A. Regulatory Review.

- (1) Mission. The Regulatory Review Program provides professional planning advice and services to Town residents, the Town Manager and other Town boards, commissions, committees and departments and assists in the implementation of the Town's ordinances and regulations relating to land use.
- (2) Authorities and responsibilities. The Regulatory Review Program provides staff support, technical assistance and clerical services to the Planning Board, Zoning Board of Appeals, Old King's Highway Historic District Committee, Historical Commission and Hyannis Main Street Waterfront Historic District Commission and Appeals Committee and provides general advice and assistance on day-to-day zoning, planning and historic issues to other Town entities.
- (3) Interrelationships.
  - a. Town Manager. Regulatory Review interacts directly with the Town Manager's office, primarily through the Assistant Town Manager, who provides direction and supervision.
  - b. Other departments. In addition to the interdisciplinary approach and interrelationships which exist between the functions in the Planning and Development Department, interrelationships commonly exist with the Public Works, Legal, Building Services, and Regulatory Services Departments.
  - c. Multiple-member boards. Interaction with the Planning Board, Zoning Board of Appeals, Historical Commission, Old King's Highway Historic District Committee, Hyannis Main Street Waterfront Historic District Commission and Appeals Committee and other boards and commissions as requested.

B. Comprehensive Planning.

- (1) Mission. The Comprehensive Planning Program is responsible for identifying, analyzing and planning for the Town's long-term needs as they relate to commercial and economic development, the preservation and enhancement of natural and historic resources and the provision of adequate public facilities and infrastructure, with the goal of recommending strategies, plans and legislation to promote sustainable development.
- (2) Authorities and responsibilities. The Comprehensive Planning Program performs long-term professional planning for the Town, including the drafting of amendments to the zoning and general ordinances, the coordination of intergovernmental activities relating to planning issues, performing grant administration, and the undertaking of the revisions to the Town's local comprehensive plan. In carrying out these duties it:
  - a. Provides the Town with relevant data concerning its physical, social, economic and environmental future;
  - b. Advises and assists all Town departments and agencies in the administration of their respective municipal functions and responsibilities as they relate to Town planning;
  - c. Initiates and conducts studies of the resources and needs of the Town and its relationship with other towns in Barnstable County and its environs;
  - d. Prepares plans and recommendations with regard to land use, population patterns and projections, siting of public works projects, economic development, and related matters;
  - e. In conjunction with the other programs within the Planning and Development Department, analyzes proposals for housing, transportation, employment, public utility developments, recreation, parking and traffic circulation and related matters to assist the Town Manager and other Town agencies in the making of any recommendations, or rendering of any approvals, which they may be required to make concerning such matters;

- f. Distributes reports or plans in connection with planning and development issues, problems, policies and strategies;
- g. Coordinates with the Regional Planning Organization and other planning agencies of neighboring communities and other agencies and groups;
- h. Represents the Town to the Regional Planning Organization, recording and transmitting all municipal referrals of developments of Regional Impact, Districts of Critical Planning Concern, the Regional Policy Plan, coordinating the review of potential regional referrals through a management level review team working in conjunction with the managers of the Building, Conservation, Health and Public Works;
- i. Drafts, maintains, and updates the Local Comprehensive Plan (LCP) of the Town, including data and analyses, maps, surveys, and plans affecting the components of the Comprehensive Plan; goals, objectives, policies and strategies that implement the Comprehensive Plan; and coordination of functions and activities consistent with the Comprehensive Plan;
- j. Provides a wide array of data and analysis as part of the planning process. This database is coordinated with other Town departments to ensure that projects, functions and activities are consistent with the goals, policies, and strategies of the LCP; and
- k. Reviews state MEPA filings.

(3) Interrelationships.

- a. Town Manager. Comprehensive Planning interacts directly with the Town Manager's office, primarily through the Assistant Town Manager, who provides direction and supervision.
- b. Other departments. In addition to the interdisciplinary approach and interrelationships which exist between the programs in the Planning and Development Department, interrelationships commonly exist with Public Works, Legal, Building Services and Regulatory Services Departments.
- c. Multiple-member boards. Interaction with the Planning Board, Zoning Board of Appeals, Historical Commission, Old King's Highway Historic District Committee, Hyannis Main Street Waterfront Historic District Committee and Appeals Committee, Conservation Commission and Board of Health.
- d. Outside agencies. Significant interrelationships exist between the Regional Planning Organization, concerning regional policy planning, developments of regional impact, districts of critical planning concern, and other regional issues. Extensive interaction occurs with respect to the State Office of Environmental Affairs and its subsidiary land use and regulatory agencies, and other agencies as appropriate.

C. Community Development.

- (1) Mission. The objective of the Community Development Program is to provide leadership and expertise working with the community to assess the needs in the areas of low income housing, including the implementation of a comprehensive affordable housing plan for the residents of the Town. In addition, the function aims to enhance and enrich the quality of life for the Town's residents through the coordination and augmentation of activities promoting arts and culture.
- (2) Organizational components.
  - a. Community Development Block Grant (CDBG). The Town, through the federal Community Development Block Grant Program, receives funds annually from the U.S. Department of Housing and Urban Development and Economic Development. The Town's allocation of these funds is based upon the Town's Five-Year Consolidated Plan and the annual action plans that are developed under the U.S. Department of Housing and Urban Development regulations.
  - b. Accessory apartment/amnesty activity. This activity is a component of the Town's affordable housing plan. The main objective of the activity is to use existing housing, which may currently violate the Town's zoning laws, to provide safe, legal and affordable housing units utilizing the Chapter 40B Comprehensive Permit process.

- c. Housing acquisition activity. This activity assists eligible public, quasi-public and private entities such as the Barnstable Housing Authority, local nonprofit organizations and private individuals to purchase existing housing units in order to maintain them at affordable rents.
- d. Development of municipally owned vacant land activity. This activity involves identifying municipally owned parcels of land that may be suitable to develop affordable housing to provide further affordable housing opportunities for Barnstable residents.
- e. Development of privately owned land activity. The activity involves working with and providing technical assistance to private developers engaged in obtaining the necessary permits in order to provide affordable housing which meets the goals and objectives of the Town's Affordable Housing Plan.
- f. Culture and arts. This activity encourages and supports a wide range of cultural and artistic endeavors through the implementation of innovative and diverse events and programs, the goal of which is to increase access to the arts for the citizens of the Town and to enhance public spaces through the arts.

(3) Interrelationships.

- a. Town Manager. Community Development interacts directly with the Town Manager's office, primarily through the Assistant Town Manager, who provides direction and supervision.
- b. Other departments. In addition to the interdisciplinary approach and interrelationships which exist between the programs in the Planning and Development Department, interrelationships commonly exist with Public Works, Legal, Building Services and Regulatory Services Department.
- c. Multimember Boards. Interaction with the Housing Committee, Cultural Council, Planning Board, Zoning Board of Appeals and the Hyannis Main Street Waterfront Historic District Commission.
- d. Other interactions. Community Development interacts with appropriate community agencies, groups and private enterprise as well as state agencies to seek effective accomplishment of goals and objectives.

D. Economic Development.

- (1) Mission. The Economic Development Program is to provide the leadership and expertise to develop and implement a comprehensive economic development plan based upon the economic development policies outlined in the local Comprehensive Plan.

(2) Organizational components.

- a. Economic Development Incentive Program (EDIP). The EDIP is a state program that allows municipalities to provide tax incentives to new and existing businesses that make capital investments in their real estate and create jobs in the Town's two Economic Opportunity Areas (EOAs:; Downtown Hyannis and the Hyannis Industrial Park.
- b. Hyannis revitalization. Various components to assist in the promoting of the revitalization effort includes providing staff support for the implementation of the rezoning of downtown Hyannis, the regulatory agreement ordinance as well as proposing methods for addressing related traffic and parking issues.
- c. Commercial revitalization grants. Commercial revitalization grants provide financial and technical assistance to Downtown Hyannis property owners and business tenants to upgrade their commercial properties.

(3) Interrelationships.

- a. Town Manager. Economic Development interacts directly with the Town Manager's office, primarily through the Assistant Town Manager, who provides direction and supervision.
- b. Other departments. In addition to the interdisciplinary approach and interrelationships which exist between the programs in the Planning and Development Department, interrelationships commonly exist with the Public Works, Legal, Building Services and Regulatory Services Departments.

