



Town Council Meeting
December 21, 2023



A quorum being duly present, President Matthew Levesque called the December 21, 2023, Town Council meeting to order at 7:02 PM.

An announcement was made by President Levesque regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 8 or High-Definition Channel 1072.

PRESENT: Charles Bloom, Seth Burdick, Kristine Clark, John Crow, Matthew Levesque, Betty Ludtke, Jeffrey Mendes, Paul Neary, Felicia Penn, Paula Schnepf, Gordon Starr, Craig Tamash, Kristin Terkelsen

The Pledge of Allegiance was led by President Levesque. Councilor Schnepf asked for a moment of silence to commemorate those who have lost their lives due to homelessness.

PUBLIC COMMENT:

In-person:

Susanne Conley read a few lines from an act for the Town of Barnstable to grant an easement to Park City Wind (PCW). She attended the Environmental Facilities Siting Board (EFSB) hearing, and she is more motivated than ever to continue the fight.

Barry Sheingold spoke about the PCW and the EFSB. Consider the following three years ago, the Town of Barnstable adopted a policy to reduce greenhouse gas emissions, the proposed wind project would substantially reduce the greenhouse gasses. The magnetic forces are far below safety thresholds. Risk to public health is minimal to none. The planned substation has protections negotiated by the town. All of the environmental groups support the project.

Natalie Pittenger supports Felicia Penn in her bid for President.

Denise Johnson supports Felicia Penn as the candidate for President. She can get things done, bringing in transparency.

Catherine Ledec stated at recent joint meetings of the Planning Board and Hyannis Main Street Waterfront District (HMSWHDC) the vote to adopt failed and the 2012 guidelines will be in effect. We are behind in expressing our vision, which puts us at a disadvantage, we need to work on this over the next few months to finish the guidelines. (Exhibit A)

Eric Schwaab has interacted with several committees, trying to fill a gap. There is a lack of guidance. What is the process that we need to go through. Turn your attention to the appointments committee. You need to look at what happened on Monday night, because you can do better.

John Julius let's talk about Monday night; he read the definition of due process. A legal opinion

was written by the Town Attorney's office. Was there any correspondence back and forth between the lawyers of the Town Attorneys office and the developer's Attorney? He then read case law, and an appellate court decision. Treat your citizens better.

Bob Schulte addressing the leadership election supports Felicia Penn and Craig Tamash.

Rob Brennan read the definition of a person aggrieved, which establishes the criteria of standing, applicant, and owner of property and within 100 feet. The appellants did not fit in the 100 foot radius, he recognizes the tough challenges ahead of us. The hard work on our renewable energy, on water, and on housing for the people that make our town run. When it comes to leadership, vote for those that have the experience, who can take this town forward.

Larry Morin spoke for candidates Felicia and Craig, the election and campaigning process, they went door to door and found out how the people feel. Follow up, delegate, and get the answer. Support Felicia and Craig, they are capable.

Roberta Mauch regarding our water quality we need to collaborate with the fire department, to make sure that people have safe drinking water. We have to be careful that special interest groups don't influence our council. We need a high density building moratorium. We need to respect our past, why are we forgetting our past.

Councilor Starr read a letter from Steve Waller about the agenda setting process. Steve feels it needs to be a week in advance, use a citizen advisory committee, engaging more citizens would make it easier.

Zoom:

Sandy Jones spoke about a recent study in West Barnstable concerning per- and polyfluoroalkyl substances (PFAS), is it available to the citizens and where can we find it. There are 18 houses in the vicinity of the substation, curious if the residents in that area have individual well testing. Close public comment

COUNCIL RESPONSE TO PUBLIC COMMENT:

(Neary) Appreciate the comments, we have made several accomplishments in engaging the public for the past three years, we had COVID, we relied on zoom, but it is a new year, be respectful, agree to disagree. Thanked President Levesque for the last three years, and the accomplishments. Silent Springs site has the report, we must focus on moving forward with housing and water quality. (Mendes) Housing is a hot button issue. Every town department is understaffed, we do not have enough people here to sustain our town. We have no choice; we are understaffed at our hospital; we can't keep workers without housing. (Penn) thanked everyone, hope you keep coming and communicating with us. (Ludtke) tracing back how did we get here? We can address them here and now and with the new leadership. We can do better planning, let's get it right. (Crow) Surprised about the open and closed nature of the appeals meeting. Reading a legal conclusion without giving parties a chance to argue the law. He would like to hear from the Town Attorney on how frequently that happens. (Schnepp) The Town Council has moved forward to try to reduce our greenhouse emissions. (Levesque) as new leadership is in place, follow up, in some cases it takes time to get the answer. Not always an easy solution, appreciate the need for a blueprint. Close response to public comment

