



Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
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TOWN COUNCIL MEETING AGENDA
February 15, 2024
6:00 pm

The February 15, 2024 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

Councillors:

Felicia Penn
President
Precinct 13

Craig Tamash
Vice President
Precinct 4

Gordon Starr
Precinct 1

Dr. Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew P. Levesque
Precinct 10

Kris Clark
Precinct 11

Paula Schnepf
Precinct 12

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel live stream on the Town of Barnstable's website:

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

2. Written Comments may be submitted to: <https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/TownCouncil/Agenda-Comment.asp>

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/83215821178> Meeting ID: 832 1582 1178
US Toll-free • 1- 888 475 4499 Meeting ID: 832 1582 1178

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 (Pre-Recorded)

7. ACT ON PUBLIC SESSION MINUTES

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

10. ADJOURNMENT

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

SPECIAL MEETING: February 29, 2024
NEXT REGULAR MEETING: March 07, 2024

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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 votes, the Council may go into executive session. The Council may also act on items in an order other than as 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 (Public Hearing) (Roll Call Majority Full Council)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-095
INTRO: 02/01/2024, 02/15/2024**

2024-095 SUPPLEMENTAL APPROPRIATION ORDER IN THE AMOUNT OF \$45,000 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 PARK CITY WIND LLC'S PROPOSED OFFSHORE RENEWABLE WIND PROJECT IN THE TOWN

ORDERED: That the amount of **\$45,000** 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 Park City Wind LLC's proposed offshore renewable wind project in the Town; and to meet such appropriation, that **\$45,000** be provided 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
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-095

INTRO: 02/01/2024, 02/15/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: February 01, 2024
SUBJECT: Supplemental Appropriation Order in the amount of **\$45,000** 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 Park City Wind LLC's proposed offshore renewable wind project in the Town

BACKGROUND: In 2022, the Town executed a Host Community Agreement with Park City Wind, LLC ("PCW") regarding PCW's proposed offshore renewable wind project in the Town. Last year, PCW defaulted on its Power Purchase Agreement with Connecticut utilities and paid a penalty for doing so. PCW is now participating in new procurements, including one being undertaken by Massachusetts, under which the state expects to make a decision in August. On December 15, 2023, the state Energy Facilities Siting Board issued its Final Decision, approving and permitting the PCW project. The Town has engaged the law firm of Anderson & Kreiger to advise the Town with respect to this project.

FISCAL IMPACT: The fiscal impact to the Town cannot be determined at this time.

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

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

B. NEW BUSINESS (Refer to Public Hearing 03/07/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-096
INTRO: 02/15/2024**

**2024-096 APPROPRIATION ORDER IN THE AMOUNT OF \$500,000 TO FUND
DISPOSAL COSTS OF THE SOLID WASTE DIVISION OF THE
DEPARTMENT OF PUBLIC WORKS**

ORDERED: That the amount of **\$500,000** be appropriated from the Solid Waste Enterprise Fund reserves for the purpose of funding disposal costs of the Solid Waste Division.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-096
INTRO: 02/15/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: February 15, 2024
SUBJECT: Appropriation Order in the amount of **\$500,000** to fund disposal costs of the Solid Waste Division of the Department of Public Works

BACKGROUND: The Solid Waste Division operates the Transfer Station & Recycling Center. The services provided at the Transfer Station are funded by fees charged to users and sticker holders. These fees are used to cover the costs associated with operating and disposing of items accepted from users and sticker holders. The appropriated budget is calculated using estimated material totals and expected disposal costs. Changes to activity levels can impact the budget in various ways. In Fiscal Year 2024, the Transfer Station experienced increases to the amount of hard to recycle items, and construction & demolition material disposed of at the facility. This unexpected increase has significantly increased the cost of disposal incurred by the Solid Waste Division.

