



# Town of Barnstable Town Council

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Precinct 8

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Jennifer L. Cullum  
Precinct 13

Administrator to the  
Town Council:  
Barbara A. Ford

Administrative  
Assistant:  
Cynthia A. Lovell

## MEETING AGENDA TOWN HALL HEARING ROOM May 2, 2013 7:00 PM

### 1. ROLL CALL

### 2. PLEDGE OF ALLEGIANCE

### 3. MOMENT OF SILENCE

- **Recognizing Channel 18 Staff—Winners of the Northeast Region, Alliance for Community Media, Awards**
- **Chief MacDonald with an update—Barnstable's first responders**
- **Proclamation—Building Safety Month**

### 4. PUBLIC COMMENT

### 5. COUNCIL RESPONSE TO PUBLIC COMMENT

### 6. ACT ON MINUTES (Includes Executive Session)

### 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS

### 8. ORDERS OF THE DAY

#### A. OLD BUSINESS

#### B. NEW BUSINESS

- **WORKSHOP – Discussing proposed amendments to Agenda Item 2013-032 - General Ordinance Chapter 54**

### 9. TOWN MANAGER COMMUNICATIONS

### 10. ADJOURNMENT

**NEXT REGULAR MEETING: May 16, 2013**

ITEM NO.	INDEX TITLE	PAGE
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## A. OLD BUSINESS

2013-123	Appropriation of \$40,000 for additional FY13 elections expenses <b>(Public hearing) (Roll-call)</b> .....	3 - 4
2013-127	Reappointments to a Board/Committee/Commission— <b>Board of Assessors:</b> Andrew Machado; <b>Community Preservation Committee:</b> Marilyn Fifield; Laura Shufelt, Richard Sawyer, Paul Curley; <b>Conservation Commission:</b> Peter Sampou, F.P. Tom Lee, Louise Foster; <b>Disability Commission:</b> Anne Mazzola, Raffaele Kaddy, Jean Boyle; <b>Economic Development Commission:</b> Hartley Johnson, Jeffrey Craddock, Alan Eric Feltham; <b>Golf Committee:</b> Nancy Beauchamp, Geoffrey Converse, Richard Aliberti; <b>Historical Commission:</b> George Jessop; <b>Housing Committee:</b> Janet Daly, Merrill Blum, Paul Hebert; <b>Human Services Committee:</b> Coreen Brinckerhoff; <b>Hyannis Main Street Waterfront Historic District Commission:</b> George Jessop; <b>Jane Eshbaugh Community Service Award Committee:</b> Jaci Barton; <b>JFK Memorial Trust Fund Committee:</b> Lynne Poyant; <b>Licensing Authority:</b> Paul Sullivan, David Nunheimer; <b>Personnel Board:</b> Stephen Whitmore; <b>Shellfish Committee:</b> Stuart Rapp, Gerard Ganey; <b>Waterways Committee:</b> Frederick Komenda; <b>Youth Commission:</b> Colleen Morin, Christopher Bartley, Samuel Spillane, Elizabeth Ells <b>(Second reading)</b> .....	5 - 6
2013-128	Appointments to a Board/Committee/Commission— <b>Cable TV Advisory Committee:</b> Thomas Terry Jr; <b>Council on Aging:</b> Charlotte Saunders; <b>Human Services Committee:</b> Scott Fitzgerald, Mark Thomas, Paul Thompson Jr; <b>Land Acquisition &amp; Preservation Committee:</b> Steven Gould; <b>Library Committee:</b> Genevieve Hill; <b>Renewable Energy Commission:</b> Katie Lamoureux <b>(Second reading)</b> .....	7
2013-130	Appropriation of \$200,000 Community Preservation Funds for the preservation of the Cahoon Museum of American Art <b>(Public hearing) (Roll-call)</b> .....	8 – 9
2013-131	Appropriation of \$100,000 Community Preservation Committee for the creation of Community Housing on Sesame Street, Marstons Mills <b>(Public hearing) (Roll-call)</b> .....	10 – 11
2013-032	Amending Code of Barnstable General Ordinances by inserting, “Chapter 54, Building and Property Maintenance” <b>(Public hearing continued) (Roll-call)</b> .....	12 - 16
2013-034	Amending Code of Barnstable General Ordinances Chapter 170, Rental Properties <b>(Public hearing continued) (Roll-call)</b> .....	17 - 19
2013-043	Amending the General Ordinances, Article I, §1-3, Chapter 170, Rental Registration <b>(Public hearing continued) (Roll-call)</b> .....	20 - 21

## B. NEW BUSINESS

2013-134	Transfer order --\$55,218 to the Barnstable Police Department FY13 operating budget <b>(May be acted upon)</b> .....	22 - 23
2013-135	Appropriation and transfer order \$14,000 from the Sandy Neck Enterprise reserves to Sandy Neck Enterprise account to reimburse the costs from storm “Nemo” <b>(Refer to public hearing 05/16/13)</b> .....	24 - 25
2013-137	Appointing Assistant Town Clerk Ann Quirk as the interim town clerk <b>(May be acted upon)</b> .....	26

Approve Minutes- April 25, 2013 No executive session minutes.