TOWN MANAGER'S COMMUNICATIONS: (Pre-Recorded) (Levesque)

The Town Manager's report has been pre-recorded and is available to Town Council and the public. The report will be prepared in written form and posted on the Town Manager's website as in the past. The Town Manager and staff will be available to answer any questions regarding the report as presented. The Town Managers communication for the period of December 7 through December 20, 2023, included an update on:

1. Update on Budget Action Calendar
2. Update on public comment period closing relative to proposed Dog Control Regulation
3. Update on Sewer Connection Policy approved by Board of Health
4. Response prepared by Barnstable Legal Department regarding the Energy Facilities Siting Board hearing on December 11, 2023.
5. Update on use of opioid litigation funds
6. Update from Kelly Collopy, Communications Manager for the Public Works Department, on Water Resource Management planning including the Comprehensive Wastewater Management Plan.

Councilor questions and comments:

(Starr) Board of Health policy, does it come before us or just the Board of Health (Ells) It is Board of Health regulations, so they handle that. (Starr) what if they don't hook up to the sewer within the 6 months (Ells) That would be a Board of Health question. (Clark) Comments on the Dog Regulations what is the time line? (Ells) we will have a modified draft version and post it, our staff is working with the state. (Clark) please include the justification, in regard to the endangered species versus water quality. (Ells) Yes, we will do our best, we have responded to close to a hundred emails. (Tamash) Commend the Board of Health for including the innovative systems, people have made a significant investment trying to do what is best, (Ells) perhaps consider a joint meeting with the Board of Health and the Town Council, or a workshop format. (Schnepp) agree a joint meeting sooner than later, we are looking at spring of 2024 for first hookups. Is the request coming from the DPW or the Board of Health. The public has a need to know (Ells) This isn't the Town Manager's area of authority. (Schnepp) Can you discuss the progress with the Opioid money, is anything planned yet and the outreach (Milne) Created a design team, working with the consultant, first public forum at the high school, we will have translators hopefully in early January (Schnepp) Chapter 77 allows the special fund, does that take the Town Council out of the decision making (Milne) because of all the restrictions placed on the opioid funds will be decided by the staff and the public, the design team will come forward (Terkelsen) will the questions that the previous Councilors asked will that be shared with all of us. (Levesque) usually the fall is the best time for the workshops, not only the questions answered for the councilors but also for the public. (Starr) put the questions to him and he will bring them forward to the Board of Health. (Penn) language bullet number 4, the EFSB hearing, required compliance testing, what is the interpretation. The time frame of 7 AM to 6 PM is that Monday through Friday? Can we be more specific (Ells) Will defer to the legal department to answer these questions, I would have to go back to see if it was Monday through Friday or if it includes Saturdays. (Nober) Reason we worded it that way was to give the town an opportunity to be heard, if our issues are not addressed, but it is unclear what would happen. (Penn) are they going to communicate with the residents on the block if they must do 24 hours. Is that something we would have to negotiate? (McLaughlin) offered us the chance to be heard, if we cannot agree on something that is vital, through that process ask PCW to report to the EFSB. We will meet again next week, to work on a draft compliance. It is in their best interest to work with us. (Nober) the notice of project change can only be filed by PCW. (Starr) meeting with PCW is the bullets list is what is on the table, (McLaughlin) those are our prime focus, PCW and Department of Public Works (DPW) staff are attempting to meet (Terkelsen) Does Jackie Johnsons appealing the EFSB decision, give us leverage? (McLaughlin) legislative purpose of

the EFSB was to make it difficult for the towns to successfully challenge a project. For understanding, read the Cape Wind decision; EFSB was formed to eliminate our position (Levesque) the EFSB was created to override the municipalities, and that is what we are up against. (Ells) to be an intervener, we did not have that information for this report, will be ready for our next report. (McLaughlin) Lot of public comment regarding Commonwealth Wind (CW) we have filed to be an intervener. We are on record and we are premature

ACT ON PUBLIC SESSION MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of December 7, 2023, as presented.

VOTE: PASSES UNANIMOUS

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

(Clark) Cape Cod Beer has a Giving Tree for older adults in collaboration with the Barnstable Adult Community Center (BACC), all gifts were delivered this week. Meals on Wheels are still looking for help.

