



Town of Barnstable

Town Council

367 Main Street, Village of Hyannis MA 02601

508.862.4734 • Fax 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us



Councilors:

Janet S. Joakim
President

Frederick Chirigotis
Vice President

Richard G. Barry
Janice L. Barton
Ann A. Canedy
James H. Crocker, Jr.
Leah C. Curtis
Henry C. Farnham
J. Gregory Milne
James F. Munafo, Jr.
Tom Rugo
James M. Tinsley, Jr.
Harold E. Tobey

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING

AGENDA

March 6, 2008

7:00 PM

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

NEXT MEETING MARCH 20th

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2008-091	Amendment to the Zoning Ordinance & Zoning Map - Creating a Temporary Recreational Shellfish Area and Shellfish Relay Overlay District (Joint Public Hearing - May be acted upon) (Roll Call 2/3).....	3 - 5
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Minutes - None

Please Note: It is possible if it so votes, that the Council may go into executive session and the Council may act on items in a different order than they appear on this agenda.

A. OLD BUSINESS (Joint Public Hearing with Planning Board on March 6, 2008) (May Be Acted Upon—Roll Call-2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-091
INTRO: 02/28/08**

SUBSTITUTE TEXT, AS OF FEBRUARY 28, 2008

2008-091 CREATING A TEMPORARY RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT

ORDERED that:

Section 1. The zoning ordinance is hereby amended by adding the following new section:

§240-37.1 Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District

A. Purpose.

(1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District within said overlay zoning district.

The purposes of the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District include:

- (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law; and,
- (b) Prohibiting docks and piers in coastal waters designated as significant shellfish habitats by the Division of Marine Fisheries or local shellfish officials.

B. Establishment of district.

(1) In order to implement the purposes of this section, the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District shall include those areas shown on the map entitled "Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated February 28, 2008, filed with the Town Clerk, up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

C. Overlay District Map. The boundaries of the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District established by this section are shown on the Official Zoning Map, § 240-6A, Identification of Zoning Map, as amended with a file date of August 30, 2000.

D. Prohibition. Within the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District, the construction and/or installation of docks and piers is prohibited, unless such dock or pier has the benefit of a valid Order of Conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.

E. Reestablishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95 A(1) and B, provided that such reestablishment shall not include the use of toxic materials, and, for the purposes of this section, the pursuit of construction continuously to completion shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.

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

G. Definitions. The terms “dock” and “pier” shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, bulkhead, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a bank (inland) (310 CMR 10.54), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations.

H. Harbor Management Study. During the time this temporary overlay district is in effect, the Department of Marine and Environmental Affairs and/or the Growth Management Department of the Town of Barnstable shall oversee a harbor management study of the Three Bays area, including North Bay, Cotuit Bay, and West Bay and associated estuarine systems, and shall make recommendations to the Town Council relating to land use enactments and other harbor management tools .

Section 2. The official zoning map of the Town of Barnstable is hereby amended by adding a Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District as shown on the map entitled “Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District”, dated February 28, 2008.

Section 3. This section 240-37.1 shall cease to be effective two years from its effective date, unless further extended by a vote of the Town Council.

SPONSOR: Town Councilor Richard Barry and Town Councilor Ann Canedy

DATE ACTION TAKEN

- ___ Read item
- ___ Motion to open public hearing
- ___ Rationale
- ___ Public hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

TEMPORARY RECREATIONAL SHELLFISH AREA & SHELLFISH RELAY OVERLAY DISTRICT

ITEM# 2008-091
INTRO: 02/28/08

SUMMARY

TO: Town Council
FROM: Town Councilor Richard Barry
DATE: February 19, 2008
SUBJECT: Temporary Recreational Shellfish Area and Shellfish Relay Overlay District

BACKGROUND/ANALYSIS/RATIONALE: This involves the amendment of the zoning ordinance to add a Temporary Recreational Shellfish Area and Shellfish Relay Overlay District. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers, and limiting the expansion of existing docks and piers for a period of two (2) years, in areas identified as significant for recreational shellfishing and shellfish propagation.

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

During this two-year limitation on new docks and piers, the Town Departments of Marine and Environmental Affairs and/or Growth Management will oversee a harbor management study to address uses within the Three Bays watershed, including North Bay, Cotuit Bay, West Bay and associated estuarine resources and identify goals and objectives that may be applied to all harbor areas.

FISCAL IMPACT: The fiscal impact is neutral.

STAFF ASSISTANCE: Patricia Daley, Interim Director of Growth Management

SPONSORS: Richard G. Barry, Town Councilor and Ann B. Canedy, Town Councilor

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-093
INTRO: 02/28/08, 03/06/08

2008-093 APPOINTMENTS

RESOLVED, that the Town appoint the following individual to a multiple-member board/committee/commission:

COMMUNITY PRESERVATION COMMITTEE

Paula K. Schnepf, 956 River Road, Marstons Mills 02648, as the representative of the Barnstable Housing Authority to a term expiring 06/30/09.

