



Town of Barnstable Town Council

367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail: council@town.barnstable.ma.us

MEETING AGENDA January 07, 2021 7:00 PM

Councillors:

Matthew Levesque
President
Precinct 10

Paula Schnepf
Vice President
Precinct 12

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Nikolas Atsalis
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grassetti
Precinct 7

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Jennifer L. Cullum
Precinct 13

Administrator:
Cynthia A. Lovell
Cynthia.Lovell@
town.barnstable.ma.us

Administrative
Assistant:
Kelly Crahan
Kelly.Crahan@
town.barnstable.ma.us

The January 7, 2021 meeting of the Barnstable Town Council will be held remotely and shall be physically closed to the public to avoid group congregation

Remote Participation Instructions

1. Real-time public comment may be addressed to the Barnstable Town Council utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://zoom.us/j/97945588942> Meeting ID: 979 4558 8942
1- 888 475 4499 US Toll-free

2. Written Comments may be submitted to:

https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp

3. The meeting will be televised live via Comcast Channel 18 access:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS

7. ACT ON MINUTES (Including Executive Session)

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

9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

EXECUTIVE SESSION

Councilors:

Matthew Levesque
President
Precinct 10

Paula Schnepf
Vice President
Precinct 12

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Nikolas Atsalis
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grasseti
Precinct 7

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Jennifer L. Cullum
Precinct 13

Administrator:

Cynthia A. Lovell
Cynthia.Lovell@
town.barnstable.ma.us

Administrative
Assistant:

Kelly Crahan
Kelly.Crahan@
town.barnstable.ma.us

The Town Council will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a) (3) to discuss strategy with respect to litigation since a discussion in open session may have detrimental effect on the litigating position of the Town and Town Council. Specifically, the Council will discuss the two Notices of Intent to File Suit dated August 5, 2020 and September 16, 2020, respectively, sent by the Conservation Law Foundation to the Town regarding claims under the Federal Clean Water Act and the Massachusetts Title 5 septic regulations.

10. ADJOURNMENT

NEXT REGULAR MEETING: January 21, 2021

ITEM NO.**INDEX TITLE**

PAGE**A. OLD BUSINESS**

- 2021-060** Reappointments to a Board/Committee/Commission: **Town of Barnstable’s Representative to the Steamship Authority’s Board of Governors:** Robert Jones, as a regular member to a term expiring 12/31/2023; **Town of Barnstable’s Representative to the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority Port Council:** Eric Shufelt, as a regular member to a term expiring 12/31/22 **(Second Reading) (May be acted upon) (Roll Call Majority)**4

B. NEW BUSINESS

- 2021-061** Acceptance of a Fiscal Year 2021 Municipal American Disability Act Improvement grant in the amount of **\$250,000** from the Massachusetts Office on Disability for completion of an American Disability Act Self-Evaluation and Transition Plan **(May be acted upon) (Roll Call Majority)** 5-6
- 2021-062** Acceptance of the grant of a water easement from OCW Retail-Hyannis, LLC for water main extension **(May be acted upon) (Roll Call Majority)** 7-8
- 2021-063** Appropriation Order in the amount of **\$85,000** for the purpose of paying operating expenses of the Legal Department for the services of the law firm of Anderson & Kreiger which is serving as outside counsel to the Town with respect to two Notices of Intent to Sue received from the Conservation Law Foundation **(Refer to Public Hearing 01/21/2021)** 9-10
- 2021-064** Acceptance of a Fiscal Year 2021 Municipal Road Safety Grant in the amount of \$39,999.80 from the Executive Office of Public Safety and Security **(May be acted upon) (Roll Call Majority)**.....11-12

Approve Minutes: December 17, 2020

Please Note: the lists of matters are those reasonably anticipated by the council president which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed 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, it may be continued to a future meeting, and with proper notice.

A. OLD BUSINESS (Second Reading) (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM # 2021-060
INTRO: 12/17/2020; 01/07/2021**

2021-060 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Town of Barnstable’s Representative to the Steamship Authority’s Board of Governors:** Robert Jones, as a regular member to a term expiring 12/31/2023; **Town of Barnstable’s Representative to the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority Port Council:** Eric Shufelt, as a regular member to a term expiring 12/31/22

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>12/17/2020</u>	<u>First Reading/Refer to Second Reading 01/07/2021</u>

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

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM #2021-061
INTRO: 01/07/2021**

2021-061 ACCEPTANCE OF A FISCAL YEAR 2021 MUNICIPAL AMERICAN DISABILITY ACT IMPROVEMENT GRANT IN THE AMOUNT OF \$250,000 FROM THE MASSACHUSETTS OFFICE ON DISABILITY FOR COMPLETION OF AN AMERICAN DISABILITY ACT SELF-EVALUATION AND TRANSITION PLAN

