

COMMITTEE TO REVIEW TOWN COUNCIL RULES AND TOWN CODE

Selectmen's Conference Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

December 16, 2024

4:00pm

Vice President Kris Clark (Chair)
Councilor Kristin Terkelsen
Councilor Seth Burdick
President of the Council Craig Tamash
Councilor Betty Ludtke

MEETING MINUTES

Administrator to the Town Council opened the meeting of the Committee to Review Town Council Rules and Town Code by remote participation at 4pm

Councilor Clark made the following announcement:

This meeting is being recorded and will be rebroadcast on the Town of Barnstable's Government Access Channel. In accordance with Massachusetts General Laws Chapter 30A, Section 20, the Administrator must inquire whether anyone else is recording this meeting and, if so, please make their presence known. This meeting will be replayed via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Government Access Channel live video on demand archives on the Town of Barnstable's website: <https://streaming85.townofbarnstable.us/CablecastPublicSite/?channel=1>

The Administrator to the Town Council took a Roll call, all members present via zoom link listed on the Agenda and the Town of Barnstable web page.

Also in Attendance was Karen Nober, Town Attorney and Allison Cogliano, Assistant Town Attorney

The Chair of Committee asked for public comment seeing none, Chair closed public comment.

Town Attorney, Karen Nober introduced the following document:

TOWN COUNCIL RULES OF PROCEDURE (Updated 11/27/2024)

These Town Council Rules of Procedure ("Rules" or "Town Council Rules") are adopted pursuant to Section 2.6(c) of the Town of Barnstable Home Rule Charter ("Charter" or "Town Charter"). Amending or repealing these Rules shall require two readings and a majority vote of the full Council.

A. COUNCILOR CODE OF CONDUCT

Councilors shall conduct themselves in a professional and peaceable manner during Town Council meetings. Discourse shall be marked by civility, openness and respect, even in the face of disagreement. Councilors shall not make comments that are personal in nature and shall not use insulting, threatening or abusive language. Councilors should conduct themselves in a manner that respects the orderly procedure of the meeting to assure the business of the Town is attended to as expeditiously as the deliberative process allows. To that end, discussion and debate shall focus on the agenda item being discussed or voted on until a decision is made or the discussion is postponed to a later time. Councilors shall not engage in private conversations during Council meetings, including texting or emailing each other during a meeting. Cell phones shall be silenced during Council meetings.

Councilors shall strive for openness and transparency in the performance of their duties. Councilors shall comply with the state conflict of interest law, M.G.L. c. 268A, and comply with and complete the education and training requirements on the conflict of interest law. Councilors shall comply with the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and shall certify, as required, receipt of copies of the Open Meeting Law, the regulations and the Open Meeting Law Guide prepared by the Attorney General's Office.

B. USE OF TOWN PHONES AND EMAIL

Upon election, all Town Councilors shall be assigned a Town cellphone and provided with a Town email account, and Councilors shall use the Town cellphone and Town email to conduct Town business to facilitate compliance with the state public records law. No Town resources shall be used for political purposes.

C. TOWN COUNCIL RULES

RULE 1 COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, ~~Councilors the Council~~ shall nominate a President and a Vice President, election of which shall take place ~~at on or before~~ the next regular meeting. ~~At the meeting at which the election takes place, t~~ Time shall ~~ould~~ be allotted for ~~nomination~~ speeches by each candidate, ~~which would be~~ limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each ~~C~~ councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

RULE 2 ROLE OF COUNCIL PRESIDENT

The President shall serve as a non-voting ex-officio member of all Council Committees. The President ~~and Vice President shall may~~ designate Councilors to serve as liaisons between the Council and Town boards, committees and commissions. (See Rule 11D.) ~~also be designated by the Council to be its representative to all boards and commissions. The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council.~~ The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes and may designate other ~~C~~councilors to serve in this ceremonial capacity. ~~(See also In accordance with Rule 11B.)~~

RULE 3 PRESIDING OFFICER

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a Councilor to serve as presiding officer ~~chair~~ in rotating precinct order. ~~In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings~~

RULE 4 DUTIES OF THE PRESIDING OFFICER (OR "CHAIR")

The presiding officer shall take the chair at the hour at which the Council is to meet, and call the meeting members to order.

The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the chair, without further debate upon the question, shall require a roll call vote. No vote shall take place decision shall be declared unless a quorum of the Council is present (abstentions count toward the quorum but are not considered votes; recusals do not count towards the quorum) ~~shall have voted.~~

The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto. The presiding officer may state facts, ask questions (without commenting or giving an opinion) and give opinions upon questions of order without leaving the chair. The presiding officer also may explain his or her vote. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding officer ~~chair~~ in rotating precinct order.

RULE 5A TIME AND PLACE OF MEETINGS; ATTENDANCE; REMOTE PARTICIPATION

The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings (see Chapter 220 of the Town Code).

Except in emergencies, Councilors shall notify the Council President and the Council Administrator in advance if they will be absent from a Town Council meeting. At the beginning of the meeting, the Council President shall announce the names of any absent Councilors. Councilors shall make every effort to notify the Council President and Council Administrator if they anticipate that they will arrive late to a Council meeting. The Council President shall note the arrival of any Councilor who joins the meeting late. Any Councilor who is leaving the meeting early shall announce their departure, and the Council President shall note the Councilor's departure for the record.

To the extent permitted by state law, Councilors may participate remotely in Town Council meetings in accordance with the Town Council Policy on Remote Participation then in effect, subject to any amendment or revocation of that policy as may occur; provided that any such amendment or revocation shall not require an amendment of these Rules. (A copy of the Town Council Policy on Remote Participation approved by the Council at its February 15, 2024 meeting (Item No. 2024-162) shall be attached to these Rules for informational purposes as Attachment A, but such Policy shall not be deemed to be an integral part of these Rules, and such attachment shall be removed, updated or replaced, as appropriate.)

If technical problems interrupt or prevent remote participation, the presiding officer will wait up to five (5) minutes to allow for the connection or reconnection prior to beginning or resuming the meeting. After waiting five minutes, the meeting shall continue even if the technical problems have not been resolved, but, at the discretion of the presiding officer, the meeting may be delayed for an additional reasonable period to allow for a further attempt to try to resolve the problems or the meeting may resume, but the presiding officer may

choose to skip certain agenda items while an attempt is made to resolve the problems. If the Councilor is disconnected, the fact and time shall be noted in the minutes. If the Councilor reconnects, the fact and time shall be noted in the minutes.

RULE 5BA MEETING REQUIREMENTS DEFINITIONS

Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5CB – Regular Meeting Schedule, and Chapter 220 of the Town Code.)

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any ~~four~~ **five** or more members, by written notice. ~~[online code reads 220-2Special meetings.~~

~~Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice shall include agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each Councilor at least 48 hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.~~

Said notice will include the meeting agenda, including relevant all agenda items and supporting pertinent documents, pertaining to those items which will be delivered to the Town Clerk and to each Councilor's residence at least forty-eight (48) hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.

Open Meeting Law: All meetings of the Town Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, sections 18-25, and the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: The Council may enter Executive Ssession may be entered only after the Council has first convened in Public open Ssession, provided that for which notice of the Executive Session has been appropriately posted in accordance with the Open Meeting Law (unless an emergency exception applies). The presiding officer makes the motion to go into Executive Session, citing eites the reason for going into Eexecutive Ssession and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a reason permitted under the Open Meeting Law, and calls for a roll call vote of the Council. The vote of each member is entered into the minutes, with a majority necessary to initiate an executive session.

Purposes Warranting Executive Session:

~~1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations which involving that individual.~~

~~(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.~~

~~(c) To speak in his own behalf.~~

~~2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty eight hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations involving that individual.~~

~~(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.~~

~~(c) To speak in his own behalf. 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.~~

~~4. To discuss the deployment of security personnel or devises.~~

~~5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.~~

~~6. To consider the purpose, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.~~

~~7. To comply with the provisions of any general or special law or federal grant in aid requirements.~~

~~8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.~~

9: To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:

- (a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and
- (b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.

(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 39 Section 23B.)

RULE 5CB REGULAR MEETING SCHEDULE

The Barnstable Town Council shall meet on ~~two the first and third~~ Thursdays of each month, with every effort made to schedule those meetings on the first and third Thursdays, except in the months of July and August when only one meeting will be held each month on the third Thursday ~~only~~. Meetings shall conclude at 11:00 P.M., ~~except that t~~. The subject at hand ~~may eould~~ be finished if it was ongoing at 11:00 P.M. ~~Thereafter, and the meeting may eould~~ continue after 11:00 P.M. with a two-thirds 2/3's vote of the Councilors present and voting eouncil after 11 P.M. If a regular meeting date falls on a solemn or legal holiday, the President shall make every effort to reschedule such meeting to ~~another the~~ Thursday ~~of the following week, but may choose another day if necessary and warranted by the circumstances. In addition, regular meetings may be rescheduled by the President if necessary and warranted by the circumstances, e.g., lack of quorum on the scheduled meeting date, and every effort shall be made to reschedule any such meeting to another Thursday, but another date may be chosen if necessary and warranted by the circumstances.~~ No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5DC INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the Town ~~Charter home rule charter~~. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURES: A "measure" is ~~any All~~ matters ~~to~~ coming e before the Council that is ~~are~~ inherently legislative in nature, including, but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council) and eminent domain authorizations.

Measures require 2 readings.

~~and public hearings are required for budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances~~

NON-MEASURES: A "n Non-Measure"s shall include ~~any-H~~ matters to come before the Council which is ~~are~~ not specified to be a "measure" under the Charter,s such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, but not limited to without limitation, appointments, resolutions, proclamations, tax classification votes, contract approvals that are not measures contract approvals, and petitions to the General Court.

RULE 5ED AGENDA SETTING, FILING DEADLINES FOR REGULAR MEETINGS

~~Any of the above items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to the Administrative Assistant no later than 10:00 am, seven days, exclusive of Saturday and Sunday preceding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadline. The Council President, after in consultation with the sponsoring C eouncilor, Council Administrative Assistant and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council President shall set deadlines for the submission of agenda items by other Councilors, by the Town Manager, and by Town staff, through the Town Manager, with the goal of posting the agenda for a Thursday meeting by the preceding Friday. The Council agenda, including the Town Manager's Communication, complete with documentation, shall be delivered to the Town Councilors and posted in accordance with the Open Meeting Law no later than 48 hours prior to the regular meeting of the Council.~~

RULE 5F CONSENT AGENDA

A Consent Agenda may be used 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 Town Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

RULE 5GE ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows; provided that matters may be taken out of order at the meeting at the discretion of the presiding officer;

1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment

5. Council Response to Public Comment
6. Town Manager Communications (which may be pre-recorded)
7. Act on Public Session Minutes (Includes Executive Sessions)
8. Communications from Elected Officials, Boards, Committees and Commissions, ~~and~~ and Staff, Correspondence and, Announcements and Committee Reports
9. Orders of the Day

- A. Old Business
- B. New Business

10. Adjournment

~~(Adopted by Town Council Item 2006-010, 08/18/05)~~

~~(Adopted by Town Council 2007-067, 02/01/07)~~

~~(Adopted by the Town Council 2015-027, 11/06/14)~~

RULE 5~~H~~ PUBLIC COMMENT

At each regular meeting of the Council there shall be a period set aside for public comment. ~~Any member of the public desiring to address the Council may reserve a place on the agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting. Each person~~ Any member of the public who wishes to participate in public comment ~~on the public comment docket~~ shall be recognized by the chair, and shall ~~be asked to state his/her name and, if a resident of Barnstable, asked to state the village in which they reside (if not a resident of Barnstable, they shall be asked to state their town of residence)~~ address for the record. ~~Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part, Generally,~~ public comment will be limited to three minutes for each individual speaking, ~~but additional time may be granted at the discretion of the chair.~~ All remarks and questions shall be addressed to the Council as a whole, through the chair, and not to any member thereof. ~~No member of the public may speak at a Council meeting without first being recognized by the chair. The purpose of the public comment period is for the Council to hear comments from the public, and not for the public to engage in discussions or debate with the Council or with any member of the audience. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the Council without permission of the presiding officer.~~ If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (see Open Meeting Law in accordance with MGL CH. 39, S. 23C). ~~At the beginning of public comment, a statement shall be read by the presiding officer or his or her designee substantially in the form set forth below:~~

~~I wish to remind everyone that no member of the public may speak without first being recognized by the Council President (or presiding officer). The public will have an opportunity to speak during the public comment portion of the meeting and during any public hearing on an agenda item. You are free to express your thoughts, opinions and criticisms during public comment. However, your comments must be directed to the Council as a body, through the President of the Council. You may not speak directly to any individual Councilor. You also should not be addressing your comments to anyone else in this room – not to Town staff and not to another member of the audience. Public comment is to be directed to the Council. We also ask that the members of the public refrain from making audible comments during the meeting unless they have been recognized to speak by the Council President. The Council President will request silence in the chamber if anyone ignores this rule.~~

RULE 6~~A~~ PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order. In determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative ~~Procedure~~, Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE 6~~BA~~ QUORUM

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member ~~C~~ council ~~is shall be nine eight~~ (9).