ANALYSIS: Preparation of the Solid Waste Division budget for Fiscal Year 2024 did anticipate increases to material being disposed. The Solid Waste Division charges fees for disposal of a multitude of items and offers stickers for a fee to residents. The fees charged are calculated to cover the costs of disposal for materials dropped off at the facility. Due to the increase in materials disposed of at the facility, we are experiencing an increase in the associated revenue, which is expected to cover the increase in disposal costs.

FISCAL IMPACT: There are adequate cash reserves to cover the cost of this appropriation. Current certified cash reserves are \$1,904,664. The reserves used to fund this appropriation will be replenished at the close of fiscal year 2024 as revenue is higher than budget estimates due to the increase in activity levels.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends favorable action by the Town Council.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Tracy Regazio, Solid Waste Division Supervisor

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-097
INTRO: 02/15/2024**

2024-097 AUTHORIZATION TO EXPEND A FISCAL YEAR 2024 MUNICIPAL ROAD SAFETY GRANT IN THE AMOUNT OF \$60,000 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2024 Municipal Road Safety Grant in the amount of **\$60,000** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security, Highway Safety Division for the purpose of funding the cost of traffic enforcement mobilizations and equipment and driver education for minors.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rational
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-097
INTRO: 02/15/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Jean B. Challies, Chief of Police
DATE: February 15, 2024
SUBJECT: Authorization to expend a Fiscal Year 2024 Municipal Road Safety Grant in the amount of **\$60,000** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security

BACKGROUND: The Department applied for and was awarded this grant in the amount of \$60,000. 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 - 2023)
2. Distracted Driving (April 2024)
3. Click It or Ticket (May 2024)
4. Summer Speed (June 2024)
5. Summer Impaired Driving Focus (August 2024 – September 2024)

This grant helps to raise awareness of both traffic safety challenges involving drinking and driving, distracted driving, and seatbelt usage. This grant also funds traffic enforcement equipment that is needed by the traffic division, as well as the cost of materials to conduct distracted driver and drunk driver education to junior high and high school students. This MRS grant will also fund the new Child Passenger Seat Safety Program (CPS).

ANALYSIS: Acceptance of this grant will enable the Department to continue to participate in these important traffic safety mobilizations, as we have in previous years. Traffic-related concerns continue to remain one of our top priorities.

GRANT DETAIL: \$42,280.00 of this grant award is allocated entirely to traffic enforcement; \$5,970.00 will be allocated to six handheld Stalker Radar units; and \$2,240.00 will be allocated for pedestrian and bicycle safety enforcement and safety. \$8,010.01 will be allocated for non-enforcement CPS activities and training and driver education for minors using a Roadster Pedal Kart and substance consumption goggles, \$ 1,499.99 will be allocated for bicycle safety equipment handed out to the community during community events

FISCAL IMPACT: This grant funds the overtime costs of conducting the five mobilizations, equipment, educational materials, training, and community events. 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: Jean B. Challies, Chief of Police; Anne Spillane, Director of Finance and Support Services, Barnstable Police Department; Lena Bevilacqua, Police Grant Coordinator

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-098
INTRO: 02/15/2024**

2024-098 AUTHORIZATION TO EXPEND A FEDERAL FISCAL YEAR 2024 BYRNE JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$40,000 FROM THE U.S. DEPARTMENT OF JUSTICE THROUGH THE MASSACHUSETTS STATE POLICE DEPARTMENT FOR COSTS INCURRED IN STATE FISCAL YEAR 2024

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Federal Fiscal Year 2024 Massachusetts State Police Subrecipient grant in the amount of **\$40,000** from the Byrne Justice Assistance grant from U.S. Department of Justice for the purpose of funding overtime costs of the Barnstable Police Department incurred in State Fiscal Year 2024 in connection with the Commonwealth Project Safe Neighborhood Initiative.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rational
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-098
INTRO: 02/15/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Jean B. Challies, Chief of Police
DATE: February 15, 2024
SUBJECT: Authorization to expend a Federal Fiscal Year 2024 Byrne Justice Assistance Grant in the amount of **\$40,000** from the U.S. Department of Justice through the Massachusetts State Police Department for costs incurred in State Fiscal Year 2024

BACKGROUND: The Massachusetts State Police has been awarded funds from the 2024 Byrne Justice Assistance Grant (JAG) program from the U.S. Department of Justice (DOJ). The awarded grant is for the State Fiscal Year 2024 Commonwealth Project Safe Neighborhood (PSN) Initiative. The Massachusetts State Police has created a partnership with Barnstable Police Department for PSN, awarded the department **\$40,000** relative to our role as subrecipients and partners to assist with the prevention and reduction in community gang and gun violence, human trafficking, narcotics, and distribution.