**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.

**B. NEW BUSINESS (Public hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-123**  
**INTRO: 04/25/13, 05/02/13**

**2013-123 APPROPRIATION – \$40,000 FOR ADDITIONAL FY13 ELECTIONS EXPENSES**

**ORDERED:** That the Barnstable Town Council hereby appropriates \$40,000 for the FY 2013 Administrative Services Department budget and that this amount be used to cover the costs associated with conducting two additional elections in FY 2013.

**SPONSOR:** Town Manager Thomas K. Lynch

<b>DATE</b>	<b>ACTION TAKEN</b>
<u>04/25/13</u>	<u>Referred to 05/02/13 for public hearing</u>

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-123**  
**INTRO: 04/25/13, 05/02/13**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Thomas K. Lynch  
**THROUGH:** Linda Hutchenrider, Town Clerk  
**DATE:** March 29, 2013  
**SUBJECT:** Appropriation Order – Elections

**BACKGROUND:** Two special elections are necessary to fill the vacancy created when our United States Senator, John F. Kerry, was recently appointed the Secretary of State by President Obama. The two elections will be held in fiscal year 2013; the primary in April and the general election in June. Funding for these elections was not included in the fiscal year 2013 budget, as the vacancy was not known at the time the budget was developed.

**ANALYSIS:** The Town Clerk's office is one of mandates, and the elections are mandated functions and must be held and paid for. This appropriation pays for the two additional elections.

**FISCAL IMPACT:** Funding for this appropriation will come from the municipal savings account. This account has over a \$1.3 million balance. This appropriation will not be added to the FY 2014 Town Clerk operating base budget.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of this request.

**STAFF ASSISTANCE:** Ann Quirk, Assistant Town Clerk  
Mark Milne, Director of Finance

## **A. OLD BUSINESS (Second reading)**

### **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-127**

**INTRO: 04/25/13, 05/02/13**

#### **2013-127 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

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

##### **BOARD OF ASSESSORS**

Andrew Machado, Lane 30 Rosemary Lane, Centerville, as a member to a term expiring 6/30/2016

##### **COMMUNITY PRESERVATION COMMITTEE**

Marilyn Fifield, 49 Colonial Way, Barnstable, as a historical commission representative member to a term expiring 6/30/2016

Laura Shufelt, 1696 West Barnstable Road, West Barnstable, as a member to a term expiring 6/30/2016

Richard Sawyer, 75 Cap'n Crosby Road, Centerville, as a recreation commission representative member to a term expiring 6/30/2016

Paul Curley, 27 Lancaster Way, West Barnstable, as a planning board representative member to a term expiring 6/30/2016

##### **CONSERVATION COMMISSION**

Peter Sampou, 111 Cedar St., West Barnstable, as a member to a term expiring 6/30/2016

F.P. Tom Lee, 1081 Old Putnam Avenue, Osterville, as a member to a term expiring 6/30/2016

Louise Foster, 204 Clamshell Cove Road, Cotuit, as a member to a term expiring 6/30/2016

##### **DISABILITY COMMISSION**

Anne Mazzola 16 Linden Street, Hyannis, as a member to a term expiring 6/30/2016

Raffaele Kaddy, 25 Craigville Road, Hyannisport, as a member to a term expiring 6/30/2016

Jean Boyle, 24 West Hyannisport Circle, W. Hyannisport, as a member to a term expiring 6/30/2016

##### **ECONOMIC DEVELOPMENT COMMISSION**

Hartley Johnson, 782 Mystic Drive, Marstons Mills, as a member to a term expiring 6/30/2015

Jeffrey Craddock, 17 Captain Baker Road, Marstons Mills, as a member to a term expiring 6/30/2016

Alan Eric Feltham, 535 Ocean Street, Hyannis, as a member to a term expiring 6/30/2016

