



The Town of Barnstable

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June 16, 2022

To: Barnstable Town Councilors

From: Mark S. Ells, Town Manager

RE: Town Manager update for period June 3-16, 2022

1. Elizabeth Jenkins, Director of Planning & Development, shall provide an update on the Barnstable Local Comprehensive Plan.
2. Staff in the Town Clerk's Office, Communications Office, Planning & Development Department, Town Attorney's Office and others worked to support the Town Council Office to update the [Town's Board, Committee, and Commission Handbook](#). This handbook is a resource to orient volunteers to participating in Town government and includes information about procedures, important State laws, and roles and responsibilities. The Handbook is available on each Board and Committee webpage and will be distributed to newly appointed members.
3. The following is a wireless facilities update. Our staff has been working with outside counsel to develop draft regulations for wireless facilities in the public way, essentially to update our existing grant of location procedures to tailor them specifically to the installation of small wireless facilities and to ensure compliance with federal law. We met with outside counsel this afternoon and he will provide us with a revised draft of the regulations next week, Friday, June 24th at the latest. We anticipate that we will be able to make that draft available to the public for comment some time during the week of June 27th. This public comment process will be an initial opportunity for the public to weigh in prior to the more formal public hearing process we will undertake once we think the regulations are in final form. We do recommend a workshop with Town Council to review the draft regulations. The current draft does not include or address the following areas for which separate regulations will need to be developed:
 - Small wireless facilities on private property (zoning);
 - Expanded regulations concerning cell towers (zoning); and
 - Eligible facilities requests, i.e., requests for modifications of an existing wireless tower or base station that do not substantially change the physical dimensions of such tower or station.

In addition to developing draft regulations on wireless facilities in the public way, we have also requested and received legal guidance on: (1) the Town's ability to

adopt a moratorium on wireless permitting; (2) the Town's ability to consider Radio Frequency Emissions (RFEs) in acting upon wireless facilities applications; and (3) eligible facilities requests.

4. We are proceeding with the budget preparation for FY 2023 as per the budget action calendar. We commenced review and approval of the FY 2023 on June 2, 2022 and anticipated concluding with the operating budget for the Cape Cod Gateway Airport later this evening. For information on our fiscal year budgets, please view the Town's Open Budget website at <http://budget.townofbarnstable.us>.
5. I met with our incoming Superintendent of Barnstable Public Schools Sara Ahern this morning. It was an introductory meeting where we reviewed the relationship between our general municipal government and the Barnstable School Department. We plan to meet weekly upon Superintendent Ahern's arrival next month and there forward.
6. On June 1, 2022, the Town of Barnstable was informed of regulatory revisions the Massachusetts Department of Environmental Protection (MassDEP) is developing to ensure that timely actions are taken to restore and protect coastal estuaries that have been impacted by excessive nitrogen pollution. The two regulatory approaches they developed and plan to publish for public comment this fall provide communities with choices on how to address the growing pollution problems affecting our waters. The two proposed changes involve (1) revising Title 5 regulations to establish "Nitrogen Sensitive Areas" (NSAs) for watersheds draining into an estuary where there is an EPA-approved "Total Maximum Daily Load," which finds that the estuary is impaired by nitrogen and (2) a regulatory revision to formally establish the "watershed permit." These permits are 20-year permits that are based on long-term wastewater plans that will achieve water quality goals and provide communities the opportunity to utilize a range of approaches, including centralized sewer treatment and innovative approaches. We have tentatively established a date to meet with MassDEP later this month to further discuss these proposed changes. We will keep you advised as these important regulatory revisions progress.
7. The Department of Environmental Protection is seeking public comment on changes to the State Revolving Fund (SRF) priority ranking system used to fund water quality projects with state loans. ([Click here for more information.](#)) This is an important issue for all of Cape Cod and the proposed changes would identify Cape Cod projects in the highest priority tier statewide. I have submitted a letter of support for said changes (attached) and plan to testify on June 24, 2022 in support as well. I will keep you informed of pending changes.
8. The Cape Cod and Islands Water Protection Fund Management Board upon which I serve pursuant to its authority under M.G.L. c. 29C, §§ 19 and 20 and through the Cape Cod Commission, notified Barnstable on June 10, 2022 that the Management Board, at its meeting on June 2, 2022, voted to approve contingent commitments for subsidies from the Cape Cod and Islands Water Protection Fund (CCIWPF) to fund Qualified Projects listed on the 2022 Clean Water State Revolving Fund

Intended Use Plan (IUP). These commitments represent a 25% subsidy for projects with a cost of greater than \$1,000,000. I will keep you advised of future actions of the CCIWPF Board.