JAG funding will enable the Massachusetts State Police Gang Unit, Violent Fugitive Apprehension Section (VFAS), High Risk Victims Unit (HRVU), State Police Detective Units (SPDU – Cape and Islands), Troopers from the Division of Field Services (Troop D - CAT), as well as municipal police officers from Barnstable to collaboratively address the many issues facing Barnstable. This law enforcement initiative will focus on the suppression of gun violence, targeting impact players deemed most violent, cool “hot spots”, increasing community safety, and reducing the fear and apprehension of citizens living in areas of high crime and violence. This increased proactivity will *prevent* the inevitable homicides, assaults, and violent offenses that will occur if these issues are allowed to grow unchecked.

The population in the town of Barnstable swells during the summer, as do the problems associated with that influx of tourists. Beginning July of 2023 through December 2023, the Massachusetts State Police (MSP) joined with the Barnstable Police Department in a Justice Assistance Grant (JAG) Program funded effort dubbed the Barnstable Safer Communities Initiative. While utilizing JAG funds thus far, the partnership between the MSP and Barnstable PD has yielded 34 Arrests/criminal summons, 64.5g for Fentanyl/Heroin, 691g crack/cocaine, and 1g of Methamphetamine. The Massachusetts State Police proposes to continue to work with the Barnstable Police Department in 2024 to increase police presence and address the concerns of increased gang, gun and narcotics related activity and quality of life issues. Statistical analysis proves that proactive law enforcement efforts by specialty units such as the MSP Gang Unit are incredibly effective. As noted above, these efforts are greatly enhanced by, and in some instances directly the result of, additional sources of funding such as those provided by the JAG Program.

This grant will fund overtime costs that are incurred by the assignment of a Barnstable Police Officers to prevent and reduce gang, gun, and drug violence. The Massachusetts State Police shall be solely responsible for the administration and distribution of the appropriated funds.

ANALYSIS: Acceptance of this grant will enable the department to work with the Massachusetts State Police Department to address community-based criminal activities dealing with gang violence, gun violence, and narcotics.

GRANT DETAIL: \$40,000 will be distributed to the Barnstable Police Department for actual overtime costs that are incurred by the Barnstable Police Department. The cost will be submitted to Massachusetts State Police for reimbursement of PSN.

FISCAL IMPACT: This is a reimbursement grant for overtime work on PSN. The town must expend the funds upfront and subsequently submit for reimbursement. All costs associated with this partnership grant contract must be completed by June 28, 2024.

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

STAFF ASSISTANCE: Jean B. Challies, Chief of Police; Det. Lt. Meaghan Cunningham; Lena Bevilacqua, Police Grant Coordinator

B. NEW BUSINESS (Refer to Public Hearing 03/07/ 2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-099
INTRO: 02/15/2024**

**2024-099 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I
GENERAL ORDINANCES, CHAPTER 1 GENERAL PROVISIONS, ARTICLE I
NONCRIMINAL ENFORCEMENT OF VIOLATIONS**

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Noncriminal Enforcement of Violations, be amended by striking Section 1-5 in its entirety and inserting the following new Section 1-5 in its place:

“§1-5. Fines for violations of Town Manager’s regulations.