##### **GOLF COMMITTEE**

Nancy Beauchamp, 7 Christina's Path, Hyannis, as a member to a term expiring 6/30/2016

Geoffrey Converse, 558 Lumbert Mill Road, Centerville, as a member to a term expiring 6/30/2016

Richard Aliberti, 126 Trout Brook Lane, Cotuit, as a member to a term expiring 6/30/2016

##### **HISTORICAL COMMISSION**

George Jessop, 863 Bumps River Road, Centerville, as an architect representative member to a term expiring 6/30/2016

##### **HOUSING COMMITTEE**

Janet Daly, 68 Center Street, Unit 12, Hyannis, as a member to a term expiring 6/30/2016

Merrill Blum, 94 Water View Circle, Centerville, as a member to a term expiring 6/30/2016

Paul Hebert, 142 Strawberry Hill Road, Centerville, as member to a term expiring 6/30/2016

**HUMAN SERVICES COMMITTEE**

Coreen Brinckerhoff, Cape Organization for the Rights of the Disabled, 106 Bassett Lane, Hyannis, as a representative member to a term expiring 6/30/2016

**HYANNIS MAIN STREET WATERFRONT HISTORIC DISTRICT COMMISSION**

George Jessop, 863 Bumps River Road, Centerville, as a Historical Commission representative member to a term expiring 6/30/2016

**JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE**

Jaci Barton, 87 School Street, Cotuit, as a member to a term expiring 6/30/2016

**JFK MEMORIAL TRUST FUND COMMITTEE**

Lynne Poyant, 18 Leonard Road, West Hyannisport, as a member to a term expiring 6/30/2015

**LICENSING AUTHORITY**

Paul Sullivan, 209 Longview Drive, Centerville, as a member to a term expiring 6/30/2016  
David Nunheimer, 221 Saddler Lane, West Barnstable, as an associate member to a term expiring 6/30/2016

**PERSONNEL BOARD**

Stephen Whitmore, 1391 Hyannis Road, Barnstable, as a member to a term expiring 6/30/2016

**SHELLFISH COMMITTEE**

Stuart Rapp, 601 Lumbert Mill Rd., Centerville, as a member holding a family to a term expiring 6/30/2016  
Gerard Ganey, 65 Tracey Road, Cotuit, as a member-at-large to a term expiring 6/30/2016

**WATERWAYS COMMITTEE**

Frederick Komenda, 65 Elliot Road, Centerville, as a member to a term expiring 6/30/2016

**YOUTH COMMISSION**

Colleen Morin, c/o Youth Commission, Hyannis, as a student member to a term expiring 6/30/2014  
Christopher Bartley, c/o Youth Commission, Hyannis, as a student member to a term expiring 6/30/2014  
Samuel Spillane, c/o Youth Commission, Hyannis, as a student member to a term expiring 6/30/2014  
Elizabeth Ells, c/o Youth Commission, Hyannis, as a student member to a term expiring 6/30/2014

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
<u>04/25/13</u>	<u>Moved to 05/02/13 2<sup>nd</sup> reading</u>
___	_____
___	_____
___	_____

- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**A. OLD BUSINESS (Second Reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-128**  
**INTRO: 04/25/13, 05/02/13**

**2013-128 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

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

**CABLE TV ADVISORY COMMITTEE**

Thomas Terry Jr., 168 Barnstable Road, Hyannis as a member to a term 6/30/2014

**COUNCIL ON AGING**

Charlotte Saunders 148 Arrowhead Drive, Hyannis from a regular member to an associate member to a term 6/30/2015

**HUMAN SERVICES COMMITTEE**

Scott Fitzgerald, 453 Main Street, Hyannis as a member to a term 6/30/2016

Mark Thomas, 350 Pheasant Hill Circle, Cotuit as a member to a term 6/30/2015

Paul Thompson Jr., 22 Arrowhead Drive, Hyannis as a member to a term 6/30/2016

**LAND ACQUISITION & PRESERVATION COMMITTEE**

Steven Gould, 24 Old Shore Road, Cotuit as a member to a term 6/30/2016

**LIBRARY COMMITTEE**

Genevieve Hill, 49 Indian Hill Road, Barnstable as a member to a term 12/31/2013

**RENEWABLE ENERGY COMMISSION**

Katie Lamoureux, 161 Sea Street, Hyannis as a member to a term 6/30/2015

**SPONSOR:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
<u>04/25/13</u>	<u>Moved to 05/02/13 for second reading</u>
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**B. NEW BUSINESS (Public hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-130  
INTRO: 04/25/13, 05/02/13**