- c. Multimember boards. Interaction with the Planning Board, Zoning Board of Appeals, Barnstable Economic Development Commission, Historical Commission and the Hyannis Main Street Waterfront Historic District Commission.
- d. Other interactions. Economic Development interacts with the Hyannis Main Street Business Improvement District, the Greater Hyannis A Chamber of Commerce, community agencies, groups and private enterprise as well as state agencies to seek effective accomplishment of goals and objectives.”

**Section 3.** That Section 241-47.30 of the Administrative Code, “Regulatory Services Department” shall be amended by striking out Paragraph A “Building Services Division” in its entirety and re-lettering the remaining paragraphs contained in Section 241-47.30, so that Section 241-47.30 as amended shall read as follows:

“§ 241-47.30

Regulatory Services Department.

The Regulatory Services Department, located within the Administrative Branch, provides efficient and effective public health and public safety services that are environmentally balanced and meet the needs of the community.

A. Conservation Division.

(1) Mission. Conservation seeks to protect wetland and watershed resources and to set management direction for municipal properties held for conservation purposes.

(2) Authorities and responsibilities.

- a. Conservation serves the Conservation Commission through the implementation of three primary objectives: regulatory, land management and land acquisition.
- b. In respect to regulatory matters, it administers and implements the State Wetland Protection Act (MGL c. 131, § 40) and the Town Wetland Protection Ordinance (Chapter 237 of the Code), which includes review of permit applications and issuance of permits subsequent to Conservation Commission decisions, recordkeeping, public assistance and enforcement.
- c. In respect to land management, the Conservation Commission develops land management plans for conservation lands within the Town consistent with the Comprehensive Land Management Plan and based upon those policies established by the Commission.
- d. In respect to land acquisition, Conservation evaluates land proposed for donation for conservation purposes, evaluates potential fee simple acquisitions consistent with the Open Space Plan, evaluates tax title and owners unknown parcels, and implements Town policy dealing with conservation restrictions.
- e. Conservation seeks to implement other objectives of the Open Space Plan. The division implements a public environmental education agenda, particularly for elementary schools.

(3) Interrelationships.

- a. Town Manager. Conservation interacts for the purpose of conservation facilities management, budgeting, program approval, expenditures, and staff support for Conservation-Commission-related issues coming before the Town Council.
- b. Other departments. Extensive interaction with other municipal components: interaction with Marine and Environmental Affairs in permit review and enforcement matters; interaction with Marine and Environmental Affairs and Public Works, for the purpose of implementation of land management plans for conservation properties; Assessing, Collector, and Treasurer with respect to tax title properties; Legal with respect to Commission representation on adjudicatory matters and land acquisition; and Recreation and Planning for preparation and implementation of the Five-Year Open Space Plan, for approval by the Conservation and Recreation Commissions and Town Council.
- c. Multiple-member boards. Interaction with Conservation Commission for provision of administrative, clerical, and technical support.

## B. Consumer Affairs Division.

- (1) Mission. Consumer Affairs seeks to protect the public interest through enforcement of laws relating to weights and measures, parking citations and meters, licensing and regulation of certain establishments and processing of civil infractions.
- (2) Authorities and responsibilities.
  - a. Consumer Affairs is responsible for enforcement of all laws pertaining to the sale of commodities by weight or measure, the inspection and testing of weighing and measuring devices, the operation and use of electronic retail checkout systems, the method of sale of commodities and the labeling of prepackaged commodities.
  - b. Consumer Affairs enforces laws regulating hawkers and peddlers, transient vendors and business entities licensed by the Town. It provides technical support to the Licensing Authority and inspection and enforcement activities for establishments licensed by the Licensing Authority.
  - c. Consumer Affairs provides collection and adjudication functions for the processing of parking citations and provides an administrative process for all other noncriminal citations issued by the Town agencies, except motor vehicle infractions. It maintains and polices all municipal parking meters and enforces other prohibited parking within the Town, pursuant to local ordinance and general law. It operates pursuant to Town ordinance, and the following MGL Chapters: 94, 95, 96, 97, 98, and 99 concerning weights and measures; 100 concerning auctions, 101 concerning hawkers, peddlers and transient vendors; 136, 138, and 140 concerning licensing; 90 concerning parking; 40 concerning civil infractions; 31 concerning civil service status of Sealer of Weights and Measures.
- (3) Interrelationships.
  - a. Town Manager. Interaction concerning enforcement of all licensing, advice on establishment of rules, regulations, fee and charges and enforcement of pertinent Town ordinances, and the impact of fees, fines and enforcement activities in the area of parking controls and other noncriminal regulations.
  - b. Other departments. Extensive interaction with Planning and Development as well as Marine and Environmental Affairs, particularly as concerns training in the issuance and processing of noncriminal citations, licensing activities, and provision of measurement devices for various purposes. Other interaction is with the police in provision of measurement devices, processing of parking and noncriminal citations, safety inspections for vehicles for hire, and licensing activities and Public Works in provision of measurement devices for various purposes.

