



## TOWN COUNCIL MEETING

August 1, 2013

**A** quorum being duly present, Council President Debra Dagwan called the August 1, 2013, Town Council meeting to order at 7:10 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

**PRESENT:** Janice Barton, Ann Canedy, Frederick Chirigotis, James Cote, Jennifer Cullum, Debra Dagwan, June Daley, Jessica Rapp Grassetti, Michael Hersey, Janet Joakim, John Norman, Thomas Rugo, James Tinsley, Jr.

The Pledge of Allegiance was led by President Dagwan, followed by a Moment of Silence, to please keep the Dagwan family in your thoughts and prayers.

### **PUBLIC COMMENT:**

- Senator Dan Wolf appreciates the ability to speak here today, and to make the case for the vote for the non-binding question in new business. Wolf has concerns about the plant regarding the safety to all residents. This is the oldest active nuclear power plant; let the citizen's weigh in on this subject.
- Nina Tepper of Cape Downwinders, called upon the Town Councilors to vote in favor of putting the non-binding question on the November ballot.
- Stephanie Wall a retired physician stated the nuclear power plant is an accident waiting to happen. Wall spoke about the three nuclear power plant disasters and asked for the vote of the councilors.
- David Agnew gave the Town Council many facts about problems with the nuclear power plants that have the same design as the Pilgrim plant.
- Steve Brown gave the Council three safety points regarding public health for putting this question on the ballot.
- Doug Long asked the Council to give the ability to bring this to a vote and asked the Council to give the town a chance to vote.
- Jane Saunders stated this is the one year anniversary of Patrick Paige plugging the pipe on our property on Route 6A. The ditch is black in our back yard, and nothing has been done about it.
- John Julius told the Council there are 17 tax rates in the Town of Barnstable. Julius stated the town has violated the law regarding taxation; we will take this into a superior court.

Close public comment.

Recess

An announcement was made by President Dagwan 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 18.

### **COUNCIL RESPONSE TO PUBLIC COMMENT**

- No comments

Town Attorney, Ruth Weil, explained the Massachusetts General Law which specifically references that the Fire Commissioners determine the tax levies each year for each of the Fire Districts. M.G.L. c.40A § 69. The division of local services certifies the local taxes and the levied tax rate before final tax bills can be sent out to the residents.

- President Dagwan announced that the September 5<sup>th</sup> meeting has been changed to September 12th due to Rosh Hashanah.

<b>2014-005    RESOLVE PLACING A NON-BINDING QUESTION ON THE NOVEMBER 5, 2013 ELECTION BALLOT – SHUTTING DOWN THE PILGRIM NUCLEAR POWER STATION INTRO: 08/01/13</b>
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Upon a motion duly made and seconded

**RESOLVED:** That the Town Council directs that the Town Clerk to cause the following non-binding public opinion advisory question to be placed on the ballot for the Town election to be held on November 5, 2013:

"Whereas, Massachusetts Emergency Management Agency (MEMA) Director Kurt Schwartz has acknowledged that Cape residents and visitors are "in harm's way" in the event of a radiological accident at the Pilgrim Nuclear Power Station in Plymouth;

Whereas, MEMA has determined that Cape residents and visitors will not be evacuated but plans to relocate Cape citizens after exposure to dangerous radioactive materials released in an accident;

Whereas, citizens of the Town of Barnstable find this State response to Pilgrim's threat to our health and safety unacceptable and in violation of the public trust;

Therefore, we the people of the Town of Barnstable respectfully request Governor Deval Patrick to call upon the Nuclear Regulatory Commission to uphold their mandate to shut Entergy's Pilgrim Nuclear Power Station in Plymouth because the public safety, particularly Cape and Islands residents and visitors, cannot be assured.