9. Beginning Saturday, June 25th, Town of Barnstable beaches and ponds will be open seven days a week through Labor Day. All beaches will be open daily from 9AM through 9PM, excluding Hathaway's Pond (9AM- 4:30PM). Similar to many communities throughout the nation and on Cape Cod, the Town is experiencing significant lifeguard shortages this summer, which may impact our ability to provide lifeguard coverage at all 13 locations. Ensuring public safety is our top priority. The Recreation Division is working to provide lifeguard staff at as many sites as possible. However, we advise the public that due to limited staffing, some sites may not have lifeguard coverage and swimmers will do so at their own risk. At this time we anticipate having full staffing, including lifeguards, at the following beaches: Craigville Beach, Dowses Beach, Covell's Beach, Kalmus Beach, Veteran's Beach, Sandy Neck, Loop Beach and Joshua's Pond. To assist the public with their summer plans, we will continue to communicate our staffing operations so the public is aware which sites have lifeguard coverage. Sites without coverage will have signage indicating there is no lifeguard on duty. All beaches will have gate staff on site to ensure users have their annual parking permit to control equitable access.
10. As a reminder, please check our website at [Roadwork Notices | Barnstable eNews](#) for up to date road work occurring in Barnstable. In previous Town Manager communications to the Town Council, DPW reported on the following:
 - a. Sewer and utility work will continue on Strawberry Hill Road through June 24th;
 - b. Sewer construction will occur on a portion of Wequaquet Lane in July and August;
 - c. Duct bank installation in July and August at night only at intersection of Route 132 and Phinney's Lane is pending approval with MassDOT; and
 - d. Construction on Phinney's Lane will commence after Labor Day.
11. As previously reported we continue discussions regarding a proposed Phase 3 (Commonwealth Wind) landing of cable in Barnstable. At a presentation by Commonwealth Wind on March 17, 2022 the proposed landing locations for cable in Osterville were shared with the Town Council. To date I continue to have discussions with Commonwealth Wind (Phase 3) project representatives but have not commenced negotiations of a Host Community Agreement and shall not do so until authorized by Town Council. I do anticipate bringing a Resolve to Town Council in the near future requesting authorization for the Town Manager to enter into negotiations regarding a Phase 3 Host Community Agreement. We will keep you advised of our progress on this matter.
12. The Town of Barnstable's Zoning Board of Appeals has formally adopted a process for developers seeking to submit an application to the Town through the Local Initiative Program (LIP). The Local Initiative Program is a state housing program, established by Massachusetts General Law Chapter 40B, sections 20-23 (also

known the Comprehensive Permit Law) and administered by the Department of Housing and Community Development (DHCD). The program was established to give cities and towns greater flexibility in their efforts to provide low and moderate-income housing. The Local Initiative Program allows for what is commonly known as a Friendly 40B development. This is a permitting process which may supersede various local requirements and regulations, including zoning, and is granted by the Zoning Board of Appeals following a public hearing process. The Town's LIP policy lays out a detailed step by step outline for a developer to seek early input prior to Town Manager endorsement. The process seeks to leverage the experience of the Town's Planning Board and Housing Committee as well as provide for an early public process. The adopted policy is now posted on the Zoning Board of Appeals webpage, under "Resources" – [Comprehensive Plan Rules and Regulations](#).

13. The Town of Barnstable roadway system is comprised of approximately 250 miles of public roads and 200 miles of private roads. I am requesting a workshop with Town Council to specifically discuss private roads in our community to address the question "Should we review our policies on the taking of private roads in Barnstable?" Currently we do not actively take private roads. The primary reason for entering into this discussion now is that we have embarked on the implementation of our Comprehensive Wastewater Management Plan that will require us to install sewers in private roads. The outcome of answering the question above will impact how we proceed with sewer expansion. I believe this will take several workshop discussions over the coming months.
14. Dan Santos, Director of Public Works, shall provide an update on Water Resource Management including the Comprehensive Wastewater Management Plan.