**2013-130 APPROPRIATION --\$200,000 COMMUNITY PRESERVATION FUNDS FOR THE PRESERVATION OF THE CAHOON MUSEUM OF AMERICAN ART**

**ORDERED:** That, pursuant to the provisions of G.L. c. 44B, the sum of Two Hundred Thousand and NO/100 (\$200,000.00) Dollars be appropriated and transferred from the Undesignated portion of the Community Preservation Fund; and that the Town Manager is authorized to contract for and expend the total amount appropriated, subject to oversight of the project expenses by the Community Preservation Committee, for the preservation of the Cahoon Museum of American Art, listed on the National Register of Historic Places, to include; foundation support, walls and roof, masonry and chimneys located at 4676 Falmouth Road, Cotuit, MA, Map-Parcel 010-008-001, to be secured by a historic restriction on behalf of the Town of Barnstable.

**SPONSOR:** Town Manager, Thomas K. Lynch, upon the recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
<u>04/25/13</u>	<u>Referred to 05/02/13 public hearing</u>

\_\_\_\_\_

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



## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-130**  
**INTRO: 04/25/13, 05/02/13**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** April 12, 2013  
**SUBJECT:** Cahoon Museum of American Art – Historic Preservation

**BACKGROUND:** The Community Preservation Committee (CPC) met on Monday, February 25, 2013 and voted to recommend, to the Town Council through the Town Manager, the funding request by the Cahoon Museum of American Art in the amount of \$200,000.00 for the preservation of the historic structure to include the foundation, walls, roof, masonry and chimneys.

**RATIONALE:** The Cahoon Museum of American Art (CMAA) continues to be a destination for both art lovers and lovers of historic buildings. It is the former home and studio of famous folk artists Ralph and Martha Cahoon. The contribution that Ralph and Martha Cahoon made to American folk art and part of the historic building will be arranged as their former studio – a tribute to them and an attraction for school children as well. The original construction of the building is believed to be about 1775 and is listed in the National Register of Historic Places as one of 17 significant buildings in the Santuit Historical District.

**B. NEW BUSINESS (Public hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-131  
INTRO: 04/25/13, 05/02/13**

**2013-131 APPROPRIATION -\$100,000 COMMUNITY PRESERVATION COMMITTEE FOR  
CREATION OF COMMUNITY HOUSING ON SESAME STREET, MARSTONS MILLS**

**ORDERED:** That, pursuant to the provisions of G.L. c. 44B, the sum of One Hundred Thousand and NO/100 (\$100,000.00) Dollars be appropriated and transferred from the Housing portion of the Community Preservation Fund; and that the Town Manager is authorized to contract for and expend the total amount appropriated, subject to oversight of the project expenses by the Community Preservation Committee, for the acquisition of Affordable Housing Restrictions to be held by the Town of Barnstable on approximately one (1) acre of land located at 28 Sesame Street, Marstons Mills, MA with map and parcel 173-007-002 and on approximately one (1) acre of land located 29 Sesame Street, Marstons Mills, MA with map and parcel 173-007-001 for the creation of community housing contingent upon all permits being issued.

**SPONSOR:** Town Manager Thomas K. Lynch, upon the recommendation of the Community Preservation Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
<u>04/25/13</u>	<u>Referred to 05/02/13 public hearing</u>

\_\_\_\_\_

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-131**  
**INTRO: 04/25/13, 05/02/13**

## **SUMMARY**

**TO:** The Barnstable Town Council  
**FROM:** Community Preservation Committee  
**DATE:** April 12, 2013  
**SUBJECT:** Funding for the Creation of Affordable Housing by the Habitat for Humanity of Cape Cod, Inc. at 28 and 29 Sesame Street, Marstons Mills, MA 02648

**BACKGROUND:** The Community Preservation Committee (CPC) met on Monday February 25, 2013 and voted unanimously to recommend to the Town Council, through the Town Manager, to support the funding request of \$100,000.00 from Habitat for Humanity of Cape Cod for the creation of affordable housing on the property located at 28 and 29 Sesame Street, Marstons Mills, MA with map and parcel 173-007-002 and 173-007-001 respectively.

**RATIONALE:** The acquisition of approximately two (2) acres of land will support the creation of two single family dwellings. CPA funds will cover the land acquisition costs and will offset pre-development and infrastructure costs. The homes are built in partnership with the community and with the selected buyer families.