RESOLVED: That the Town Council does hereby accept a Fiscal Year 2021 Municipal Americans with Disabilities Act (ADA) Improvement Grant in the amount of **\$250,000** from the Commonwealth of Massachusetts Office of Disability on behalf of the Secretary of the Executive Office for Administration and Finance for the purpose of hiring a consultant to complete an ADA Self-Evaluation and Transition Plan and that the Town Manager be authorized to contract for and expend the grant funds made available for this purpose.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM #2021-061
INTRO: 01/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth S. Jenkins, AICP, Director of Planning & Development
DATE: January 07, 2021
SUBJECT: Acceptance of a Fiscal Year 2021 Municipal American Disability Act Improvement Grant in the amount of **\$250,000** from the Massachusetts Office on Disability for completion of an American Disability Act Self-Evaluation and Transition Plan

BACKGROUND: The Town of Barnstable was awarded a \$250,000 planning grant from the Massachusetts Office on Disability on behalf of the Secretary of the Executive Office for Administration and Finance (EOAF). The Project scope includes completion of an Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan encompassing all of the Town's facilities, activities, programs and services. The process involves a comprehensive self-assessment of municipal assets, activities, and programs and the development of a transition plan to improve accessibility. The completion of an ADA Self-Evaluation and Transition plan is a prerequisite to a number of state grant programs. The project must be completed by June 30, 2021.

FISCAL IMPACT: No funding match is required by this grant program. The Town will support this grant through the dedication of staff time for project oversight and management. This is a reimbursable grant and the grant award will be disbursed upon documentation of incurred expenses and invoicing the Commonwealth for reimbursement.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Tammy Cunningham, Assistant Director of Human Resources; Liz Hartsgrove, Assistant Director of Planning & Development

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM #2021-062
INTRO: 01/07/2021**

**2021-062 ACCEPTANCE OF THE GRANT OF A WATER EASEMENT FROM OCW
RETAIL-HYANNIS, LLC FOR WATER MAIN EXTENSION**

RESOLVED: That the Town Council hereby accepts the grant of a perpetual easement to the Town of Barnstable, under the care, custody and control of its Department of Public Works (“DPW”), for the construction, maintenance, repair and use of a water main extension from OCW Retail-Hyannis, LLC, as shown on a plan prepared by the DPW Survey Section dated February 10, 2020, and maintained in the office of the DPW, and that the Town Manager is authorized to accept, sign, deliver and record documents for the purposes set forth herein.

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM #2021-062
INTRO: 01/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: January 07, 2021
SUBJECT: Acceptance of the grant of a water easement from OCW Retail-Hyannis, LLC for water main extension

BACKGROUND: As part of the sidewalk extension project funded by a MassWorks grant, the Department of Public Works will be installing a water main extension which will connect an existing “dead-end” water main on Attucks Lane to the existing water main loop located on the property controlled by OCW Retail-Hyannis, LLC (currently the Home Depot). As the water main loop is located on private property, it will be necessary to obtain an easement to allow for the construction, maintenance, repair and use of the water main extension.

ANALYSIS: During the development of the sidewalk extension project funded by a MassWorks grant, DPW staff identified the opportunity for improvements to the Hyannis Water System by eliminating a “dead-end” located on Attucks Lane. This would be accomplished by the construction of a 680-foot water main extension, connecting the “dead-end” on Attucks Lane to the looped water main on the property controlled by OCW Retail-Hyannis, LLC (currently the Home Depot). Elimination of the “dead-end” will result in improved water pressure, fire flows and water quality within this portion of the Hyannis Water System. OCW Retail-Hyannis, LLC agreed to gift an easement to the Town in order to complete this work.

FINANCIAL IMPACT: This easement will be acquired at no cost to the Town. Construction of the water main extension will be funded by available funds in the Hyannis Water Fiscal Year 2020 Pipe Replacement Capital Appropriation. As this work is being conducted as part of a larger contract, the cost of the construction is significantly less than it otherwise would be. Should savings be realized elsewhere in the sidewalk project, there may be an opportunity to utilize MassWork grant funds to fund a portion of the water main extension work to realize additional savings for the Hyannis Water ratepayers.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends approval of this resolve.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (Refer to Public Hearing 01/21/2021)

BARNSTABLE TOWN COUNCIL

**ITEM # 2021-063
INTRO: 01/07/2021**

2021-063 APPROPRIATION ORDER IN THE AMOUNT OF \$85,000 FOR THE PURPOSE OF PAYING OPERATING EXPENSES OF THE LEGAL DEPARTMENT FOR THE SERVICES OF THE LAW FIRM OF ANDERSON & KREIGER WHICH IS SERVING AS OUTSIDE COUNSEL TO THE TOWN WITH RESPECT TO TWO NOTICES OF INTENT TO SUE RECEIVED FROM THE CONSERVATION LAW FOUNDATION