Break 15 minutes

2024-075 APPROPRIATION ORDER IN THE AMOUNT OF \$905,000 IN COMMUNITY PRESERVATION FUNDS FOR THE PURPOSE OF ACQUIRING A CONSERVATION RESTRICTION ON 5.5 ACRES OF OPEN SPACE AT 150 WHEELER ROAD, MARSTONS MILLS, BARNSTABLE; AND AUTHORIZATION TO EXPEND A FISCAL YEAR 2024 LOCAL ACQUISITIONS FOR NATURAL DIVERSITY (LAND) GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS IN THE AMOUNT OF \$488,700 TO DEFRAY THE COST OF SAID CONSERVATION RESTRICTION INTRO: 12/07/2023. 12/21/2023.

President Levesque recused himself from this item and left the dais.

With no Vice President we refer to the Town Council rules, which will rotate to Precinct 2 Councilor Terkelsen, who is uncomfortable, forwarding to Councilor Ludtke to take the gavel. Open public hearing, seeing no one on zoom, close public hearing.

Tom Lee of the Community Preservation Committee gave the rationale. Janet Milkman of Barnstable Land Trust (BLT) gave additional information

Councilor questions and comments:

(Clark) congratulate the Barnstable Land Trust, connecting it with other protected land.

(Schnepp) speak to the outreach results with Wheeler Road (Milkman) Yes we have spoken with the folks on Wheeler Road, discussed where the trail was going to be accessed (Schnepp) Interns are going to stay at the house (Milkman) yes our staff to be caretakers on the property. (Ludtke) how many can live in this house (Milkmen) about 4

Upon a motion duly made and seconded it was

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of Nine Hundred and Five Thousand Dollars (**\$905,000**) be appropriated from the Undesignated Fund within the Community Preservation Fund for the purpose of the Town acquiring a Conservation Restriction (CR) on 5.5± acres of land located at 150 Wheeler Road, Barnstable, shown as a portion of Assessors Map 103, Parcel 109/002, and as also shown on a sketch plan of land titled “*Concept ANR Plan of Land Located at 150 & 178 Wheeler Rd, Martons Mills, MA*”, prepared for Barnstable Land Trust, dated 7/24/2023, by Down Cape

Engineering, Inc., for conservation and passive outdoor recreation purposes, pursuant to G.L. c. 184, sections 31-32 and G.L. c. 40, section 8C, and subject to Article 97 of the Amendments to the Massachusetts Constitution, said restriction to be granted to the Town of Barnstable as primary grantee and The Compact of Cape Cod Conservation Trusts, Inc. as the secondary grantee. The Town Manager is hereby authorized to expend the amount appropriated on behalf of the Town for the acquisition of the CR. Pursuant to G.L. c. 184, section 32, the Town Council hereby approves the CR, authorizes the Town Manager to negotiate the terms of the final CR, and authorizes the Town Council President to sign the Conservation Restriction on the Town Council's behalf.

It is further ordered that the Town Manager is authorized to contract for and expend any funds that may be provided by the Commonwealth or other public or private sources to defray all or a portion of the costs of said acquisition, including, but not limited to, grants and/or reimbursement to the Community Preservation Fund from the Commonwealth under the Local Acquisitions for Natural Diversity (LAND) program (formerly known as the Self-Help program), pursuant to G.L. c. 132A, Section 11, including a LAND grant in the amount of Four Hundred and Eighty Eight Thousand, Seven Hundred Dollars (**\$488,700**), which grant and/or funds so received shall be used to repay all or a portion of the amount transferred from the Community Preservation Fund hereunder. The Town Manager is hereby authorized to negotiate, accept, approve, execute, receive, deliver, and record any written instruments to effectuate this Order and complete this transaction.

VOTE: PASSES 12 YES

Roll Call: Bloom, Burdick, Clark, Crow, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen.

Jump to this item

<p>2024-083 APPROPRIATION ORDER IN THE AMOUNT OF \$100,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR THE PURPOSE OF PROVIDING FUNDING TO THE CENTERVILLE-OSTERVILLE-MARSTONS MILLS (COMM) WATER DEPARTMENT FOR PROFESSIONAL SERVICES TO EVALUATE THE SUITABILITY OF ACQUIRING LANDS OR INTERESTS IN LAND ADJACENT TO OR WITHIN A ZONE II, AS DEFINED BY THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION DRINKING WATER REGULATIONS, AND ADJACENT TO EXISTING COMM WATER DEPARTMENT DRINKING WATER SUPPLIES INTRO: 12/07/2023, 12/21/2023</p>

Tom Lee of the Community Preservation Committee (CPC) gave the rationale. Craig Crocker from Centerville Osterville Marstons Mills Fire District (COMM) gave more information. Open public hearing seeing no one, no one on zoom, close public hearing.