## C. Health Division.

- (1) Mission. Health seeks to preserve and maintain the Town's public health standards and protect its environmental resources by educational means and by strict enforcement of various health regulations, ordinances, state codes and general and federal laws through the efficient and effective efforts of divisional personnel.”
- (2) Authorities and responsibilities. Health provides administrative support to the Board of Health. It has further responsibilities in respect to the following: communicable diseases; groundwater protection for benefit of drinking water supply; protection of wetlands, surface waters, and shellfish resources from contamination; immunization and vaccination of residents; investigation of all health-related complaints; action and reporting concerning premature-born infants; enforcement of fuel and chemical storage systems regulations; inspect establishments possessing hazardous and/or toxic waste; inspect all food establishments, swimming pools, seasonal rental units, motels, campgrounds, saunas, well installation, well destruction, septic system installations, horse stables; observe test holes and percolation tests; process death certificates; issue all licenses and permits in relation to food establishments, bed-and-breakfast, retail food, continental breakfast, frozen dessert, food unit, milk pasteurization, motel, camp, sauna, vapor



baths, swimming pools, burial, stable, disposal works construction, disposal works installer, well construction, funeral director, masseuse, garbage hauler, septage hauler.

- (3) Interrelationships.
- a. Town Manager. Interaction primarily for program approval, budget, expenditures, and to further provide Manager with information concerning public and environmental health issues and problems; secondarily, and through department, for all other matters.
  - b. Other departments. Interaction is continuous and frequent with all divisions and departments of the Town, as well as federal, state, or regional agencies in order for the division to seek effective accomplishment of its responsibilities.
  - c. Multiple-member boards. Interaction with Board of Health primarily to provide administrative, clerical, and technical support relative to promulgation of regulations and variance request reviews. Reporting on interpretation and implementation of Board regulations and policies as regards compliance levels and public and environmental health problems and concerns.”

**Section 4.** That the Administrative Code be amended by adding the following new section, Section 241-47.7 Building Services Department:

“§ 241-47.7 Building Services Department.

The Building Services Department, located within the Operational Branch, provides efficient and effective public health and public safety services that meet the needs of the community.

A. Building Services Department.

- (1) Mission. Building Services, under the direction of the Building Commissioner, maintains and enforces all laws, rules, regulations and policies concerning building, wiring, plumbing and gas construction and installation within the Town, as well as to enforce the Town's Zoning Ordinance, [1] for the purpose of protecting the public health and safety of residents. [1] Editor's Note: See Ch. 240, Zoning.
- (2) Building Commissioner appointment. The Town Manager shall appoint a Building Commissioner.
- (3) Authorities and responsibilities. Building Services makes inspections, issues such permits and enforces such regulations and ordinances as may be required by the Town or under the State Building, Wiring, Plumbing and Gas Codes. Through its personnel, it enforces all the provisions of the Zoning Ordinance, and further enforces all the provisions of the Old King's Highway Historic District rules. It operates pursuant to MGL c. 143, 142, 302, Acts of 1973, Chapter 470, CMR 248, 521, and 780; and NFPA 54 and 58; the Town Zoning Ordinance and Town General Ordinances.
- (4) Interrelationships.
  - a. Town Manager. Interaction with respect to program approval, budgets, expenditures, as well as enforcement activities of relevant laws.
  - b. Other departments. Extensive interaction with other divisions and departments. On a recurring basis, the Building Services interacts with most municipal organizational components in pursuit of its objectives. Assistance is further provided to the Disability Commission and the Zoning Board of Appeals.”