Yes \_\_\_\_\_  
No \_\_\_\_\_"

**VOTE: 11 YES, 2 No (Canedy, Norman)**

- Town Council Town Manager Review rated the Town Manager with high marks in communications, willingness to listen to new ideas, adapted to change, bringing everyone together; a forward thinker. Exceeded most objectives at this time.
- Councilor concerns with the process; problem with the summary; doesn't single out or list the comments; learning experience; every statement was delivered to the Manager; 95% is not bad; it is open to the public; anyone can see the evaluation in the HR department; under the OML individually created documents can be summarized into a master document. Full disclosure is a good idea; every Councilor did not answer every question;.
- Response from Town Manager, Thomas Lynch, thanked the Councilors for their time and energy. Appreciated the constructive criticism, will work on additional priorities.

- Community Preservation Committee Workshop-Chairman Lindsey Counsell walked the Councilors through a power point presentation (Exhibit A). Counsell introduced the various members of the Committee, and David Houghton from the Legal Department. An in depth workshop of CPA funds; how they are spent; who can apply.
- Councilor discussion ensued: prioritizing for water access; open space; clarifying how individuals can access CPC funds; rental assistance; concern CPC funds supporting staff functions; importance of open space; restrictions on all private properties; Veteran's Park playground timetable; wellhead protection land; matching funds requirement; need to prioritize, public funds for public buildings; regionalization working with our neighbors

**ACT ON MINUTES: (Includes Executive Session)**

Upon a motion duly made and seconded it was accept the July 11, 2013 as written

**VOTED: 12 Yes, 1 Abstention (Dagwan)**

**COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS:**

Councilor Canedy has prepared a resolve regarding the previously passed item, which will be discussed at a later date. (Exhibit B) Many of the Councilor's announced festivals, events, concerts, meetings, and a bonfire in their respective villages; don't forget to vote for the 375<sup>th</sup> logo.

**2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES 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, 05/16/13, 07/11/13, 08/01/13 (as amended)**

Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

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

SECTION 1. By striking the following section 170-11 entitled "storage and removal of rubbish, garbage, and other refuse."

**"§ 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.”

SECTION 2. By re-numbering § 170-12 as § 170-11 and correcting “section” to “chapter” as follows.

**“§ 170-11 Inspections.**

Dwelling units covered by this chapter 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 3. By re-numbering the sections following § 170-11 accordingly.

SECTION 4. By adding the following sentence to subsection 170-13(A) of Section 170-13 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 \$300.00”; and by adding the following at the end of the second sentence in subsection 170-13(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 170-13 to read as follows.

**“§ 170-13. 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.”

**VOTE: 10 YES, 3 NO (Canedy, Norman, Rugo)**

<b>2013-043 AMENDING THE GENERAL ORDINANCES, ARTICLE 1, §1-3, CHAPTER 170, RENTAL REGISTRATION 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, 05/16/13, 07/11/13, 08/01/13</b>
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Open public hearing seeing no one close public hearing

Upon a motion duly made and seconded it was

**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

**VOTE: 10 YES, 3 NO (Canedy, Norman, Rugo)**

**2013-126 AMEND THE ZONING ORDINANCE CH. 240, ARTICLE X PERSONAL WIRELESS COMMUNICATION INTRO: 04/25/13, 07/11/13, 08/01/13**

Joanne Miller Buntich gave the rationale  
Open public hearing, seeing no one close public hearing.

Upon a motion duly made and seconded it was  
**ORDERED:**

That Chapter 240, Article X Personal Wireless Communication of the Zoning Ordinance is hereby amended as follows:

**§ 240-108. Antennas permitted by special permit in all zoning districts.**

This section is amended by deleting the word “or” after the word “building”; deleting the words “other than a” after the word “structure”; and adding the word “or” after the word “structure” in the second line.

The amended section would then read:

Except where permitted as of right in § 240-109 below, in all zoning districts, an antenna mounted or located on any existing building, structure **or** communications tower may be permitted by special permit from the Zoning Board of Appeals, provided that no antenna exceeds the height of the existing structure by more than 12 feet, unless the Board finds that additional height is necessary to provide coverage, and the additional height will not be visually intrusive upon the surrounding area.

**§ 240-109. Antennas permitted as of right in all zoning district.**

Antennas permitted as of right in all zoning district shall be as follows:

This section is amended by adding new subsection A and re-numerating existing subsection A,B,C,D,E and F to B,C,D.E.F and G to accommodate the insertion of the new subsection A

New subsection A to be inserted would read as follows:

A. Co-locations of antennas and customary appurtenant equipment on an existing communications tower lawfully permitted for the purpose of supporting FCC-licensed antennas, subject to compliance with Section 240-107 and the following standards:

- i. The antenna shall not increase the height of the communications tower.
- ii. The antenna shall not extend out from the tower more than technically necessary for proper operation.
- iii. The Applicant shall submit a structural analysis prepared and stamped by a registered professional engineer licensed to practice in the Commonwealth of Massachusetts demonstrating that the communications tower has sufficient structural capacity for the installation. The analysis shall include information about all antenna installations on the tower.

- iv. Ground-mounted accessory equipment shall be located within an existing equipment shelter or an area fully screened in accordance with subsection 240-107(F).

**The following subsections would be re-numerated as follows:**

- B.A. An antenna and/or tower used in accordance with the terms of an amateur radio service license issued by the Federal Communications Commission provided that any facility tower is not licensed or used for any commercial use, subject to all the requirements of § 240-8, Exempt uses.
- C.B. Television and radio antennas, including satellite dishes not exceeding a diameter of four feet, for personal use, accessory to a residential use, or to provide entertainment for a single business such as a restaurant.
- D.C. An antenna completely enclosed within an existing structure other than a communications tower, provided that the associated equipment or base transceiver station is located within an underground vault, or within an existing building or addition thereto, other than an equipment or base receiver shelter.
- E.D. An antenna located upon the roof of an existing building or structure other than a communications tower, provided that the antenna does not exceed a height of 12 feet, and provided that the equipment shelter is set back from the roof edge a distance equal to the height of the equipment shelter
- F.E. An antenna located on a water tower belonging to a public water supply utility, by permission of the water utility, not to exceed the height of the water tower by more than 12 feet, except that the Zoning Board of Appeals may by special permit increase the height of the antenna up to 20 feet where the location of the water tower and design of the antenna is such that it will not be visually intrusive upon the surrounding area.
- G.F. Antennas located on existing utility stanchions, not to exceed a height of 12 feet above the utility stanchions, located within a Commonwealth Electric Company easement, with permission of the landowner to location and maintenance of an equipment or base receiver station shelter, or submission of recorded easement language demonstrating the right to install an equipment or base receiver station for a wireless communication facility.

**VOTE: 13 Yes, Roll Call**

<b>2013-166 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES- INSERTING CHAPTER 224 VACANT OR FORECLOSING PROPERTIES INTRO: 05/16/13, 07/11/13, 08/01/13</b>
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Open a public hearing and continue to a public hearing on October 3, 2013

Upon a motion duly made and seconded it was

**ORDERED:** That Part I, General Ordinances of the Code of the Town of Barnstable be amended by inserting the following chapter 224.

**“CHAPTER 224**

**Vacant or Foreclosing Properties**

**§ 224-1. Purpose.**

Unsecured and unmaintained vacant properties and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods and, as such, constitute a public nuisance. This Ordinance is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet

enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

**§ 224-2. Definitions.**

The following words and phrases, when used in this Ordinance, shall have the following meanings:

**FIRE CHIEF**

The Fire Chief of the Fire District in which any property subject to this Ordinance is located, or his or her designee

**FORECLOSING**

The process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

**INITIATION OF THE FORECLOSURE PROCESS**

Taking any of the following actions:

- A. Taking possession of a residential property pursuant to MGL c. 244, § 1.
- B. Commencing a foreclosure action on a property in any court of competent jurisdiction, including without limitation filing a complaint in Land Court under the Service Members Civil Relief Act, Public Law 108-189 (50 U.S.C.S. App. § 501-536).
- C. In any instance, where the mortgage authorizes mortgagee entry to make repairs upon mortgagor's failure to do so.

**MAINTENANCE**

Keeping property in good sanitary condition and repair, including without limitation removal of snow from adjacent sidewalks.

**MORTGAGEE**

The creditor, including, but not limited to, service companies, agents, lenders in a mortgage agreement, and any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

**OWNER**

Every person, entity, service company, property manager or real estate broker, who or which, alone or severally with others:

- A. Has legal title to any real property, including but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- B. Has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park, or any administrator, administratrix, executor, trustee or guardian of the estate of the holder of legal title; or
- C. Is a mortgagee of any such property who has initiated the foreclosure process as defined in this Ordinance; or
- D. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- E. Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to MGL c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or

- F. Every person who operates a rooming house; or
- G. Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

**PROPERTY**

Any real residential property or portion thereof, located in the Town, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the Town, the Commonwealth or the United States of America.

**VACANT**

Any property not currently legally occupied and not properly maintained and secured but not including any property unoccupied on a seasonal basis only and properly secured while so unoccupied.

**§ 224-3. Registration of vacant and/or foreclosed residential properties; maintenance requirements.**

- A. Any owner of a vacant and/or foreclosing property shall, unless exempt from such actions by Massachusetts General Laws, within 30 days of the property becoming vacant or within 15 days of the initiation of the foreclosure process:
  - (1) Provide written notification to the (Designated Administrator) and the Fire Chief of the status of such property, including in such notice the name, address and telephone number of the owner or person in control of the property; the location of the property; the length of time the building has been vacant (where applicable); the estimated time the building will remain vacant (where applicable); and the nature of the contents of the building; and
  - (2) As may be required by the Fire Chief, file one set of space utilization floor plans for any buildings on said property with the Fire Chief and one set of said plans with the (Designated Administrator). The owner shall certify space utilization plans as accurate twice annually, in January and July; and
  - (3) Remove from the property, to the satisfaction of the Fire Chief, hazardous material as that term is defined in MGL c. 21K, as that statute may be amended from time to time; and
  - (4) At the discretion of the (Designated Administrator), secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board-up Procedures or provide twenty-four-hour on-site security personnel on the property. When a vacant or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four-hour on-site security shall be provided within the building or within the complex wherein the building is located; and
  - (5) Where a property is vacant, post "No Trespassing" signs on the property; and
  - (6) Maintain the property in accordance with this Ordinance, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and
  - (7) If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; and
  - (8) Maintain the property in accordance with the Massachusetts State Sanitary Code, the Massachusetts State Building Code and all specialized codes



- incorporated therein, and any Barnstable Ordinances concerning the maintenance of property and the Barnstable Zoning Ordinances; and
- (9) Provide the Fire Chief and (Designated Administrator) with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the Fire Chief or (Designated Administrator); and
  - (10) Maintain liability insurance on the property and furnish the Director with a copy of said certificate of insurance; and
  - (11) Provide a cash bond acceptable to the (Designated Administrator), in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the City as an administrative fee to fund an account for expenses incurred in inspecting, securing, and marking said building and other such buildings that are not in compliance with this Ordinance. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City; and
  - (12) Notify the (Designated Administrator) in writing when the property is sold or transferred.

B. Upon satisfactory compliance with the above provisions, the (Designated Administrator) shall issue a certificate of compliance with Chapter **224**. Said certificate shall be valid for the length of the vacancy or initiation of foreclosure, foreclosure, and vacancy following foreclosure; provided, however, the certificate shall be subject to continued compliance with the provisions of this Ordinance.

**§ 224-4. Signs and markings.**

When required pursuant to this Ordinance, signs or markings shall be applied on the front of the property, and elsewhere as the Fire Chief or (Designated Administrator) may require, and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the Fire Chief or (Designated Administrator), shall be placed on the sides and rear of the property. Signs/Markings shall be a minimum of 24 inches by 24 inches, with lines of two-inch width, and shall have a reflective background, or be painted with reflective paint in contrasting colors. Signs/Markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the Fire Chief and (Designated Administrator).

**§ 224-5. Properties without certificate of compliance.**

The (Designated Administrator), upon being informed of the existence of a vacant or foreclosing property without a certificate of compliance with this Ordinance, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of compliance. If any person fails to comply with said order, the (Designated Administrator) and agents thereof may commence proceedings to enforce the provisions of this Ordinance and in addition may enter the premises to inspect, secure and clean the premises, remove any pools of stagnant water, and seek court orders for the taking of such actions.

**§ 224-6. Expenses.**

The owner of a vacant or foreclosing property who fails to obtain a certificate of compliances required herein, shall be liable to the City for expenses incurred by the City in securing such

property, for removing rubbish and overgrowth and/or for abating stagnant pools of water. The (Designated Administrator) shall provide the owner with a written statement of all costs associated with inspecting, securing, and marking the property, and removing rubbish or overgrowth, or abating stagnant pools of water. If the owner fails to pay or reimburse the City within seven days of notice of expenses, the City shall draw down upon the bond paid by the owner as required in § **224-3(A)(11)**. If there is no bond available, the (Designated Administrator) shall record the notice of claim in the Barnstable County Registry of Deeds (or the Land Court Department) forthwith, and shall have the right to file a civil action to establish a lien on the property for the balance due.

**§ 224-7. Duty to maintain property.**

- A. No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the (Designated Administrator) shall send written notification to the owner, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.
- B. If the owner fails to comply with any notice issued pursuant to this provision, the (Designated Administrator) may immediately seek to obtain the proceeds secured by the bond filed pursuant to § **224-3(A)(11)** and shall enter upon the premises and cause the property to be inspected, and further may seek court orders to enter upon the premises to secure, clean, and remove any pools of stagnant water.

**§ 224-8. Nuisance referral.**

All unsecured vacant or foreclosing properties shall be immediately referred to the (Designated Administrator) for a determination relative to whether the property is a nuisance or dangerous pursuant to MGL c. 139 and procedures promulgated thereunder.

**§ 224-9. Notice.**

Notices required pursuant to this Ordinance shall be served in the following manner:

- A. Personally on any owner as defined in this Ordinance or on the contact person specified pursuant to § **224-3A(9)**; or
- B. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to § **224-3A(9)**, if such place of abode is known and is within or without the commonwealth; or
- C. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to § **224-3A(9)**.

**§ 224-10. Enforcement; violations and penalties.**

- A. Failure to comply with any provision of this Ordinance shall be punished by a fine of \$300 pursuant to MGL c. 40, § 21D, with each day of violation constituting a separate offense.
- B. This Ordinance may also be enforced by civil, criminal process or noncriminal process, including injunctive relief. The (Designated Administrator) shall be enforcing persons for purposes of this section.
- C. 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.

**§ 224-11. Term.**

This Ordinance shall be in effect until \_\_\_\_\_ and shall be void and of no effect thereafter unless extended by Ordinance enacted and effective on or before said date. “

**VOTE: Unanimous continue to a public hearing on October 3, 2013**

**\*Workshop for this item is scheduled for September 26, 2013**

<b>2014-004 RESOLVE ESTABLISHING A GIFT ACCOUNT FOR SENIOR SERVICES INTRO: 08/01/13</b>
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Rationale given by Community Relations Director, Lynne Poyant

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council, pursuant to the provisions of G.L. c. 44 §53A, hereby establishes a dedicated account for the purpose of receiving gifts to help augment senior services and hereby authorizes the Community Services Director to approve the expenditure of monies from said gift account for that purpose.