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

A. OLD BUSINESS (Public Hearing – may be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-094
INTRO: 02/28/08, 03/06/08**

**2008-094 APPROPRIATION AND TRANSFER ORDER FOR COSTS INCURRED FOR
EMERGENCY RESPONSE TO TROPICAL STORM NOEL**

ORDERED, that the Town Council hereby appropriate \$124,700 for emergency response to Tropical Storm Noel and to meet the appropriation that \$124,700 be transferred from available funds.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

APPROPRIATION AND TRANSFER ORDER FOR EMERGENCY RESPONSE COSTS INCURRED FROM TROPICAL STORM NOEL

ITEM# 2008-094
INTRO: 02/28/08, 03/06/08

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: February 19, 2008
SUBJECT: FY08 Appropriation Order for Emergency Response to storm Noel

BACKGROUND: On November 3, 2007, Tropical Storm Noel reached Cape Cod with wind gusts of greater than 50 mph and heavy rains, resulting in extensive tree damage and power outages. The emergency response to high windstorm commenced and continued throughout the weekend. Clearing and clean up of tree debris continued for several weeks.

ANALYSIS: The cost of the emergency response for contracted services and overtime for municipal staff totaled \$124,698.83. The costs incurred are as follows: contracted tree removal services \$84,727.66, municipal salaries \$26,108.58, police details \$12,020.00, and operating expenses \$1,842.59.

FISCAL IMPACT: This one-time expense will not be added to the Public Works Department's base operating budget in fiscal year 2008. The funding for this appropriation will be provided from the Town of Barnstable's savings account that has a current balance of \$3,433,000.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the appropriation order after the required public hearing.

A. OLD BUSINESS (Public Hearing – may be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-095
INTRO: 02/07/08, 03/06/08

2008-095 APPROPRIATION & TRANSFER ORDER FOR CONSTRUCTION OF AN ADMINISTRATION BUILDING AT THE MARSTONS MILLS SOLID WASTE TRANSFER STATION

That the sum of \$87,500 be appropriated for the purpose of constructing a new administration and staff support building at the solid waste transfer station in Marstons Mills, and to fund this appropriation, that \$87,500 be transferred from the Department of Public Works Solid Waste Enterprise Fund Reserve account as presented to the Town Council by the Town Manager.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

APPROPRIATION AND TRANSFER ORDER FOR CONSTRUCTION OF A BUILDING AT THE MARSTONS MILLS SOLID WASTE TRANSFER STATION

ITEM# 2008-095
INTRO: 02/28/08, 03/06/08

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Mark Ells, Director of Public Works
DATE: February 19, 2008
SUBJECT: Appropriation and Transfer Order from Solid Waste Enterprise Fund Reserve

BACKGROUND: The Solid Waste Division is an Enterprise Fund providing a transfer station for the disposal of municipal solid waste, recyclables, and construction demolition materials for our residential customers. The facility is fully funded from user fees charged for the services provided to our customers. The current Solid Waste Division administrative office and staff support structures were identified as needing to be replaced in 1999 following the capping of the landfill and planned upgrade of the transfer station. The need for replacement of this building included deteriorating structural integrity, lack of office space, lack of showers and locker room facilities for employees of the division, and inadequate reception area to serve our 8,200 customers. There is no anticipated increase to user fees as a result of this transfer request. There is presently an available balance of \$770,000 in previous capital and operating capital funds to award the contract to complete this capital project.

ANALYSIS: This Solid Waste Support building of 2,320 Gross SF is a fabricated steel frame and metal sided structure that would house administrative offices, a public service lobby, toilet and shower facilities, and a lunchroom for division staff and which will serve as a satellite area for Highway Department staff during emergency operations. The project is designed to allow for expansion of the building in the future. Current facilities are in poor condition and badly in need of replacement. The current bid climate on Cape Cod for such a small structure helped to increase the cost of the project such that limited additional funds are now needed to allow acceptance of the bid with a small contingency for construction issues. There were nine GC bidders, all within a tight grouping, so it is believed that the bids were sound and reflect the cost of the project given some long utility lines to service the building. The low eligible bid was for \$817,500. Bidding the project again is not expected to yield any significant savings in cost at best. It is recommended to proceed with awarding the bid.

FISCAL IMPACT: This additional funding request is provided from the Solid Waste Enterprise Fund's savings account and no General Fund resources are requested.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-096
INTRO: 03/06/08**

2008-096 APPOINTMENTS

RESOLVED, that the Town appoint the following individual to a multiple-member board/committee/commission:

BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION

Eric R. Steinhilber, 399 Bishops Terrace, Hyannis, as a member to a term expiring 06/30/2010

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Laura T. Cronin, 402 South St, Hyannis, as member to a term expiring 06/30/2009

CULTURAL COUNCIL

Sandra Greene, 35 Walnut St, Hyannis, as a member to a term expiring 06/30/2010

HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION

William J. Cronin, 402 South St, Hyannis, as an alternate member to a term expiring 06/30/2010
David S. Dumont, 45 Wheeler Rd, Marstons Mills, as a member to a term expiring 06/30/2008

LAND ACQUISITION & PRESERVATION COMMITTEE

Laura T. Cronin, 402 South St, Hyannis, as a member to a term expiring 06/30/2010

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote