



Town of Barnstable

Town Council

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TOWN COUNCIL MEETING

AGENDA

April 2, 2009

7:00 PM

Councilors:

Frederick Chirigotis
President

Harold E. Tobey
Vice President

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

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
 - **Update on the Centerville Village & Craigville Beach DCPC**
 - **Update by the Hyannis Main Street Initiative subcommittee of the Leadership Council to End Homelessness**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING: April 16th

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
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B. NEW BUSINESS		

None.

Minutes – March 19, 2009

Please Note:

It is possible that if it so votes, the Council may go into executive session.

The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Joint Public Hearing with the Planning Board) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-074

INTRO: 03/19/09, 04/02/098

2009-074 AMEND ZONING ORDINANCE - ADDITIONAL TEMPORARY SIGN USE

ORDERED, that the Code of the Town of Barnstable, Zoning Ordinance, Section 240-74, Temporary Signs, be hereby amended to add the following:

B. Signs, flags or banners belonging to a not for profit organization, civic organization, church or school that announce temporary events permitted through the Town Manager. Such signs, flags and banners:

1. Shall be displayed only during permitted hours of operation and shall be removed once operations cease each day.
2. Shall not obstruct pedestrian and/or vehicular traffic or be otherwise considered, at the discretion of the building commissioner or public safety officials, to be a public safety risk.
3. Shall not exceed 4 feet in width and 5 feet in length and shall be located on the building or property at the event site.
4. Shall remain subject to approvals of all applicable historic boards or commissions.

SPONSOR: Councilor Ann B. Canedy

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

AMEND THE ZONING ORDINANCE USE OF TEMPORARY SIGNS

**ITEM# 2009-074
INTRO: 03/19/09, 04/02/09**

SUMMARY

TO: The Town Council
FROM: Councilor Ann B. Canedy
DATE: February 25, 2009
SUBJECT: Exception to sign law - banners, flags, signs

BACKGROUND: This amendment addresses permitted businesses housed on Town properties or on facilities owned by the Town (e.g.: Trayser/Coast Guard Museum, JFK Museum, Guyer Barn).

The proposed amendment while permitting their use would prohibit the obstruction of pedestrian/vehicular traffic, require approval of historic districts, and limit the size of the subject banner, sign or flag.

This proposed amendment has been approved as enforceable by the Director of Regulatory Services Department, has been approved as to legal content and import by the Legal Department and by the Planning Board subcommittee.

FISCAL IMPACT: None anticipated

A. OLD BUSINESS (Joint Public Hearing with the Planning Board) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-075
INTRO: 03/19/09, 04/02/09**

2009-075 AMEND ZONING ORDINANCE - AN EXCEPTION TO THE SIGN CODE

ORDERED, that the Code of the Town of Barnstable, Zoning Ordinance Section 240-63 (D), Temporary Signs, be hereby amended to add the following:

Section 240-63 (D): For administration of this section, paragraph 240-63(D) shall not apply to the display of real estate "Open House" signs that do not obstruct pedestrian and/or vehicular traffic; are displayed only during the time an open house is in progress including one hour before and one hour after said open house; are located no farther than the nearest major intersection with the through street on which the property is located; and are otherwise compliant with this section.

SPONSORS: Councilors Ann B. Canedy and James H. Crocker, Jr.

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

AMEND THE ZONING ORDINANCE REAL ESTATE SIGNS

**ITEM# 2009-075
INTRO: 03/19/09, 04/02/09**

SUMMARY

TO: The Town Council
FROM: Councilors Ann B. Canedy & James H. Crocker, Jr.
DATE: February 25, 2009
SUBJECT: An exception to sign law – open-house signs

BACKGROUND: Currently the sign ordinance allows For Sale or Open House signs on the subject property. However, many properties are not on main roadways and therefore signs on the properties cannot be seen by the general public. This amendment allows a realtor to place signs on primary roads should the subject lot be on a less traveled or dead-end road. For example, if the lot for sale is on Old Strawberry Hill Road, this amendment would allow a sign to be placed at Phinney’s Lane and Old Strawberry Hill Road and/or Route 28 and Old Strawberry Hill Road, as long as the remote sign was no farther than the nearest intersection with the through street on which the property is located.

This amendment will save town staff time and energy better spent on other more pressing concerns. It further saves the real estate companies from the expense of replacing signs while allowing maximum exposure of available properties during the limited time the “open house” is in progress.