**VOTE: Unanimous**

<b>2014-006 AUTHORIZING THE TOWN MANAGER TO PETITION SPECIAL LEGISLATION TO APPOINT SPECIAL POLICE OFFICERS IN BARNSTABLE INTRO: 08/01/13</b>
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Chief Mac Donald gave the rationale, regarding recently retired police officers who have experience that we could use as special police officers.

Town Council concerns: any issue of liability; retired officers in uniform; as many as needed; only Barnstable retired Police officers; union endorsement; yearly physical chosen by the town; no drug tests

Upon a motion duly made and seconded it was

**RESOLVED,** that the Town Council authorizes the Town Manager to petition the General Court to enact a special law authorizing the appointment of special police officers in the Town of Barnstable Police Department substantially as follows.

**“AN ACT AUTHORIZING THE APPOINTMENT OF SPECIAL POLICE OFFICERS IN THE TOWN OF BARNSTABLE.**

**SECTION 1.** Notwithstanding any general or special law to the contrary, the Town Manager of the Town of Barnstable may appoint upon recommendation of the Chief of Police, retired Barnstable Police Officers as Special Police Officers for the purpose of performing police details or any other police duties arising therefrom or during the course of police detail work, whether or not related to the detail work; provided however, that such retired police officer shall have been a regular Barnstable Police Officer who retired based on superannuation. These Special Police Officers shall not be subject to the maximum age restrictions applied to regular police officers under chapter 32 of the General Laws, but shall not be eligible to serve as special police officers if they have reached the age of 70. Prior to appointment, retired police officers shall pass a medical examination conducted by a physician or other certified professional chosen by the town to determine whether such

officers are capable of performing the essential duties of a Special Police Officer, the cost of which medical examination shall be borne by the retired officers.

**SECTION 2.** Special Police Officers appointed under this act shall not be subject to chapter 31 of the General Laws or sections 99A, 150E, or 111F of Chapter 41.

**SECTION 3.** Special Police Officers when performing their duties under section 1, have the same powers to make arrests and perform other functions as do regular police officers in the Town of Barnstable.

**SECTION 4.** Special Police Officers shall be appointed for a term of one year, subject to removal or suspension by the Chief of Police with the approval of the Town Manager at any time. In the case of removal, a Special Police Officer shall be provided with 14 days written notice prior to removal. Upon request, the Chief of Police shall provide the reasons for removal or suspension in writing.

**SECTION 5.** Special Police Officers appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements of the Chief of Police of the Town of Barnstable, including but not limited to restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a Special Police Officer, requirements for training, requirements for firearms licensing and qualifications, and requirements regarding uniforms and equipment. Special Police Officers shall not be subject to section 968 of chapter 41 of the General Laws. The cost of all training, equipment, and uniforms shall be borne by the Special Police Officer.

**SECTION 6.** Special Police Officers shall be sworn before the town clerk who shall keep a record of all appointments.

**SECTION 7.** Special Police Officers appointed under this act shall be subject to section 100 of chapter 41 of the General Laws. Since Special Police Officers in the Town of Barnstable are not subject to the maximum age restriction, eligibility under section 100 does not terminate when the Special Police Officer reaches age 65. Special Police Officers appointed under this act shall not be subject to section 85H of chapter 32 of the General Laws, or eligible for any benefits under that section.

**SECTION 8.** An individual who is appointed as a Special Police Officer under this act shall be eligible for assignment to any detail, as authorized by the Chief of Police.

**SECTION 9.** Retired police officers in the Town of Barnstable serving as Special Police Officers under this act shall be subject to the limitations on hours worked and payments to retired town employees under MGL c. 32 s. 91(b).

**SECTION 10.** Special Police Officers appointed under this act shall not be eligible to collect unemployment compensation under MGL c. 151A.