RULE 6~~CB~~ ORDER OF SPEAKING; LENGTH OF SPEAKING

~~Councilors shall not speak without being recognized by the presiding officer except to call the previous question or to doubt the presence of a quorum.~~ When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than ~~once twice~~ until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

RULE 6~~DC~~ ORDER OF MOTIONS

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess (not debatable)
3. To lay on the table (not debatable)
4. For previous question (not debatable)
5. To limit or extend limits of debate (not debatable)
6. To postpone to certain date (debatable, but just the motion, not the main question) (may be amended but only as to the date)
7. To refer (to committee) (debatable; may be amended only as to the committee)
8. To amend (motion to amend a debatable question is debatable; motion to amend a question that is not debatable is not itself debatable)
9. To postpone indefinitely (motion is debatable and opens the main question to debate; has the effect of rejecting the main motion)
10. Leave to withdraw (not debatable; may be made at any time before voting has commenced; request for leave to withdraw, presiding officer asks if any objection, if none, motion is withdrawn; if there is an objection, then motion for leave to withdraw and vote on that motion)

RULE 6E ~~D~~ PREVIOUS QUESTION

The previous question shall be put as follows: “I call the previous question.” or “I move the question.” All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote of the Councilors present and voting. If the motion to move the question passes, the Council shall immediately take a vote on the main question.

RULE 6F ~~E~~ REFERRAL TO COMMITTEE

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad hoc committee or standing committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a standing committee, commission or board of the Town with appropriate jurisdiction for advice sought by the Town Council upon motion and a majority vote of the Council.

RULE 6G ~~F~~ RECONSIDERATION

At any meeting at which a vote has been taken, it shall be in order for any Councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the Council. In addition, any Councilor who has voted with the prevailing side may make a motion for reconsideration at the next regular meeting of the Council following the vote; provided, that if such motion for reconsideration was not noticed on that next regular meeting's agenda, then any such Councilor shall give notice that a motion for reconsideration shall take place at the following regular meeting of the Council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote.

RULE 7 MATTERS REDUCED TO WRITING

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

RULE 8A ~~A~~ VOTES

Except as otherwise provided by the General Laws of the Commonwealth, the Town Charter, Town ordinance (or these Town Council Rules, which are established pursuant to Section 2-6(c) of the Town Charter), any action taken by the Town Council requiring a vote shall be by a majority of the Councilors present and voting.

~~All action taken by the Town Council requiring a vote will be by a majority unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council.~~

RULE 8BA ~~A~~ ROLL CALL

All final votes of the Town Council on ordinances, appropriation orders, ~~and or~~ loan authorizations shall be taken by roll call vote, and shall be duly recorded by the Town Clerk. On other matters requiring a vote, a roll call may be requested by any Councilor. The order of the roll call voting shall be alphabetical, and rotated after each vote. All votes taken in Executive Session shall be roll call votes. All votes taken in meetings in which any Councilor is participating remotely shall be roll call votes.

Every Councilor present when the question is put shall vote yes, no, abstention, or pass. If a Councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the roll call vote, any Councilor may have his/her name called again to record him/her differently.”

RULE 9 REJECTED MEASURES

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present and voting, or as otherwise provided by the Charter.

RULE 10 RECORD KEEPING

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk of the Council at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as

may be assigned by the Barnstable Home Rule Charter, by ordinance, or other council vote. The Council Administrator ~~ive Assistant~~ shall prepare the meeting agenda and give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public in accordance with the Open Meeting Law, Communications staff shall make best efforts to record on video ~~Said Administrative Assistant shall also audio tape record all Public Sessions of Council meetings and post said video recordings on the Town website, and file said tapes with the Clerk of the Council. Said assistant shall coordinate with the Town Manager and/or any other committee currently in charge of the videotaping, to make sure that all meetings of the Town Council are videotaped.~~ The Town Council Administrator ~~ive Assistant~~ shall be the clerk of Town Council committee meetings, workshops held by the Town Council. A transcription of a regular meeting, public hearing or debate, or any portion thereof may be requested through the Council Administrative Assistant, who shall arrange for the preparation of requested transcripts from tape recordings of meetings, hearings or debates.