Councilor questions and comments:

(Burdick) are there any matching funds, is this the complete cost (Crocker) No matching funds (Schnepf) the scope of the water resources the report that was done, did that cover COMM (Santos) just Barnstable, West Barnstable area (Schnepf) is it just a lump sum, or a reimbursement (Lee) reimbursement fund (Clark) the new water resources will it be in the COMM boundaries (Crocker) yes in the West Barnstable/Marstons Mills area (Clark) thank you for protecting our water resources, I will support (Starr) have we seen this before (Levesque) yes at a CPC meeting.

Upon a motion duly made and seconded it was

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of One Hundred Thousand Dollars (\$100,000) be appropriated from the amount set

aside for Open Space/Recreation within the Community Preservation Fund to the Centerville-Osterville-Marstons Mills (COMM) Water Department on a grant reimbursement basis for the purpose of funding professional services to assist COMM in evaluating the suitability of acquiring lands or interests in land adjacent to or within a Zone II, as defined in the Massachusetts Department of Environmental Protection Drinking Water regulations, and adjacent to existing COMM Water Department drinking water supplies. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

VOTE: PASSES 13 YES.

Roll Call: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen.

2024-077 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$770,000 FOR THE PURPOSE OF FUNDING THE BEARSE'S WAY VACUUM SEWER REPLACEMENT PROJECT INTRO: 12/07/2023, 12/21/2023

Dan Santos, Director of the Public Works Department gave the rationale
Open public hearing seeing no one, no one on zoom close public hearing

Councilor questions and comments:

(Penn) financial impact - do you have a system wide amount of money, or just in a certain area (Santos) this is just part of our annual rates study right now (Terkelsen) under the low interest loan rate, what is the rate (Milne) one point five (Terkelsen) how long will this system last (Santos) This is a gravity system, we need to replace the old system (Tamash) This project will replace half, why aren't we replacing all? (Santos) Taking the shared use path, over the next couple of years through the Capital Improvement (Ludtke) If we can use a gravity system, why would you put in a vacuum system, (Santos) that was the choice at the time, new technology (Ludtke) who did the cost estimate (Santos) cost estimate was done by the state in 2019 before COVID, costs spiked (Schnepf) Current subsidy 25% (Milne) Yes, (Clark) projects have contingencies built in, are there any reserves from past projects (Santos) No

Upon a motion duly made and seconded it was

ORDERED: That the amount of \$770,000 be appropriated for the purpose of funding the Bearse's Way Vacuum Sewer Replacement Project, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$770,000 under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES 13 YES.

Roll Call: Bloom, Burdick, Clark, Crow, Levesque, Ludtke, Mendes, Neary, Penn, Schnepf, Starr, Tamash, Terkelsen.

2024-082 ORDER AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND BARNSTABLE COUNTY FOR DREDGING SERVICES INTRO: 12/7/2023, 12/21/2023.

Dan Santos, Director of the Public Works Department gave the rationale

Councilor questions and comments:

(Ludtke) the savings are enormous it's a win-win. (Clark) are the permits already in order (Santos) Yes

Upon a motion duly made and seconded it was

ORDERED: That the Town Council authorizes the execution and delivery by the Town Manager of an Intergovernmental Agreement with Barnstable County under which Barnstable County shall perform dredging work for the Town at the Cotuit Bay Entrance and Embayment Channel for a term not-to-exceed six months in an amount not-to-exceed \$345,700.

VOTE: PASSES UNANIMOUS

2024-085 ACQUISITION OF AN EASEMENT FOR SEWER PURPOSES ON LAND AT 944 SHOOTFLYING HILL ROAD IN CENTERVILLE INTRO: 12/21/2023,

First Assistant Town Attorney Tom Larossa gave the rationale

Councilor questions and comments:

(Terkelsen) how is it that this land has been cleared (Larossa) land clearing was done by the owner.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby authorizes the Town Manager, on behalf of the Town, as part of a negotiated transaction, to take or acquire for sewer purposes, including the construction and operation of a sewer pump station, a perpetual easement on a portion of the land located at 944 Shootflying Hill Road in Centerville, with said land described in deed registered at the Barnstable Land Registration Office as Document No 1,143,800 from which Certificate of Title No. 191898 was issued. The easement area consists of 3,765± square feet as shown on a "Sewer Easement Exhibit Plan", captioned "944 Shootflying Hill Road (Centerville Village) Barnstable, Massachusetts," dated October 10, 2023, and prepared by the Department of Public Works. The Town Manager is authorized to negotiate, accept, sign, deliver and record any documents for the purposes necessary to effectuate this resolve and complete the transaction.