**SECTION 11.** This act shall take effect upon its passage.”

**VOTE: Unanimous**

**2014-007 ACCEPTANCE OF \$202,369 GRANT AWARD FROM EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS GATEWAY CITY PARKS PROGRAM AND APPROVES SUBSTITUTION OF GRANT SOURCE IN APPROPRIATION ORDER 2012-036  
INTRO: 08/01/13**

Rationale given by Joanne Miller Buntich, grant match source has changed, but the money remains the same

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council hereby accepts the grant award in the amount of \$202,369 from the Executive Office of Energy and Environmental Affairs Gateway City Parks Program for the purpose of creating construction documents and constructing improvements to restore Ridgewood Park in Hyannis and that the Town Council hereby approves the substitution of the Executive Office of Energy and Environmental Affairs Gateway City Parks Program for the PARC Grant (Parkland Acquisitions and Renovations for Communities) as the matching grant under appropriation order 2012-036.

**VOTE: 12 Yes, 1 No (Norman)**

**2014-008 APPROPRIATION OF \$25,000 COMMUNITY PRESERVATION FUNDS TO SUPPORT THE CREATION OF COMMUNITY HOUSING INTRO: 08/01/13**

Opened and referred to a public hearing on September 12th

Upon a motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of G.L. c. 44B, the sum of Twenty Five Thousand and NO/100 (\$25,000.00) 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 creation of a housing study, a component of an overall downtown housing plan.

**VOTE: Unanimous refer to a public hearing on September 12th**

**2014-009 APPROPRIATION OF \$41,000 COMMUNITY PRESERVATION FUNDS TO ACQUIRE 2.2 ACRES OF LAND OFF LUMBERT MILL ROAD, CENTERVILLE FOR OPEN SPACE PURPOSES INTRO: 08/01/13**

Opened and referred to a public hearing on September 12

Upon a motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of G.L. c. 44B, the sum of Forty One Thousand and NO/100 (\$41,000.00) Dollars be appropriated and transferred from the Open Space 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 2.2 acres located at 483 Lumbert Mill Road, Centerville, map and parcel 146-021 for the creation of open space and to grant conservation restrictions to government entities or nonprofit organizations.

**VOTE: Unanimous to refer to a public hearing on September 12th**

**2014-010 APPROPRIATION OF \$50,000 COMMUNITY PRESERVATION FUNDS TO SUPPORT THE HYANNIS WATER SUPPLY DIVISION, ZONE 1 LAND ACQUISITION PROGRAM INTRO: 08/01/13**

Opened and referred to a public hearing on September 12th

Upon a motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of G.L. c. 44B, the sum of Fifty Thousand and NO/100 (\$50,000.00) Dollars be appropriated and transferred from the Open Space 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, to acquire fee simple, easement, restriction and other interests in land within Zone I surrounding Hyannis Water Division wells, and to grant conservation restrictions to government entities and nonprofit organizations if and when required.

**VOTE: Unanimous to refer to a public hearing on September 12**

**TOWN MANAGER COMMUNICATIONS:**

- Toured Marstons Mills School
- New Fire Chief of C.O.M.M is Mike Winn
- West Nile Virus detected in M Mills
- Nstar, to resume herbicide spraying on their lines
- US figure skating at the HYCC
- Lifeguard competition-Barnstable victorious

**Brief update by Assistant Town Manager, Mark Ells:**

Hyannis Access Implementation Plan

- Recommended alternative is an underpass
- 52 million dollar estimate
- This is the number one transportation issue
- No funding secured
- Will keep us updated where we might find the money

Shooting Range:

- Actively meeting on site
- Many Departments discussing hours of operation; staff on site; draft version of an operating plan; meeting with conservation in late summer; will keep Council informed.

**ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED to adjourn.**

**Unanimous**

**Adjourned at 10:20 PM**

Respectfully submitted,

Ann M. Quirk, CMC  
Assistant Town Clerk – Town of Barnstable

NEXT REGULAR MEETING: September 12, 2013

Exhibits:

- A Community Preservation Committee  
Community Preservation Coalition Newsletter (8/1/13) three pages handed out by Councilor  
Canedy
- B Resolve submitted by Councilor Canedy