Offense	Fine
Herring Regulations	
Taking herring or alewives on a closed day	\$100
Failure to remove fish caught	\$100
Obstructing passage of herring or alewives	\$100
Shellfishing Rules and Regulations	
Shellfishing without a valid permit	\$200
Taking of shellfish during a closed season	\$100
Taking of shellfish on a closed day	\$100
Removing shell from shellfish before coming ashore	\$75
Taking shellfish in excess of family weekly limit	\$100
Taking sea worms on a Saturday	\$15
Taking sea worms in excess of 100 per family per week	\$15
Selling shellfish, sea worms or eels with a family permit	\$75
Failure to visibly display permit while shellfishing	\$15
Transfer of family permit	\$75
Shellfishing under 12 years old without licensed adult	\$15
Shellfishing in closed area	\$100
Damaging public and/or private culturing gear in a closed area	\$100
Taking shellfish in excess of commercial daily limit	\$300
More than five commercial permits per boat	\$75
Commercial possession of more than 5% seed per batch of shellfish	\$300
Recreational possession of more than 5% seed per batch of shellfish	\$100
Taking scallops without a well-defined annual growth ring	\$75
Using other than tools permitted for shellfishing	\$75
Use of scallop dredge in excess of 32 inches width	\$75
Dredging scallops in air temperature below 28°F.	\$15
Diving for shellfish without displaying proper flag	\$75
Taking of shellfish from any shellfish grant	\$300

Shellfishing during nighttime hours as defined \$300

Offense **Fine**

Dog Regulations

Failure to license a dog	\$50
Failure to license a dog after 30-day notification	\$75
Restriction on number of dogs	\$25
Failure to obtain or keep Kennel license	\$100
Operating a Kennel on a revoked license	\$50
Dog at large (leash law violation)	
First offense	\$25
Second offense	\$50
Nuisances committed by dogs	\$20
Dogs on beaches and recreational areas	
First offense	\$25
Second offense	\$50
Dog Park violations	\$25
Barking dogs	
First offense	\$25
Second offense	\$50
Failure to vaccinate for rabies	\$50
Failure to vaccinate for rabies after 30-day notification	\$75
Failure to comply with quarantine	\$200
Failure to comply with Town Manager's order	\$200"

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-099
INTRO: 02/15/2024

SUMMARY

TO: Town Council
THROUGH: Mark S. Ells, Town Manager
FROM: Derek Lawson, Director of Marine and Environmental Affairs
DATE: February 15, 2024
SUBJECT: Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Noncriminal Enforcement of Violations

BACKGROUND: The Town Ordinances, as they pertain to fines for violations of the Herring, Shellfish and Dog Control regulations, are outdated. Staff has reviewed other Cape Cod towns and are proposing to adjust our fines to be more in line with our neighbors.

RATIONALE: Proposed fine changes reflect the need for increased monetary fines for more frequent offenses. Shellfish violations that are becoming more frequent include harvesting shellfish without a permit, harvesting during a closed season and harvesting during a closed day of the week. Further, the taking of shellfish from a private grant is a serious offense and, as such, deserves a significant fine. With regards to Dog Control, we are proposing a two-level approach for first and second offenses of dogs off leash, barking dogs and dogs on beaches and recreation areas violations. The proposed changes are set forth below.

Shellfish Changes

Offense	Fine
Herring Regulations	
Taking herring or alewives on a closed day	\$50 \$100
Failure to remove fish caught	\$50 \$100
Obstructing passage of herring or alewives	\$100

Shellfishing Rules and Regulations

Shellfishing without a valid permit	\$50 \$200
Taking of shellfish during a closed season	\$50 \$100
Taking of shellfish on a closed day	\$75 \$100
Removing shell from shellfish before coming ashore	\$75
Taking shellfish in excess of family weekly limit or the amount allowed on a special family permit	\$75 \$100
Taking scallops in excess of family weekly limit	\$75
Taking scallops in other than designated area	\$75
Taking sea worms on a Saturday	\$15
Taking sea worms in excess of 100 per family per week	\$15
Selling shellfish, sea worms or eels with a family permit	\$75
Failure to visibly display permit while shellfishing	\$15
Transfer of family permit	\$75
Shellfishing under 12 years old without licensed adult	\$15
Shellfishing in closed area and/or damaging public and/or private culturing gear in a closed area	\$100
Taking shellfish in excess of commercial daily limit	\$300