The homes will be affordable in perpetuity with affordability ensured by a Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) Deed Rider and will be counted on Barnstable's DHCD Subsidized Housing Inventory (SHI). The homes will be made available to very-low income households; households earning between 45% and 65% of Area Median Income. Each home sale price will be approximately \$133,800.

This project meets the criteria for Community Preservation projects as it creates community housing. The project helps preserve Barnstable's character by providing much needed housing opportunities that help maintain a diverse and vibrant community.

## **A. OLD BUSINESS (Continued public hearing) (Roll-call)**

### **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-032**

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13**

#### **2013-032 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING, "CHAPTER 54. BUILDING AND PROPERTY MAINTENANCE"**

**ORDERED:** That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter 54.

##### **"Chapter 54"**

##### **BUILDING AND PROPERTY MAINTENANCE**

###### **§54-1. Purpose and intent.**

The purpose and intent of this ordinance is to eliminate nuisances in the town. Nuisances, such as deteriorated structures, vacant buildings, overgrowth of vegetation, trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas; adversely affect the value of adjacent and surrounding property; and impair the health, safety and general welfare of the inhabitants of the town. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

###### **§54-2. Building, structure and premises maintenance.**

Each owner and occupant shall comply with this ordinance by keeping land, premises, buildings and structures in a safe, sanitary and non-hazardous manner so as to prevent deterioration and ensure that the property itself may be preserved safely so that hazards to public health and safety are avoided. For purposes of sections 54-2 to 54-4, "occupant" means the person or persons other than an owner or owners having exclusive possession of land, premises, buildings and structures, or parts thereof, and the obligation to maintain the same.

###### **§54-3. Building and structure maintenance standards.**

A. All means of egress, devices, safeguards and equipment shall be kept in good working order

B. All exterior components of every building and structure including but not limited to walls, roofs, chimneys, cornices, gutters, downspouts, drains, porches, canopies, awnings, steps, landings, fire escapes, exterior stairs, windows, shutters, and doors, shall be kept in sound condition and good repair, with proper weather protection and waterproofing, and be maintained substantially free of deterioration, including but not limited to loose or missing shingles or siding, crumbling brick, stone and mortar, and peeling, scaling or deteriorated paint.

C. Vacant buildings and structures shall be maintained in compliance with this ordinance and be kept secure from use or occupation by unauthorized persons.

D. Overhanging structures, including canopies, awnings, exterior stairways, fire escapes, and other overhanging extensions shall be maintained in sound condition and good repair, be securely anchored, and be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.

E. All buildings and structures damaged by fire, explosion, weather or other cause shall be repaired and returned to their former condition or in compliance with this ordinance, or be razed within six (6) months unless granted an extension by the Building Commissioner.

**§54-4. Maintenance of land, premises and landscape elements.**

A. Each owner and occupant shall keep premises and land, including but not limited to steps, walks, driveways, fences, retaining walls and vegetation, in good condition. "Occupant" for purposes of this section has the same meaning as in section 54-2.

B. All paved driveways and walks shall be maintained substantially free from broken or uneven condition.

C. All steps, fences, retaining walls and landscape features shall be firmly anchored and maintained in good structural repair. Elements subject to deterioration shall be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.

D. All premises shall be maintained substantially free from overgrowth of vegetation which constitutes a suitable habitat for vermin, otherwise poses a hazard to the health and safety of any person in the vicinity of the premises, or is so overgrown as to have a clear adverse affect on the value of surrounding properties.

E. Indoor items such as furniture, appliances, plumbing fixtures and bedding shall be kept within enclosed structures after fifteen (15) days. All other personal property shall be kept within enclosed structures or screened from public view after six (6) months. Functional outdoor items such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, operable vehicles, trailers, boats and inventory shall not be subject to the requirements of this subsection.

F. Water shall not be permitted to continuously stagnate outside of any building or structure for more than ten (10) days except under natural conditions. Nothing in this subsection shall operate as a waiver or exception to any other law, rule or regulation for the storage or handling of water.