**SPONSOR:** Mark S. Ells, Town Manager

| DATE            | ACTION TAKEN         |
|-----------------|----------------------|
| <u>04/27/17</u> | <u>First reading</u> |

- 
- \_\_\_\_\_ Read Item
  - \_\_\_\_\_ Motion to Open Public Hearing
  - \_\_\_\_\_ Rationale
  - \_\_\_\_\_ Public Hearing
  - \_\_\_\_\_ Close Public Hearing
  - \_\_\_\_\_ Council Discussion
  - \_\_\_\_\_ Move/Vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM #2017-140**  
**INTRO: 04/27/17; 05/04/17**

## **SUMMARY**

**TO:** Town Council  
**THROUGH:** Mark S. Ells, Town Manager  
**FROM:** Ruth Weil, Town Attorney  
**DATE:** April 27, 2017  
**SUBJECT:** Amendments to the Administrative Code relating to the Community Services Department, the Regulatory Services Department and the Growth Management Department.

**RATIONALE:** The Fiscal Year 2018 Operation Budget proposes to make several changes to the Town's organizational structure. This item amends the Administrative Code to align it with the proposed organizational structure. Organizational changes are proposed in the Community Services and Regulatory Services Departments. A new department titled Building Services Department is proposed and the name of the Growth Management Department is changed to Planning and Development.

**STAFF ASSISTANCE:** Ruth Weil, Town Attorney

**A. OLD BUSINESS (Public Hearing) (Roll Call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-141  
INTRO: 04/27/17; 05/04/17**

**2017-141 AMENDMENTS TO THE ADMINISTRATIVE CODE OF THE TOWN OF  
BARNSTABLE CABLE TELEVISION ADVISORY COMMITTEE**

**ORDERED:**

That § 241-14 of the Code of the Town of Barnstable be amended as follows:

By inserting a new paragraph B (3):

(3) The Committee further advises and otherwise assists the Town Manager in establishing rules and regulations for development, servicing, and delivery of Public, Educational and Government (PEG) television policies.

By striking out paragraph C (2) and inserting in place thereof the following:

(2) Town Manager: The Cable Television Advisory Committee interacts with the Town Manager, and otherwise provides advice and recommendations to the Manager in the matter of licensing for the cable contract and establishing rules and regulations for the development, servicing, and delivery of PEG television policies. The Community Services Department provides staff support to the Committee, when requested, in order to effectuate efficient management of the cable license and PEG policies.

So that § 241-14 as amended shall read as follows:

“§ 241-14 Cable Advisory Committee

A. Term of office. There shall be a Cable Television Advisory Committee consisting of five members.

B. Authorities and responsibilities.

- (1) The Cable Television Advisory Committee advises the Town Manager on matters relating to the licensing and supervision of a contract for cable television services in the Town consistent with MGL Chapter 166A. Consistent with the cable television contract, the Committee may be designated by the Town Manager to exercise certain authorities under the contract.
- (2) The Committee acts as a sounding board for citizen complaints and suggestions relating to the cable television services and shall, under the direction of the Town Manager, refer subscriber complaints to the cable operator for appropriate resolution. The Committee meets not less than once each quarter for the purpose of reviewing cable contract compliance, and advising on other licensing matters. The Cable Television Advisory Committee is an advisory committee of the Town.
- (3) The Committee further advises and otherwise assists the Town Manager in establishing rules and regulations for development, servicing, and delivery of Public, Educational and Government (PEG) television policies.

C. Interrelationships.

- (1) Town Council: The Cable Television Advisory Committee interacts with the Town Council for the purpose of advising the Town Council on matters relating to issues and legislation concerning cable television matters.
- (2) Town Manager: The Cable Television Advisory Committee interacts with the Town Manager, and otherwise provides advice and recommendations to the Manager in the matter of licensing for the cable contract and establishing rules and regulations for the development, servicing, and delivery of PEG television policies. The Community Services Department provides staff support to the Committee, when requested, in order to effectuate efficient management of the cable license and PEG policies.”