More than five commercial permits per boat	\$75
Possession of more than 5% seed per batch of shellfish	\$300
Commercial possession of more than 5% seed per batch of shellfish	\$300
Recreational possession of more than 5% seed per batch of shellfish	\$100
Taking scallops without a well-defined annual growth ring	\$25 \$75
Using other than tools permitted for shellfishing	\$75
Use of scallop dredge in excess of 32 inches width	\$75
Dredging scallops in air temperature below 28°F.	\$15
Diving for shellfish without displaying proper flag	\$75
Taking of shellfish from any shellfish grant	\$100 \$300
Shellfishing during nighttime hours as defined	\$300

Rationale- Proposed fine changes reflect need for increased monetary fines for more frequent offenses within the ever-growing recreational fishery, a lessened fine for the most frequently violated regulation within the recreational fishery that is more likely to lead to someone being found “responsible” in a magistrate’s hearing and addresses need to remove some outdated regulations. Fine increase for theft of an aquaculture licensed site. Addition of destruction of shellfish habitat so the fine for the violation, recreational or commercial, can be removed from §407-8-I and §407-15-H.

Dog Regulations

Offense	Fine
Violations of dog regulations	\$50
Failure to license a dog	\$50
Failure to license a dog after 30 day notification	\$75
Restriction on number of dogs	\$25
Failure to obtain or keep Kennel license	\$100
Operating a Kennel on a revoked license	\$50
Dog at large (leash law violation)	
First offense	\$25
Second offense	\$50
Nuisances committed by dogs	\$20
Dogs on beaches and recreational areas	
First offense	\$25
Second offense	\$50
Dog Park violations	\$25
Dog Park parking violation	\$40
Barking dogs	
First offense	\$25
Second offense	\$50
Failure to vaccinate for rabies	\$50
Failure to vaccinate for rabies after 30 day notification	\$75
Failure to comply with quarantine	\$200
Failure to comply with Town Manager’s order	\$200

Rationale- Proposed fine changes reflect the need for increased monetary fines for more frequent offenses by dog owners/keepers.

FISCAL IMPACT: There will be a minimal increase in revenue as fines for violations will increase. This is not proposed as a revenue raising effort but as a measure to encourage compliance.

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

STAFF ASSISTANCE: Charlie Lewis, Senior Animal Control Officer; Amy Croteau, Shellfish Constable/Senior Natural Resource Officer; Nina Coleman, Director of Natural Resources

B. NEW BUSINESS (Refer to Public Hearing 03/07/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-161
INTRO: 02/15/2024**

**2024-161 SUPPLEMENTAL APPROPRIATION ORDER FOR FISCAL YEAR 2024
BARNSTABLE POLICE DEPARTMENT IN THE AMOUNT OF \$35,000 TO
FUND CONSULTING SERVICES AND OVERTIME COSTS FOR THE
PURPOSE OF EXPLORING THE REMOVAL OF THE BARNSTABLE POLICE
DEPARTMENT FROM CIVIL SERVICE**

ORDERED: That the amount of **\$35,000** be appropriated from the General Fund reserves to pay for consulting services and overtime costs for the purpose of exploring the removal of the Barnstable Police Department from the Civil Service.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-161
INTRO: 02/15/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: February 15, 2024
SUBJECT: Supplemental Appropriation Order for Fiscal Year 2024 Barnstable Police Department in the amount of **\$35,000** to fund consulting services and overtime costs for the purpose of exploring the removal of the Barnstable Police Department from Civil Service

BACKGROUND: In 1937, the Barnstable Town Meeting voted to place certain departments, including the Police Department, under the Commonwealth of Massachusetts Civil Service Program. Pursuant to the Town Charter adopted in 1989 changing the Town's form of government, special legislation was filed with and enacted by the Legislature which provided that civil service coverage was not extended beyond the coverage already in place.

ANALYSIS: After lengthy discussions with the Police Department and the two Police Unions, the decision has been made to explore the possibility of removing the Barnstable Police Department from Civil Service. This appropriation order in the amount of \$35,000 will cover the costs associated with the internal Police Department working groups that will be formed to work with their union representatives and the outside consulting/legal services that will be needed to assist with the process. It is anticipated that upon completion of this process, an item will be brought before the Town Council to request removal of the sworn members of the Barnstable Police Department from the Civil Service.

FISCAL IMPACT: This appropriation is a one-time budget request and will not be added to the Barnstable Police Department's Fiscal Year 2025 base Operating Budget. Funding for this appropriation is recommended to be provided from the General Fund Reserves which have a current balance of \$29,148,778.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends favorable action by the Town Council.

STAFF ASSISTANCE: Willian Cole, Director of Human Resources; Karen L. Nober, Town Attorney

B. NEW BUSINESS (May be acted upon) (Majority vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-162
INTRO: 02/15/2024**

2024-162 RESOLVE APPROVING A REMOTE PARTICIPATION POLICY FOR TOWN COUNCIL MEETINGS

RESOLVED: That the Town Council does hereby approve the Remote Participation Policy for Town Council Meetings in the form as presented to the Town Council at this meeting.

SPONSOR: Felicia R. Penn, Town Council President, Precinct 13

DATE	ACTION TAKEN
_____	_____
_____	_____

- ____ Read Item
- ____ Rationale
- ____ Council Discussion
- ____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-162
INTRO: 02/15/2024

TO: Town Council
FROM: Karen L. Nober, Town Attorney
DATE: February 15, 2024
SUBJECT: Resolve approving a remote participation policy for Town Council meetings

SUMMARY: The Town Council President recommends that the Town Council adopt a remote participation policy for Town Council meetings. Attached is the proposed policy which provides that Town Councilors will be expected to attend Town Council meetings in person but includes the ability for up to 2 Councilors to participate remotely in any given meeting in certain circumstances, with the approval of the Town Council President. Those circumstances are as follows:

- Personal illness or family/household member illness, where the individual is contagious, or has been in recent close proximity to someone else who has tested positive for Covid or another contagious illness
- Physical injury or other temporary personal disability (of the Councilor or family/household member) that makes attendance in person difficult or impractical
- Emergency
- Military service
- Geographic distance due to circumstances outside of the Councilor's control (e.g., this would not include vacations).

In limited circumstances, the President may allow more than 2 Councilors to participate remotely if the reason for doing so is to prevent the spread of a contagious illness. The policy formalizes the current practice of allowing the public to participate in public comment and public hearings in person or remotely. It also would allow Town staff, consultants, and outside counsel to participate remotely at the discretion of the Town Council President.

FISCAL IMPACT: None

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

Remote Participation Policy for Town Council Meetings

Regular meetings of the Town Council shall be conducted in person, except in extraordinary circumstances as determined by the Town Council President. The public may attend in person and may participate remotely or in person in public comment and in public hearings. Town staff, consultants and outside counsel may participate remotely at the discretion of the Town Council President. No more than 2 Councilors shall be permitted to participate remotely in any given meeting. If more than 2 Councilors request to participate remotely, preference shall be given to a Councilor who has not previously participated remotely or who has done so less often. Otherwise, preference shall be given to whoever requested permission first. In limited circumstances and at the discretion of the Town Council President, more than 2 Councilors may be permitted to participate remotely if the reason for doing so is to prevent the spread of a contagious illness.

If the reason for remote participation is known, a Councilor seeking to participate remotely must notify and seek permission from the Town Council President on or before the Thursday preceding the meeting date. Otherwise, a Councilor should seek permission as soon as reasonably possible.