**§54-5. Storage and Removal of Rubbish, Garbage and Refuse.**

A. Owner's responsibilities. The owner of any building, structure or premises shall be responsible for receptacles with tight-fitting lids to be used for the proper storage of rubbish, garbage and other refuse. Said receptacles shall be located in such manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

B. Occupant's responsibilities. The occupants of any building, structure or premises shall be responsible for the proper storage of rubbish, garbage and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse, which is stored outside a building or structure is properly covered. Said occupant(s) shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and ultimate disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

C. For purposes of subsections (A) and (B): "owner" shall mean any person(s) who alone or severally with others has legal title to buildings, structures, vacant land or to land with buildings or structures thereon, or to any dwelling or rooming unit, mortgagee in possession, or agent, trustee or person appointed by a court; and "occupant" shall mean any person(s) who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

D. Premises covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.

**§54-6. Enforcement**

A. The Board of Health, the Police Chief, and the Building Commissioner, or their designees, are hereby designated as the enforcing authorities for this ordinance. If any enforcing authority determines that a violation of the standards contained in this ordinance exists, he or she shall notify the owner or occupant to

**2013-032 (Continued)**

remove or abate the nuisance by a date certain as determined by the enforcing authority not more than ten (10) days after service of notice of the violation(s): provided, however, that if the enforcing authority determines that the violation is such that the public health and safety will be jeopardized by that delay, the enforcing person may order the abatement or removal of the nuisance in a shorter time as public health and safety may in her or his judgment require. The order shall be in writing and may be served personally on the owner, occupant or his authorized agent by any person authorized by the enforcing authority. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through non-criminal, criminal or civil proceedings and no action shall preclude any other enforcement action or actions.

B. In addition to any penalties or enforcement action(s) hereunder, after final determination of three (3) or more violations within a twelve-month period an enforcing authority may notify a violator in writing that the enforcing authority may elect to bill the violator for the costs incurred by the Town for response to each subsequent violation not abated or ordered without abatement as provided herein. Such bill(s) shall be due and payable in full by the violator within thirty (30) days of submission and if unpaid thereafter shall be subject to a municipal charges lien as provided in G. L. c. 40 §58.

**§54-7. Applicability and Severability.**

A. The provisions of this ordinance are in addition to and not in lieu of any other ordinance, rule or regulation of the Town of Barnstable and any board, commission or officer. Compliance with this ordinance shall not thereby constitute compliance with any other ordinance, rule or regulation, and violation of this ordinance does not thereby preclude violation of any other ordinance, rule or regulation.

B. If any provision of this ordinance is declared invalid, it shall not thereby invalidate any other provision.

**SPONSOR:** Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/06/12</u>	<u>Public hearing, cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing, cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing, cont'd to 03/21/13</u>
<u>03/21/13</u>	<u>Public hearing, cont'd to 04/25/13</u>
<u>04/25/13</u>	

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-032**

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti  
**DATE:** October 9, 2012  
**SUBJECT:** Amending the Code of Barnstable General Ordinances, C.54

**RATIONALE:** Throughout the Town of Barnstable, many blighted and/or abandoned homes not presently addressed by the town. The intent of this ordinance is to eliminate deteriorated structures, vacant buildings, overgrowth of vegetation, trash and debris within neighborhoods and commercial areas, where buildings may be abandoned.

This amendment outlines basic property management and repair standards and guidelines for structural and landscape management, trash removal, and land maintenance standards.

At present, these unchecked blighted/abandoned properties impair the health, safety and general welfare of the neighborhood in which they are located. It is intended that this amendment address these issues of abandoned/blighted properties and improve the standard of public safety and general welfare in the neighborhoods in which they are located.

## **A. OLD BUSINESS (Continued public hearing) (Roll-call)**

### **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-034**

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13**

#### **2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES**

**ORDERED:** That Chapter 170 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

**SECTION 1.** By striking the following sections 170-11 entitled “storage and removal of rubbish, garbage, and other refuse” and 170-12 entitled “inspections” and re-numbering the remaining sections accordingly.

#### **“§170-11. Storage and removal of rubbish, garbage, and other refuse.**

**A. Owner’s responsibilities.** The owner of any dwelling shall be responsible for providing receptacles with tight-fitting lids to be utilized for the proper storage of rubbish, garbage, and other refuse. Said receptacles shall be located in such a manner that no objectionable odor enters any dwelling and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.

**B. Occupant's responsibilities.** The occupant(s) of any dwelling shall be responsible for the proper storage of rubbish, garbage, and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage, and other refuse which is stored outside the dwelling unit is properly covered. Said occupant shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage, and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and for the ultimate disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.”

#### **§170-12. Inspections.**

Dwelling units covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.”

**SECTION 2.** By adding the following sentence to subsection 170-12(A) of section 170-12 as re-numbered entitled “violations and penalties” after the first sentence; “Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of



**2013-034 (Continued)**

\$300.00”; and by adding the following at the end of the second sentence in subsection 170-12(B) as re-numbered; “or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period” ; said subsection 170-12 to read as follows

**“§170-12. Violations and penalties.**

A. Any person who violates any provision of this chapter shall be subject to a fine not to exceed \$300. Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of \$300.00. Each day of continued violation may be deemed to be a separate offense.