This Amendment has been vetted by the Regulatory Services Department, which considers the proposed amendment enforceable. The Amendment has also been vetted by the Legal Department and the Planning Board Subcommittee.

This amendment will have no negative fiscal impact on the Town and may in fact save the Town money through redirected staff time.

FISCAL IMPACT: None anticipated

A. OLD BUSINESS (Joint Public Hearing with the Planning Board) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-076
INTRO: 03/19/09, 04/02/09**

2009-076 APPROPRIATION OF \$26,000 FROM INSURANCE RECOVERY FUND

ORDERED: That the Town Council hereby appropriates the amount of \$26,000.00 from the Town's Insurance Recovery Fund for the purpose of replacing a golf sweeper machine that caught on fire and was lost in the fall 2008 at the Hyannis Golf Course and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and be authorized to accept any grants or gifts in relation thereto

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

APPROPRIATION ORDER FROM THE INSURANCE RECOVERY FUND

ITEM# 2009-076
INTRO: 03/19/09, 04/02/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: March 19, 2009
SUBJECT: Acceptance of an insurance claim - \$26,000

BACKGROUND: The Town of Barnstable Golf Maintenance Program is dedicated to providing top quality playing conditions for our member golfers and guests alike. More than 50 different pieces of turf maintenance equipment are used daily/seasonally at each of our two courses to keep them manicured. The Golf Maintenance Program strives to exceed golfers' expectations regarding course conditioning to ensure a quality golfing experience, and hopefully, retain repeat clientele. Recently, at the Hyannis Golf Course, a 1999 Smithco Sweepstar was lost due to a fire. The fire was contained to the one machine. Each of the Town's two golf courses has one large area sweeper. This machine is used seasonally to sweep leaves, pine needles, and debris from over 60 acres of turf. The sweeper is also used in the aerification cleanup process. This is a valuable and integral part of our maintenance fleet.

ANALYSIS: Recognizing that the golf industry is in a soft period at this time, and competition for fewer fee paying golfers is strong, it has become critical for the Golf Maintenance Program to keep our courses in the best condition possible in order to capture our share of the fee paying and golf outing market. Without this sweeper, all spring and fall course cleanup chores would have to be accomplished by hand. This clean up task would be labor intensive. The sweeper is used continually throughout the fall, winter, and spring months on over 60 acres of turf keeping the course clean and playable. It would also be impossible to complete the fairway aerification process without a sweeper. Turf and playing conditions would suffer resulting in golfer dissatisfaction and potential loss of revenues.

FISCAL IMPACT: A payment has been received from the Town's insurance carrier for approximately \$26,000.00, representing a substantial portion of the replacement cost of the lost machine. The Golf Maintenance Program is looking to replace the lost sweeper with the funds made available from the insurance payment supplemented by approximately \$1,000 to \$2,000 of additional money from the Golf operations budget for this piece of machinery.

BOARD/COMMITTEE ACTION: The Golf Committee unanimously supports the insurance sum to replace the sweeper machine.

STAFF ASSISTANCE: David Curley, Recreation Director
David Anthony, Chief Procurement Officer

A. OLD BUSINESS (Joint Public Hearing with the Planning Board) (Roll-call 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-077

INTRO: 03/19/09, 04/02/09

2009-077 AMEND THE ZONING ORDINANCE - TIME PERIODS FOR SPECIAL PERMITS

ORDERED, That

Section 1. The Code of the Town of Barnstable, Zoning Ordinance, Chapter 240, Article XII, Administration and Enforcement, is hereby amended by deleting §240-125C (3), Period of Validity, in its entirety and inserting in its place the following:

240-125C

(3) (a) **Period of Validity:** A special permit shall become void within two years from the date of issue unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the premises shall be open for business or in full use under said special permit,. The said two year period shall not include time required to pursue or await determination of an appeal referred to in MGL Ch. 40A, §17. However, the special permit granting authority, in its discretion, may extend the time for exercise of such rights for a period not to exceed a total of one year upon a showing of good cause; and provided further, that the request for such extension is filed with the special permit granting authority prior to the expiration of said two year period. If the permit granting authority does not grant such extension, upon the expiration of the original two-year period, such special permit shall become void.