Remote participation shall be allowed when physical attendance is deemed unreasonably difficult, which shall be only when one of the following circumstances is present:

- Personal illness or family/household member illness, where the individual is contagious, or has been in recent close proximity to someone else who has tested positive for Covid or another contagious illness
- Physical injury or other temporary personal disability (of the Councilor or family/household member) that makes attendance in person difficult or impractical
- Emergency
- Military service
- Geographic distance due to circumstances outside of the Councilor's control (e.g., this would not include vacations).

Remote participation shall be subject to all applicable requirements of the Open Meeting Law.

B. NEW BUSINESS (May be acted upon) (Majority vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-163
INTRO: 02/15/2024**

2024-163 RESOLVE SUSPENDING APPOINTMENTS TO CERTAIN COMMITTEES OF THE TOWN

RESOLVED: That the Town Council is temporarily suspending appointments to the following committees of the Town pending further review of these committees:

- Jane Eshbaugh Community Service Award Committee
- Water Quality Committee
- Cable Television Advisory Committee

SPONSORS: Felicia R. Penn, Town Council President, Precinct 13

DATE	ACTION TAKEN
_____	_____
_____	_____

- ____ Read Item
- ____ Rationale
- ____ Council Discussion
- ____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-163
INTRO: 02/15/2024

SUMMARY

TO: Town Council
FROM: Karen L. Nober, Town Attorney
DATE: February 15, 2024
SUBJECT: Resolve suspending appointments to certain committees of the Town

BACKGROUND: Certain committees of the Town have been inactive and do not have current members. This resolve would temporarily suspend appointments to these committees pending a review of those committees. Specifically, appointments would be suspended for:

- Jane Eshbaugh Community Service Award Committee
- Water Quality Committee
- Cable Television Advisory Committee

Approval of this Resolve would allow the Town to remove the positions from the list of committee vacancies posted on the Town website.

FISCAL IMPACT: None

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

B. NEW BUSINESS (May be acted upon) (Majority vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-164
INTRO: 02/15/2024**

**2024-164 RESOLVE APPROVING A LETTER TO THE CAPE COD COMMISSION
REGARDING THE DRAFT REGIONAL HOUSING STRATEGY**

RESOLVED: That the Town Council does hereby approve sending a letter in the form as presented at this meeting to the Cape Cod Commission, providing the Council’s comments on the draft Regional Housing Strategy entitled “Housing Cape Cod: The Regional Strategy.”

SPONSOR: Felicia R. Penn, Town Council President, Precinct 13

DATE:	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-164
INTRO: 02/15/2024

SUMMARY

TO: Town Council
FROM: James Kupfer, Assistant Director of Planning and Development
THROUGH: Mark S. Ells, Town Manager
DATE: February 15, 2024
SUBJECT: Resolve Approving a Letter to the Cape Cod Commission regarding the draft Regional Housing Strategy

BACKGROUND: The Cape Cod Commission has published a report entitled “Housing Cape Cod: The Regional Strategy” that addresses the housing supply, affordability, and availability issues facing the region. The report includes regional strategies, as well as recommendations to municipalities to further these goals. The Commission is seeking public comment on the report. This resolve proposes that the Town Council approve a letter to the Cape Cod Commission in response to the report substantially in the form attached hereto.

FISCAL IMPACT: None

STAFF ASSISTANCE: Elizabeth S. Jenkins, Director of Planning & Development

PROPOSED LETTER

Kristy Senatori, Executive Director
Cape Cod Commission
3225 Main Street
Barnstable, MA 02630

Via Email

Dear Director Senatori,

The Barnstable Town Council is committed to proactively addressing housing issues within our community and has taken great interest in the Cape Cod Commission's draft report: Housing Cape Cod: The Regional Strategy. We thank you for the extended opportunity to review and comment on this important document. After discussion at our February 15, 2024 meeting, I offer the following comments on the Commission's draft report on behalf of the Barnstable Town Council.