B. This chapter may be enforced under the provisions of MGL c. 40, §21D. The fine for any violation under the provisions of MGL c. 40, §21D shall be \$100 or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period. Each day of continued violation may be deemed to be a separate offense.”

**SPONSOR:** Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing, cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing, cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing, cont'd to 03/21/13</u>
<u>03/21/13</u>	<u>Public hearing, cont'd to 04/25/13</u>
<u>04/25/13</u>	

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-034**

**INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Councilor Jennifer Cullum with Councilors James Cote, and Jessica Rapp Grasseti  
**DATE:** October 9, 2012  
**SUBJECT:** Amending the Code of Barnstable General Ordinances, C.170

**RATIONALE:** The Code of Barnstable General Ordinances, Chapter 170 concerns rental properties in the town. This amendment provides for a maximum fine of \$300 after two (2) valid violations within a twelve (12) month period, making it consistent with other graduated fines.

**A. OLD BUSINESS (Continued public hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-043**

**INTRO: 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13**

**2013-043 AMENDING THE GENERAL ORDINANCES, ARTICLE 1, §1-3, CHAPTER 170, RENTAL REGISTRATION**

**ORDERED:** That the schedule of fines in Article I, Section 1-3 of the General Ordinances is hereby amended by striking out the line related to Chapter 170 and inserting in place thereof the following.

<u>CODE, CH/SECTION</u>	<u>SUBJECT</u>	<u>FINE</u>
Art. I, §1-3, Ch. 170	<b>Rental Registration</b> Any violation .....	\$100
	<b>Rental Registration</b> Two documented violations by owner in a twelve-month period .....	\$300

**SPONSOR:** Councilor Jennifer Cullum

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>
<u>01/17/13</u>	<u>Public hearing cont'd to 02/28/13</u>
<u>02/28/13</u>	<u>Public hearing cont'd to 03/21/13</u>
<u>03/21/13</u>	<u>Public hearing, cont'd to 04/25/13</u>
<u>04/25/13</u>	<u>_____</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-043**

**INTRO: 11/15/12, 12/06/12, 01/17/13, 02/28/13, 03/21/13, 04/25/13, 05/02/13**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Councilor Jennifer Cullum  
**DATE:** November 6, 2102  
**SUBJECT:** Amending the General Ordinances, Article 1, §1-3, Chapter 170, Rental Registration

**BACKGROUND:** Amending Chapter 170, Rental Registration, is relevant to the passage of 2013-034 - Chapter 170, Rental Properties. This amendment will conform to the maximum allowable fine of \$300 as referenced.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-134**  
**INTRO: 05/02/13**

**2013-134 TRANSFER ORDER OF \$55,218 FOR THE BARNSTABLE POLICE DEPARTMENT FY13 OPERATING BUDGET**

**ORDERED:** That the sum of \$38,218 be added to the FY13 Police Department general fund operating expense budget and that \$17,000 be added to the FY13 Police Department general fund personnel expense budget and that \$55,218 be transferred from the FY13 Public Works Department general fund personnel budget for the purpose of funding FY13 unanticipated expenses in the Police Department budget.

**SPONSOR:** Town Manager, Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2013-134**  
**INTRO: 05/02/13**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**DATE:** April 12, 2013  
**SUBJECT:** Transfer Order for the FY13 Police Department Operating Budget

**BACKGROUND:** In preparing and completing their FY13 budget, the Police Department made a very thorough analysis of their anticipated expenses to be funded through the FY13 Operating Budget. However, over the course of FY13 the department experienced some additional and unanticipated expenses that require a supplemental funding request to their FY13 operating budget in the amount of \$55,218. The primary areas of unanticipated expenses are identified in the replacement of patrol officers, due to the unforeseen loss of sworn personnel; the costs of parts to repair vehicles; the veterinary needs of a severely sick K-9; the cost of replacement batteries for Automatic External Defibrillators and a request from the City of Boston for personnel support due to the tragic events that occurred during the Boston Marathon.

**ANALYSIS:** The recruitment and hiring process has significant costs associated with it, including the cost of physicals, psychological assessments, physical agility tests, police academy tuition, training and startup uniforms and books totaling approximately \$8,800 per officer. This year we hired 5 officers to replace those lost to attrition.