RULES 11A COUNCIL COMMITTEES COMMITTEES OF THE COUNCIL

After the organization of the Council, the President, subject to approval by the ~~full~~ Council, may appoint members to standing committees of the Town Council Appointments of Councilors to the Appointments Standing Committee shall be made in accordance with Section 37-3 of the Town Code All Standing and Ad-Hoc Committees of the Council shall be advisory to the Town Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrator, who will notify the Council President and post as required with the Town Clerk. The President and Vice President of the Council shall not serve as a chair or vice-chair person of any committee of the council.

The President shall be a non-voting ex-officio member of all committees of the Council. Meetings of committees may be called by the chair or upon the written request of two members of the committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk by and the Council Administrator, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, the Town Charter, the General Laws of the Commonwealth, or as otherwise voted by the Town Council. All new standing committees, boards and commissions of the Town Council will be evaluated at the end of the first year, at which time a decision will be made by the Town Council whether to continue, disband, or change the entity.

RULE 11BA AD-HOC COMMITTEES

The President of the Town Council may designate the members of such ad-hoc committees that are established by vote of the Council, the members of which shall include ~~C~~omprised of Councilors and may include ~~or~~ registered voters in the Town of Barnstable, as is deemed necessary. The chair of any such ad-hoc committee shall be selected by vote of the committee, except that the Council vote creating the committee may impose additional requirements. At the discretion of the committee, a vice-chair may be selected by vote of the committee. Ad-hoc committees shall be comprised of an odd number of members. The period of existence for an ad-hoc committee, as specified by the Town Council vote creating the committee, shall commence from the date of the first meeting of the committee. The Town Council shall limit the number of ad-hoc committees in existence and meeting during any given period to no more than two (2); provided, however, that the Town Council by majority vote of its members may override this rule and allow for the creation of up to two (2) additional ad-hoc committees.

The chair shall organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. The Town Council Administrator shall record the minutes. Ad-hoc Committees shall have access to the Council Administrator under the direction of the Council President. Ad-hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.

RULE 11CB COMMITTEE PARAMETERS AND GUIDELINES STANDING COMMITTEES

All Standing and Ad-Hoc Committees of the Council shall be advisory to the Town Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council ~~Administrator~~ive Assistant, who will notify the Council President and post as required with the Town Clerk.

Standing committees shall select a chair ~~person~~ who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes. ~~The President and Vice President of the Council shall not serve as a chairperson of any standing committee.~~

~~Ad-hoc committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. The Town Council Administrator A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any ad-hoc committee. Ad-hoc Committees shall have access to the Council's Administratorive Assistant under the direction of the Council President officers. Ad-hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.~~
The President shall be a non-voting ex-officio member of all committees. Meetings of committees may be called by the chairperson or upon the written request of two members of the committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk and the Council Administratorive Assistant, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, the Town ~~Barnstable Home Rule~~ Charter, the General Laws of the Commonwealth ~~MGL~~, or as otherwise voted by the Town Council. All new standing committees, boards and commissions, will be evaluated at the end of the first year,; at which time a decision will be made by the Town Council whether to continue, disband, or change the entity.

RULE 11D LIAISONS TO BOARDS, COMMITTEES AND COMMISSIONS OF THE TOWN

In accordance with Section 241-8 of the Town Administrative Code, the President and Vice President shall designate each Councilor as the Council liaison to one or more of the multiple-member bodies of the Town. As set forth in said Section 241-8, each Council liaison shall meet with the chair of the board, committee or commission to which they serve as liaison to discuss and define an appropriate reporting relationship.

Council liaisons shall not participate in the deliberations or votes, nor shall they participate in or attend any executive session, of such board, committee or commission. Liaisons shall sit where the public are seated. Liaisons who wish to express a personal opinion shall do so during the public comment portion of the meeting in the same manner as other members of the public and shall state that they are speaking in their personal capacity. When recognized by the Chair, liaisons may ask questions and make comments during discussion, and shall identify themselves as liaisons prior to the first instance of speaking, unless speaking in their personal capacity during public comment. Liaisons shall not commit the Council to a course of action and are not to speak on behalf of the Council.