VOTE: PASSES UNANIMOUS

2024-086 ORDER AUTHORIZING THE AWARD AND EXECUTION OF A FIVE-YEAR CONTRACT WITH AXON ENTERPRISE, INC. FOR THE PURCHASE OF BODY WORN CAMERAS AND THE ASSOCIATED LICENSING AND STORAGE OF ALL DATA TO ESTABLISH A BODY WORN CAMERA PROGRAM FOR THE BARNSTABLE POLICE DEPARTMENT INTRO: 12/21/2023,

Upon a motion duly made and seconded it was

ORDERED: That, pursuant to M.G.L. c. 30B, § 12(b), the Town Council does hereby authorize the Town Manager to award and execute on behalf of the Town a five-year contract with Axon for the purchase of Body Worn cameras and the associated licensing and storage of all data to establish a Body Worn Camera program for the Barnstable Police Department.

VOTE: TO A 2nd READING ON 1-4-2024-UNANIMOUS

2024-087 APPROPRIATION ORDER IN THE AMOUNT OF \$73,654 FOR THE BARNSTABLE POLICE DEPARTMENT FISCAL YEAR 2024 OPERATING BUDGET FOR THE PURPOSE OF FUNDING THE INITIAL OPERATING EXPENSES FOR THE HIRING OF 9 PATROL OFFICERS INTRO: 12/21/2023

Upon a motion duly made and seconded it was

ORDERED: That the amount of **\$73,654** be appropriated and added to the Fiscal Year 2024 Police Department General Fund Operating Expense Budget for the purpose of funding the initial expenses related to hiring, training, and uniform, ammunition, and equipment purchases for 9 new police officers.

VOTE: TO A PUBLIC HEARING ON 1-4-2024-UNANIMOUS

Leadership Elections:

Councilors, I wish to open the Election of officers for the Barnstable Town Council for the year 2024.

We will first hold the election for the office of President.

- I will announce the names of the candidates,
- then nomination speeches by and for the candidate for President will be allowed
- Upon completion of the speeches, we will vote for the President.

Voting will be by roll call—a majority is all that is necessary.

The same procedure will then be repeated for the office of Vice President.

Election for the office of President - The nominees are:

- Paula Schnepf
- Felicia Penn

- Do the candidates wish to make a statement at this time?
- Are there any additional speeches in support?
- Nomination speeches are now closed.

Voting will begin for the President of the Barnstable Town Council. When I call your name, please state the name of the candidate for whom you wish to cast your vote.

Voting results:

We will now hold the election for the office of Vice President - The nominees are:

- Craig Tamash
- Gordon Starr

- Do the candidates wish to make a statement at this time?
- Are there any additional speeches in support?

- Nomination speeches are now closed.

Voting will begin, when I call your name, please give me the name of the candidate for whom you wish to cast your vote.

Voting Results:

The President for 2024 is: Councilor Penn (Vote was 7 for Penn, and 6 for Schnepf)

The Vice President for 2024 is: Councilor Tamash (Vote was 7 for Tamash and 6 for Starr)

Town Council Calendar

Jewish holidays conflict with the October dates; October has 5 Thursdays that month; change the dates to the 10th and the 24th; the second meeting in April is during School vacation change that to the 25th.

Upon a motion duly made and seconded it was

To move the October meeting dates to the 10th and the 24th.

Also, to move the April 18th date to April 25th

VOTE: PASSES UNANIMOUS

Councilor Schnepf thanked President Levesque for the time and effort you put into this position for the last three years:

(Levesque) Thanked his wife and family; we need to go where people are and may not make it to this meeting. We must help people and lend a hand where we can.

VOTED TO ADJOURN:

VOTE: PASSES UNANIMOUS

Adjourned at 10:21 PM

Respectfully submitted,

Ann M. Quirk
Town Clerk

NEXT MEETING: January 4, 2024

Exhibits

A Draft Unified Downtown Hyannis Design Guidelines

B Town Manager Update