Our primary concern is with the draft report's emphasis on regionalization of land use decisions and the suggested strategies that remove land use decision-making from local communities. The authority over land use regulation in Massachusetts has been firmly established, and rightly so, within the affected municipalities. This structure allows for land use decisions to be made with input from residents and taxpayers, taking into account the history, context, and collective goals and objectives for the future of the municipality. In Barnstable, land use decisions on a local level are reviewed for consistency with our adopted plans and policies which reflect the views of our residents. This is a process that, when exercised efficiently, builds trust in local government and its elected officials, and produces outcomes that protect, preserve, and enhance the quality of life for our residents.

The Commission's proposal for the creation of a regional redevelopment authority deviates from this well-accepted framework. The loss of local control over the siting and development of housing in our local communities raises concerns about effectively protecting natural resources, providing adequate public infrastructure, and consistently administering the plans and policies that reflect our citizens' views. The fact that this strategy would require special legislation to deviate from state practice demonstrates the overreach of this proposal.

The Council further recognizes that local zoning is an important strategy to address local housing needs; we similarly seek to emphasize the primary role of municipalities in establishing land use policies within our own boundaries. Elected and appointed officials at the local government level are best suited to listen to and understand the needs and desires of the communities they represent and serve. These positions, and the plans and policies that reflect them, should continue to control; regional designations or land use policies may inform local decision making, but should not drive it or supersede it.

We look forward to continuing to be actively involved with creating housing solutions in our community in the future and continuing dialogue with the Commission on effectuating appropriate solutions.

Sincerely,

Felicia R. Penn, President
Barnstable Town Council

B. NEW BUSINESS (May be voted upon) (Majority vote)

BARNSTABLE TOWN COUNCIL

**ITEM # 2024-165
INTRO: 02/15/2024**

2024-165 RESOLVE AUTHORIZING THE USE OF A CONSENT AGENDA AT TOWN COUNCIL MEETINGS

RESOLVED: That the Town Council does hereby authorize the use of a consent agenda at Town Council meetings to approve a grouping of agenda items with one vote and no discussion; provided that upon objection by any Councilor to the inclusion of one or more items in any particular consent agenda, the item or items shall be removed from the consent agenda for separate deliberation and vote by the Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

DATE:	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM # 2024-165
INTRO: 02/15/2024

TO: Town Council
FROM: Karen L. Nober, Town Attorney
RE: Resolve authorizing the Use of a Consent Agenda at Town Council Meetings
DATE: February 15, 2024

BACKGROUND: The Town Council President is seeking to utilize a “consent agenda,” which would be used to allow the Council to approve a number of grouped agenda items with one vote and no discussion. As a procedural matter, it is recommended that, as a first step, the Council take a vote to authorize the use of consent agendas. And because a consent agenda vote eliminates the ability of Councilors to discuss and deliberate on any included item, the authorizing vote should explicitly provide that any Councilor may object to the inclusion of one or more items in any consent agenda, and upon such objection, that item will be removed from the consent agenda for a separate discussion and vote.

The following categories are recommended as suitable for inclusion on a consent agenda:

- During the annual budget process, the first reads/referrals to a public hearing for budget appropriation items can be done with one vote.
 - Example: “To refer Agenda Items X through Y to individual public hearings to be held on each item at the Town Council meeting on [date].”
- During the annual budget process, if the Council does not get to items that are scheduled for a public hearing, the Council could take one vote to open the public hearings and continue them to the next meeting (unlike the example above, the Council will not know ahead of time which items will be included).
 - Example: “To open and continue Agenda Items X through Y to individual public hearings to be held on each item at the Town Council meeting on [date].”
- Other items that require a public hearing – the first reads/referrals to a public hearing can be grouped together for one vote.
- Other items that require 2 reads – the first reads/referrals to a second read can be grouped together for one vote.
- Resolves approving gifts and grants to the Town can be grouped together and approved with one vote.
 - Example: “To approve Items X through Y, as written.”

Any item that requires a public hearing should not be included in a consent agenda, except for the first read or to open and continue the public hearing to a specific date.

FISCAL IMPACT: None

STAFF SUPPORT: Mark Milne, Finance Director; and Ann Quirk, Town Clerk