Liaisons shall receive meeting postings, agendas, reports, and minutes from the other body. Liaisons shall attend or watch the meetings of the other body, as they deem appropriate, and should be familiar with the materials provided as above and maintain contact with the other body's Chair.

RULE 12 APPOINTMENTS - (Nominations by the appointments committee)

Appointments require 2 readings. Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented to the Council as a first read.

RULE 13 ~~COUNCIL~~ VACANCY IN OFFICE OF PRESIDENT OR VICE PRESIDENT

In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, either because the Vice President can no longer serve or because the Vice President has assumed the powers and duties of the President, as set forth in the preceding sentence, the Council shall elect a new Vice President from among its members. The election of a new Vice President shall occur as soon as practicable but with the goal of ensuring that ~~before two regular meetings have passed.~~ No office of the Council shall remain vacant for more than two regular meetings. The nomination and election process shall conform with the process set forth in Rule 1 above. A vacancy on the Council and or vacancy of an office on the Council shall be filled in accordance with Town Charter Section 2-5, and Council Rule 3.

RULE 14 INQUIRIES AND INVESTIGATIONS

In accordance with and as set forth in Section 2-10 of the Town Charter, ~~the gives the~~ Town Council ~~may the authority to~~ conduct inquiries or investigations.

~~Section 2-10 – Inquiries and Investigations: The Town Council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The Town Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made; to any person it shall require to appear before it under this section. The Town Council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.~~

INQUIRIES:

An inquiry may be called for by a majority vote of those present at a regular Council meeting. An inquiry shall be made through the Town Manager, if it concerns areas under ~~the Town Manager's his~~ authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of authority, the Council may require such persons as ~~described mentioned~~ in Section 2-10 ~~of the Charter~~ to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council, or the Council may call for further information so that its questions may be answered.

INVESTIGATIONS:

If the Manager or other person(s) requested to make a report shall fail to do so,; or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board, or commission or ~~their its~~ members,; or if the Council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of a majority of the full Council, establish a three-person committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the ~~sub~~committee's work, subject to review at the request of the ~~sub~~committee. If the ~~sub~~committee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. ~~44 of 15 Amended TC Rules 11/06/14 eap~~

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.
4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.
5. Funds for the employment of an independent attorney shall come from the Council's budget.
6. All meetings of the Council or its ~~sub~~committee shall be held in accordance with the Open Meeting Law, [MGL C. 39, S. 23B](#).
7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.
8. The proceedings of [all public sessions of the committee](#) meetings shall be recorded [on video and transcribed verbatim](#) and provided to the full Council along with a copy of ~~sub~~committee findings. ~~Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.~~
9. The ~~sub~~committee will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The ~~full~~ Council, [by an affirmative vote of a majority of the full Council](#), will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the [Town](#) Charter, [Town ordinances](#), collective bargaining agreements and personnel rules and regulations.

RULE 15 AGENDA ITEMS

The following agenda items may be acted upon at a first reading:

Proclamations; [Individual and Group Free](#) Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable, [including amendments to or repeal of the Town Council Rules of Procedure; Group Petitions](#); Loan Authorizations; Supplemental Appropriations; and other measures.

No debate shall take place at the first reading of any item requiring a second reading.

~~Certain items require public hearings, including, but not limited to, P, and public hearings are required for budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances~~

RULE 16 SUSPENSION OF RULES

[Upon a motion and an affirmative vote of two-thirds a majority of the Councilors present and voting, any rule set forth in these Rules may be suspended in relation to a particular agenda item or for the duration of the Council meeting at which such vote is taken, provided that any requirement imposed by the Town Charter or the General Laws may not be suspended. The Council may suspend a provision of a Town ordinance by the same process that would be required to amend said ordinance.](#)

ATTACHMENT A

[\[Attach Town Council Policy on Remote Participation then in effect\]](#)

Town Attorney, Karen Nober sent the following document as a separate document and tried to reorganize Rule 5 so that it made more sense

[Revised 2024-11-27]

DRAFT REORGANIZATION OF RULE 5

RULE 5A TIME AND PLACE OF MEETINGS; MEETING REQUIREMENTS

The time and place of regular meetings shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once a month. The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings (see Chapter 220 of the Town Code).