**SPONSOR:** Mark S. Ells, Town Manager

| DATE            | ACTION TAKEN         |
|-----------------|----------------------|
| <u>04/27/17</u> | <u>First Reading</u> |
| _____           | _____                |

- \_\_\_\_\_ Read item
- \_\_\_\_\_ Motion to Open Public Hearing
- \_\_\_\_\_ Rationale
- \_\_\_\_\_ Public Hearing
- \_\_\_\_\_ Close Public Hearing
- \_\_\_\_\_ Council Discussion
- \_\_\_\_\_ Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM # 2017-141**  
**INTRO: 04/27/17; 05/04/17**

## SUMMARY

**TO:** Town Council  
**THROUGH:** Mark S. Ells, Town Manager  
**FROM:** Ruth Weil, Town Attorney  
**DATE:** April 27, 2017  
**SUBJECT:** Amendments to the Administrative Code of the Town of Barnstable Cable Television Advisory Committee

**RATIONALE:** The change is proposed to reflect the role of the Cable Advisory Committee in advising the Town Manager in establishing rules and regulations for development, servicing, and delivery of Public, Educational and Government (PEG) television policies.

**STAFF ASSISTANCE:** Ruth Weil, Town Attorney

**A. OLD BUSINESS (Public Hearing) (Roll Call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-142  
INTRO: 04/27/17; 05/04/17**

**2017-142 AMENDMENTS TO THE ADMINISTRATIVE CODE OF THE TOWN OF BARNSTABLE TO REFLECT THE CHANGE OF THE DEPARTMENT NAME FROM THE GROWTH MANAGEMENT DEPARTMENT TO THE PLANNING AND DEVELOPMENT DEPARTMENT**

**ORDERED:** The following sections of the Code of the Town of Barnstable are hereby amended by striking out the phrase “Growth Management” where said phrase appears therein and inserting in place thereof the phrase “Planning and Development”

- § 86-7;
- § 86-8;
- § 112-3D
- § 241-22C (2);
- § 241-47.1D (1) (z);
- § 401-37A.

**SPONSOR:** Mark S. Ells, Town Manager

| DATE            | ACTION TAKEN         |
|-----------------|----------------------|
| <u>04/27/17</u> | <u>First Reading</u> |
| _____           | _____                |

- \_\_\_ Read Item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-142**

**INTRO: 04/27/17; 05/04/17**

**TO:** Town Council  
**THROUGH:** Mark S. Ells, Town Manager  
**FROM:** Ruth Weil, Town Attorney  
**DATE:** April 27, 2017  
**SUBJECT:** Amendments to the Administrative Code of the Town of Barnstable to reflect the change of the department name from the Growth Management Department to the Planning and Development Department

**RATIONALE:** The proposed amendments represent housekeeping measures to ensure that the change of the name of the Growth Management Department to the Planning and Development is reflected in the various places in the Barnstable Code where the “Growth Management Department” currently appears.

**STAFF ASSISTANCE:** Ruth Weil, Town Attorney



**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-143  
INTRO: 05/04/17**

**2017-143 ACCEPTANCE OF A GIFT WORTH \$13,150.00 FOR COMMUNITY SHADE STRUCTURES FROM THE GLENNA KOHL FUND FOR HOPE FOR DOWSES BEACH IN OSTERVILLE AND CRAIGVILLE BEACH IN CENTERVILLE**

**RESOLVED:** That the Town of Barnstable hereby accepts a gift worth **\$13,150.00** for Canopy Sunshades from the Glenna Kohl Fund for Hope for Dowses Beach in Osterville and Craigville Beach in Centerville

**SPONSOR:** Mark S. Ells, Town Manager

| DATE  | ACTION TAKEN |
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- Read Item
- Rationale
- Council Discussion
- Move / Vote

**BARNSTABLE TOWN COUNCIL**

**SUMMARY**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lynne M. Poyant, Community Services Director  
**DATE:** May 04, 2017  
**SUBJECT:** Acceptance of a gift worth **\$13,150.00** for Community Shade Structures from the Glenna Kohl Fund for Hope for Dowses Beach in Osterville and Craigville Beach in Centerville

**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 by bringing awareness to everyone about the dangers of melanoma and the importance of early detection and prevention of this deadly disease. Each May, they hold their annual "Piggy Trot" road race which is a 3.7 mile road race held at Dowses Beach in Osterville. This year's race will be held on Sunday, May 21, 2017. The Town of Barnstable has previously benefited from the proceeds of the Piggy Trot. Lifeguard chair canopies were purchased for Dowses, Craigville Beach, Covell's Beach, The Loop, Millway, Keyes (Sea Street) Beach, Veterans' Beach, Kalmus Beach, and Sandy Neck Park Beach's Bodfish Beach. The Glenna Kohl Fund for Hope also provides sunscreen at our beaches.