(b) **Retroactive Applicability:** The period of validity for any special permit in effect on the effective date of these provisions shall be two years from the date of issue, unless further extended pursuant to subsection (a) above. The period of validity for any special permit that would have lapsed before the effective date of these provisions but for which a request for extension was filed prior to its lapse, shall be two years from the date of issue, unless further extended pursuant to subsection (a) above.

Section 2. That the Code of the Town of Barnstable, Zoning Ordinance, Chapter 240, Article III, District Regulations, §240-17. Open Space Residential Development is hereby amended by deleting §240-17Q (2) in its entirety and inserting in place thereof, the following new (2):

(2) **Period of Validity:** The provisions of §240-125C (3) shall apply.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
___	Read item
___	Motion to Open Public Hearing
___	Rationale
___	Public Hearing
___	Close public hearing
___	Council discussion
___	Move/vote

BARNSTABLE TOWN COUNCIL

AMEND ZONING ORDINANCE TIMEFRAME OF SPECIAL PERMITS

**ITEM# 2009-077
INTRO: 03/19/09, 04/02/09**

SUMMARY

TO: The Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Town Attorney Ruth J. Weil
DATE: March 9, 2009
SUBJECT: Amend Zoning Ordinance, Article XII, Section 240-125 C.

BACKGROUND: This is an amendment to the Zoning Ordinance, Section 240-125 Zoning Board of Appeals (C) Special Permit Provisions that deletes existing Subsection 3:

(3) Period of validity. A special permit shall become void 12 months from the date of issue unless any construction work contemplated thereby shall commence and proceed in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the premises shall be open for business or in full use under said special permit.

and adds the new **Subsection 3.**

ANALYSIS: The Zoning Ordinance now limits the extension of Special Permits to 12 months and does not provide for extension of unexercised special permits.

The purpose of the amendment is to allow the term of an unexercised special permit to be two years, a provision that exists in Massachusetts General Law, Chapter 40A, and also adds a provision to extend the special permit for one year at the discretion of the Zoning Board of Appeals, the customary procedure.

The amendment also allows special permits that have been issued in recent months to access this ability to extend the term of the special permit.

RATIONALE: This provision is fairly commonplace in Massachusetts' cities and town zoning provisions. This is an amendment that makes permitting in Barnstable more in step with Massachusetts General Law. In these difficult economic times it may also provide a benefit to applicant's who may need additional time to bring a project to the point where the special permit can be exercised.

A. OLD BUSINESS (Public Hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2009-086
INTRO: 03/19/09, 04/02/09

2009-086 AN ORDINANCE TO WAIVE WATER TOWER CONSTRUCTION FEES

ORDERED, That notwithstanding the provisions of any other ordinance of the Town regarding Schedules of Fees, water tower construction project(s) shall hereby be exempt from payment of such fees.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

AN ORDINANCE TO WAIVE THE WATER TOWER CONSTRUCTION FEES

ITEM# 2009-086
INTRO: 03/19/09, 04/02/09

SUMMARY

TO: The Town Council
FROM: John C. Klimm, Town Manager
DATE: March 19, 2009
SUBJECT: Waiver of fees for water tower construction

BACKGROUND: For the good of the public water system three new water towers will need to be built over the next several years including one in Cotuit, one in Centerville and one in Hyannis.

All three of these projects require what is known as a controlled build which requires a state licensed professional to oversee the construction of each tower consonant with and reflective of the requirements of Massachusetts General Laws.

Due to the stringent oversight requirement, there will be minimal inspection requirements by town personnel.

ANALYSIS: The aspects of this request for fee waiver have been vetted with Directory of Regulatory Affairs Thomas Geiler, who has approved of this request.

If this fee and other associated construction fees are not waived, portions of the proposed project may have to be valued engineered.

FISCAL IMPACT: It is anticipated that adoption of this order would have a neutral fiscal impact.

A. OLD BUSINESS (Second reading) (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2009-098
INTRO: 03/19/09, 04/02/09**

2009-098 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

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

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

Robert J. Ciolek, 325 Green Dunes Drive, West Hyannisport, to a term expiring 06/30/2011

HYANNIS MAIN ST. WATERFRONT HISTORIC DISCTRICT COMMISSION

Paul S. Arnold, 27 Foster Road, Hyannis, as an alternate member to a term expiring 06/30/2011

SHELLFISH COMMITTEE

Richard J. Haskell, 96 Scudder Road, Osterville, to a term expiring 06/30/2012

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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