No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5B – Regular Meeting Schedule, and Chapter 220 of the Town Code.)

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice will include the meeting agenda, including all agenda items and supporting documents, which will be delivered to the Town Clerk and to each Councilor at least forty-eight (48) hours in advance of the time set. No special meeting shall be

scheduled on a solemn or legal holiday. **The meeting notice for a special meeting of the Town Council shall be posted in accordance with the requirements of the Open Meeting Law.**

Open Meeting Law: All meetings of the Town Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, sections 18-25, and the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: The Council may enter Executive Session only after the Council has first convened in Public Session, provided that notice of the Executive Session has been appropriately posted in accordance with the Open Meeting Law. The presiding officer shall make the motion to go into Executive Session, citing the reason for going into Executive Session and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a reason permitted under the Open Meeting Law.

RULE 5B REGULAR MEETING SCHEDULE

The Barnstable Town Council shall meet on two Thursdays each month, with every effort made to schedule those meetings on the first and third Thursdays, except in the months of July and August when only one meeting will be held each month on the third Thursday. Meetings shall conclude at 11:00 P.M., except that the subject at hand may be finished if it was ongoing at 11:00 P.M. Thereafter, the meeting may continue after 11:00 P.M. with a two-thirds vote of the Councilors present and voting. If a regular meeting date falls on a solemn **Commented [K3]:** Substitute "or legal holiday, the President shall make every effort to reschedule such meeting to another Thursday, but may choose another day if necessary and warranted by the circumstances. In addition, regular meetings may be rescheduled by the President if necessary and warranted by the circumstances, e.g., lack of quorum on the scheduled meeting date, and every effort shall be made to reschedule any such meeting to another Thursday, but another date may be chosen if necessary and warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5C ATTENDANCE; REMOTE PARTICIPATION

Except in emergencies, Councilors shall notify the Council President and the Council Administrator in advance if they will be absent from a Town Council meeting. At the beginning of the meeting, the Council President shall announce the names of any absent Councilors. Councilors shall make every effort to notify the Council President and Council Administrator if they anticipate that they will arrive late to a Council meeting. The Council President shall note the arrival of any Councilor who joins the meeting late. **Any Councilor who is leaving the meeting early shall announce their departure, and the Council President shall note the Councilor's departure for the record.**

To the extent permitted by state law, Councilors may participate remotely in Town Council meetings in accordance with the Town Council Policy on Remote Participation then in effect, subject to any amendment or revocation of that policy as may occur; provided that any such amendment or revocation shall not require an amendment of these Rules. (A copy of the Town Council Policy on Remote Participation approved by the Council at its February 15, 2024 meeting (Item No. 2024-162) shall be attached to these Rules for informational purposes as Attachment A, but such Policy shall not be deemed to be an integral part of these Rules, and such attachment shall be removed, updated or replaced, as appropriate.)

If technical problems interrupt or prevent remote participation, the presiding officer will wait up to five (5) minutes to allow for the connection or reconnection prior to beginning or resuming the meeting. After waiting five minutes, the meeting shall continue even if the technical problems have not been resolved, but, at the discretion of the presiding officer, the meeting may be delayed for an additional **reasonable period** to allow for a further attempt to try to resolve the problems or the meeting may resume, but the presiding officer may choose to skip certain agenda items while an attempt is made to resolve the problems. If the Councilor is disconnected, the fact and time shall be noted in the minutes. If the Councilor reconnects, the fact and time shall be noted in the minutes.

RULE 5D INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the Town Charter. Every measure or non-measure appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURE: A "measure" is any matter coming before the Council that is inherently legislative in nature, including, but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council and eminent domain authorizations).

Measures require 2 readings.

NON-MEASURE: A "non-Measure" shall include any matter to come before the Council which is not specified to be a "measure" under the Charter, such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, but not limited to, appointments, resolutions, proclamations, tax classification votes, contract approvals that are not measures and petitions to the General Court.

RULE 5E AGENDA SETTING

The Council President, after consultation with the sponsoring Councilor and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council President shall set deadlines for the submission of agenda items by other Councilors, by the Town Manager, and by Town staff through the Town Manager, with the goal of posting the agenda for a Thursday meeting by the preceding Friday. The Council agenda, including the Town Manager's Communication, complete with documentation, shall be delivered to the Town Councilors and posted in accordance with the Open Meeting Law no later than 48 hours prior to the regular meeting of the Council.