While the Police Department tries to keep older, high mileage vehicles on the road for as long as possible before replacing them, eventually the costs in auto parts and repair outweigh the costs to replace the vehicle altogether. However, with the combination of budget reductions in recent years to the Department's Capital Budget and increases in the cost of new vehicles, we are only able to purchase between 4 and 5 new vehicles per year. In FY13, the Department's anticipated vehicle-parts expenses were 94% higher than what was allocated or anticipated.

Police K-9's are highly trained and specialized work dogs who work in close coordination with their assigned officer. The cost of purchasing and training a police dog is significant; therefore, great care is taken in maintaining these dogs. Should one need medical attention, it is possible that veterinary costs can escalate quite rapidly as the utmost measures are taken to restore the dog to good health. This type of occurrence cannot be anticipated and as was the case in FY13 a K-9 required medical attention and the vet bill alone for the dog was \$4,000.

The use of Automatic External Defibrillators (AED), help to save lives and are a basic tool utilized in Public Safety. The cost of replacement batteries are \$300 each and we need to 13 battery replacements.

**FISCAL IMPACT:** Funding for this transfer will be provided from the Public Works Department. Several vacancies within the department throughout the year have resulted in more than \$100,000 in vacancy savings. A portion of this savings will be used to assist the Police Department in meeting their unanticipated costs.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of the appropriation order.

**STAFF ASSISTANCE:** Police Chief Paul MacDonald  
Anne Spillane, Barnstable Police Department

**B. NEW BUSINESS (Refer to public hearing on 05/16/13)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-135  
INTRO: 05/02/13**

**2013-135 APPROPRIATION AND TRANSFER ORDER - \$14,000 FROM SANDY NECK ENTERPRISE FUND RESERVES TO REIMBURSE SANDY NECK ENTERPRISE ACCOUNT FOR STORM "NEMO" COSTS**

**ORDERED:** That the sum of \$14,000 be appropriated for the purpose of funding reimbursement to the Sandy Neck Enterprise account for "Nemo" storm costs and to meet this appropriation that \$14,000 be transferred from the Sandy Neck Enterprise Fund reserves.

**SPONSOR:** Town Manager, Thomas K. Lynch

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-135**  
**INTRO: 05/02/13**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**THROUGH:** Lynne M. Poyant, Director of Community Services  
**DATE:** April 22, 2013  
**SUBJECT:** Appropriation Order of \$14,000 for reimbursement to the Sandy Neck Enterprise account for "Nemo" storm costs

**BACKGROUND:** The February storm named "Nemo" caused damage to Sandy Neck Beach as the winds were directly onshore during an astronomically high tide. Wave action destroyed much of the primary dune and both sets of stairs were lost to the sea. In addition, the bottom two sections of the handicapped ramp and the flag pole were destroyed. The Sandy Neck enterprise account has been absorbing the costs of repairing these structures so that public access to the beach would not be interrupted.

**ANALYSIS:** Due to these unforeseen storm costs, the FY13 Sandy Neck operating budget has been depleted. Reimbursement to the enterprise account is needed in order to have funding available for the anticipated costs of preparing the beach and facilities for the summer season.

**FISCAL IMPACT:** Funding for this request will be provided from the Sandy Neck Enterprise Fund reserves which has a current balance of \$645,858.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends the approval of the transfer of these funds.

**STAFF ASSISTANCE:** Nina Coleman, Sandy Neck Park Manager  
Daniel J. Horn, MEA Director and Harbormaster  
Mark Milne, Finance Director



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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-137  
INTRO: 05/02/13**

**2013-137 APPOINTING THE ASSISTANT TOWN CLERK ANN QUIRK AS THE INTERIM TOWN CLERK**

**RESOLVED:** That the Town Council appoint Assistant Town Clerk Ann Quirk as the Town Clerk during the interim from the retirement of Town Clerk Linda Hutchenrider on June until the November 2013 election.

**SPONSOR:** Councilor Rapp Grassetti

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2013-137**  
**INTRO: 05/02/13**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Town Council Vice President Jessica Rapp Grassetti  
**DATE:** April 26, 2013  
**SUBJECT:** Appointing an interim town clerk

**RATIONALE:** Linda Hutchenrider, after 20 years with the town, is retiring as the elected town clerk. Ann Quirk has held the position of assistant town clerk since June 2011. As there is no provision or a required process in appointing an interim town clerk and to avoid additional expenses by holding a special election, appointing the assistant town clerk as the interim town clerk provides the least disruption and most apt to provide continuous service to the public in the interim of June 6 until the November 2013 election.

**FISCAL IMPACT:** There is no negative fiscal impact with this appointment.