**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 shade canopies are designed to offer visitors to Dowses and Craigville some protection from the sun and its harmful ultraviolet rays during extended stays on the beach.

We are extremely grateful to the Glenna Kohl Fund for Hope, especially Colleen and Bob Kohl and Barbara Burbank, for their continued efforts to keep all of us sun safe.

**FISCAL IMPACT:** The installation will be paid for through Fiscal Year 2017 Operating Budget capital. As yet to be determined is the lifespan of the canopies and when they will need replacement.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends acceptance.

**STAFF ASSISTANCE:** Patti Machado, Director of Leisure Services; Steve Sundelin, Structures & Grounds Supervisor; Chris Gonella, Grounds Foreman, DPW; Darcy Karle, Conservation Agent

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-144  
INTRO: 05/04/17**

**2016-144 ACCEPTANCE OF A GIFT IN THE AMOUNT OF \$3,397.77 FROM THE  
OSTERVILLE ROTARY CLUB FOR THE DOWSES BEACH FLAG POLE,  
FLAG, AND INSTALLATION**

**RESOLVED:** That the Town of Barnstable hereby accepts a gift in the amount of **\$3,397.77** from the Osterville Rotary Club for replacement of the flag pole, flag, and installation at Dowses Beach and does hereby authorize the Town Manager to contract for and expend said funds for that purpose.

**SPONSOR:** Mark S. Ells, Town Manager

| DATE  | ACTION TAKEN |
|-------|--------------|
| _____ | _____        |
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- Read Item
- Rationale
- Council Discussion
- Move / Vote

# BARNSTABLE TOWN COUNCIL

**ITEM # 2017-144**  
**INTRO: 05/04/17**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lynne M. Poyant, Community Services Director  
**DATE:** May 04, 2017  
**SUBJECT:** Acceptance of Gift of **\$3,397.77** from the Osterville Rotary Club for the Dowses Beach flag pole, flag and installation

**BACKGROUND:** In the summer of 2016, the flagpole at Dowses Beach was struck and destroyed by lightning. The Osterville Rotary Club has generously offered to pay for a replacement flag pole, flag as well as its installation.

The breakdown of expenses associated with the flagpole is as follows:

|  |                  |
|--|------------------|
| FPCLInstall- Delivery and installation of 30' flagpole     | \$1,275.00       |
| FP30I- 30' Commercial internal halyard fiberglass flagpole | \$1,769.00       |
| FG6x10USP- 6'x10' Heavy Duty Polyester flag                | \$ 136.77        |
| Shipping-Manufacturer's freight                            | <u>\$ 217.00</u> |
| Total  | \$3,397.77       |

We are extremely grateful to the Osterville Rotary Club for their support.

**FISCAL IMPACT:** There is no immediate financial impact to the Town's operating budget as a result of accepting this gift.

**STAFF ASSISTANCE:** Patti Machado, Director of Leisure Services; Steve Sundelin, Structures & Grounds Supervisor; Chris Gonella, Grounds Foreman, Department of Public Works

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-145  
INTRO: 05/04/17**

**2017-145 RESOLVE ACCEPTANCE OF CONSERVATION RESTRICTION TO BE HELD BY CONSERVATION COMMISSION 200 COMMUNICATION WAY BARNSTABLE MAP 314, PARCEL 038**

**RESOLVED:** That the Town Council on behalf of the Town gratefully accepts the grant of the conservation restriction from GS Barnstable AA Apartments, LLC pursuant to that certain Amended and Restated Development Agreement by and between the Cape Cod Commission and The Lyndon Paul Lorusso Charitable Foundation of 2002 dated as of December 1, 2016, to be held by the Conservation Commission in the name of the Town pursuant to the provisions of G. L. c. 40 § 8C in the form approved by the Conservation Commission, Land Acquisition and Preservation Committee, and Town Manager, subject to approval by the Secretary of the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs; and that the President and Town Manager are authorized to execute, receive, deliver and record any written instruments for the stated purpose.

**SPONSOR:**

| DATE  | ACTION TAKEN |
|-------|--------------|
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- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move / Vote