RULE 5F CONSENT AGENDA

A Consent Agenda may be used 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 Town Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

RULE 5G ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows, provided that matters may be taken out of order at the meeting at the discretion of the presiding officer:

1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Communications (which may be pre-recorded)
7. Act on Public Session Minutes
8. Communications from Elected Officials, Boards, Committees and Commissions, and Staff, Correspondence and Announcements
9. Orders of the Day
 - A. Old Business
 - B. New Business
10. Adjournment

RULE 5H PUBLIC COMMENT

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public who wishes to participate in public comment shall be recognized by the chair, and shall be asked to state his/her name and, if a resident of Barnstable, asked to state the village in which they reside (if not a resident of Barnstable, they shall be asked to state their town of residence) for the record. Generally, public comment will be limited to three minutes for each individual speaking, but additional time may be granted at the discretion of the chair. All remarks and questions shall be addressed to the Council as a whole, through the chair, and not to any member thereof. No member of the public may speak at a Council meeting without first being recognized by the chair. The purpose of the public comment period is for the Council to hear comments from the public, and not for the public to engage in discussions or debate with the Council or with any member of the audience. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (see Open Meeting Law). At the beginning of public comment, a statement shall be read by the presiding officer or his or her designee substantially in the form set forth below:

I wish to remind everyone that no member of the public may speak without first being recognized by the Council President (or presiding officer). The public will have an opportunity to speak during the public comment portion of the meeting and during any public hearing on an agenda item. You are free to express your thoughts, opinions and criticisms during public comment. However, your comments must be directed to the Council as a body, through the President of the Council. You may not speak directly to any individual Councilor. You also should not be addressing your comments to anyone else in this room – not to Town staff and not to another member of the audience. Public comment is to be directed to the Council. We also ask that the members of the public refrain from making audible comments during the meeting unless they have been recognized to speak by the Council President. The Council President will request silence in the chamber if anyone ignores this rule

The following was introduced by Town Attorney, Karen Nober regarding sanctions if Councilors do not abide by the Town Council Rules

DRAFT – FOR DISCUSSION PURPOSES

SANCTIONS FOR VIOLATION OF RULES

The Council may, by a majority vote, approve a motion to sanction any member who, after being given a warning by the Town Council President, again violates the Rules of the Council. Sanctions that the Council may impose include a public reprimand and/or loss of committee chair or membership.

All proceedings and actions related to this motion shall be conducted in executive session pursuant to the Open Meeting Law, including but not limited to the provision that the subject member shall be given written notice at least forty-eight hours prior to consideration of any such action by the Council, unless the subject member exercises his or her right to have the action considered in open session. If an executive session is held, the subject member may speak on his or her own behalf and may have counsel or a representative present to advise him or her. However, the counsel or representative may not speak in the meeting.

Notwithstanding the foregoing, if the proceedings take place in executive session, and the Council votes to sanction the subject member, the results of the vote shall be announced in open session immediately following said executive session.

Councilor Burdick does not agree with the sanction language and does not believe we need it. Vice President Clark agreed, by adding into the rules without any teeth to it because we are all elected officials does not make sense and will just add another layer of contentiousness that is not needed. Attorney Nober mentioned that there has been a lot of work put into revising and making this document one that the Council will approve, and adding language in regarding sanctions if you don't follow the rules may derail the conversation and she would hate to see the hard work that this committee has done so far and the focus will be on the wrong section. These can always be amended if necessary at a later point if you choose to.

President Tamash made a motion to drop the sanction language from the rules discussion, this was seconded by Councilor Burdick. Administrator took a roll call vote:

Vice President Kris Clark (Chair) yes
Councilor Kristin Terkelsen yes
Councilor Seth Burdick yes
President of the Council Craig Tamash yes
Councilor Betty Ludtke yes

Chair of Committee asked for a motion to accept the meeting minutes of November 18, 2024 as written. President Tamash made the motion to accept the meeting minutes as written of November 18, 2024, this was seconded by Councilor Ludtke; a roll call vote was taken.

Vice President Kris Clark (Chair) yes
Councilor Kristin Terkelsen yes
Councilor Seth Burdick yes
President of the Council Craig Tamash yes
Councilor Betty Ludtke yes

Next meeting is scheduled for January 06, 2025 at 4pm by remote zoom link

ADJOURN: 5:37pm