ORDERED: That the sum of **\$85,000** be appropriated for the purpose of paying operating expenses of the Legal Department for the services of the law firm of Anderson & Kreiger which is serving as outside counsel to the Town with respect to two Notices of Intent to Sue received from the Conservation Law Foundation; and that to meet this appropriation, that \$85,000 be transferred from the General Fund Reserves.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2021-063
INTRO: 01/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: January 07, 2021
SUBJECT: Appropriation Order in the amount of **\$85,000** for the purpose of paying operating expenses of the Legal Department for the services of the law firm of Anderson & Kreiger which is serving as outside counsel to the Town with respect to two Notices of Intent to Sue received from the Conservation Law Foundation

BACKGROUND: In August 2020, the Town received a Notice of Intent to Sue letter from the Conservation Law Foundation (“CLF”) alleging violation of the federal Clean Water Act for operating the Town’s wastewater treatment facility without obtaining a National Pollutant Discharge Elimination System permit for the discharge from the facility. In September 2020, the Town received a second Notice of Intent to Sue letter from CLF alleging violation of the Massachusetts Title 5 septic regulations. CLF did not present specific demands, but the letters threatened pursuit of injunctive relief that could require the Town’s expenditure of millions of dollars. In addition, with respect to CLF’s Clean Water Act allegations, the letters threatened penalties of approximately \$50,000 per violation per day for the past five (5) years.

The law firm of Anderson & Kreiger has substantial experience, knowledge and expertise in this very complex area of the law and has handled similar matters on behalf of other clients.

FISCAL IMPACT: The relief and penalties that may be sought by CLF, if granted, would have a substantial financial impact on the Town, and it is therefore critically important that the Town have the benefit of representation by counsel with significant experience and expertise in these types of matters. Funding for this appropriation is being provided from the General Fund reserves which have been certified at \$18.5 million as of July 1, 2020.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager recommends approval of this Appropriation Order.

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM # 2021-064
INTRO: 01/07/2021**

2021-064 ACCEPTANCE OF A FISCAL YEAR 2021 MUNICIPAL ROAD SAFETY (MRS) GRANT IN THE AMOUNT OF \$39,999.80 FROM THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

RESOLVED: That the Town Council does hereby accept a Fiscal Year 2021 Municipal Road Safety (MRS) Grant in the amount of **\$39,999.80** from the Commonwealth of Massachusetts Executive Office of Public Safety and Security, Highway Safety Division for the purpose of funding the costs of traffic enforcement mobilizations, equipment and driver education for minors, and that the Town Manager be authorized to contract for and expend the grant funds for the purposes set forth herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM # 2021-064
INTRO: 01/07/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: January 07, 2021
SUBJECT: Acceptance of a Fiscal Year 2021 Municipal Road Safety (MRS) Grant in the amount of **\$39,999.80** from the Executive Office of Public Safety and Security

BACKGROUND: The Department applied for and was awarded this grant in the amount of \$39,999.80. This funding will enable the Traffic Division to participate in five traffic mobilizations designed to target specific areas of concern with motorists as follows:

1. Winter Impaired Driving Focus (December 16, 2020 – January 23, 2021)
2. Distracted Driving (April 2 - 18, 2021)
3. Click It or Ticket (May 17 – 31, 2021)
4. Speed (June 11, 2021 and June 27, 2021)
5. Summer Impaired Driving Focus (August 20, 2021 – September 6, 2021)

This grant helps to raise awareness of both traffic safety challenges involving drinking and driving, distracted driving, and seatbelt usage. This grant also incorporates traffic enforcement equipment that is needed by the traffic division, as well as distracted driver and drunk driver education to junior high and high school student. This MRS grant replaces the Traffic Enforcement and Local Sustained Traffic Enforcement Program (STEP) Grant offered in the past years.

GRANT DETAIL: \$34,963.50 of this grant is allocated entirely to traffic enforcement, \$1,950.00 will be allocated to a Covert Speed Tracker, and \$3,086.30 will be allocated for Driver education for minors using a distracted driver Mat, Flyers, and a drinking and driving mat.

ANALYSIS: Acceptance of this grant will assist the Department in the continuance of these important traffic safety mobilizations.

FISCAL IMPACT: This grant funds the overtime costs of conducting the five mobilizations, equipment and educational materials. There is no required match and the overtime costs, equipment, and materials of the grant will be reimbursed following the completion of each mobilization and submission of payment for materials and equipment.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: Matthew K. Sonnabend, Chief of Police; Anne Spillane, Barnstable Police Department,