



# The Town of Barnstable

## Office of Town Manager

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December 20, 2023

To: Barnstable Town Councilors

From: Mark S. Ells, Town Manager

RE: Town Manager update for December 7 through December 20, 2023

1. We are proceeding with the budget action calendar for FY 2025. The Town Manager Calendar Year Fee Hearing was held on Tuesday, November 14th via Zoom and the proposed calendar year were taken under advisement and comments accepted through Thursday, December 14, 2023. The Town Manager will approve the fees on December 22, 2023. For information on our fiscal year budgets please view the Town's Open Budget website at <http://budget.townofbarnstable.us>.
2. The public comment period on the proposed Dog Control Regulations was open until Friday, December 8<sup>th</sup>. Staff has been reviewing the comments and responding to questions. The Town Manager has taken the comments under advisement and staff has prepared a modified revision of the Dog Control Regulations for final review and consideration. We will keep you advised as we move forward with approval of these modified regulations.
3. On Tuesday, December 19, 2023 the Board of Health approved a modified sewer connection policy (attached). The connection policy will be added to the Town website shortly.
4. On Monday, December 11th, I attended the meeting of the Energy Facilities Siting Board ("EFSB") to comment on the EFSB's Tentative Decision on the Park City Wind (PCW) project. I reiterated the Town's goals as the framework for my comments, including:
  - the Town's desire to assure protection for its environment and water resources;
  - minimizing the impacts of proposed construction activities on residents;
  - the need to be sure that the PCW project doesn't delay the Town's deployment of the CWMP sewer projects or imperil funding for the CWMP;
  - a request that the full PCW cable route be tested for Electromagnetic Field (EMF) readings;
  - the need for full containment of hazardous fluids in the event of an accidental release at the proposed PCW substation;

- that our industry-leading Vineyard Wind protocols be set as the minimum standard for such safeguards; and
- banning the use of firefighting foam containing PFAS chemicals.

I also asked the EFSB to allow the Town's Amended Petition to Intervene in the proceedings and the Town's proposed specific edits to the Board's Tentative Decision and amendments. The Board voted unanimously to deny the Town's Amended Petition to Intervene, following which the Board voted unanimously to approve the Tentative Decision with amendments. On December 15, 2023 the Board issued its Final Decision. The Board's denial of the Town's Petition to Intervene means that the Town does not have the ability to appeal from the Final Decision.

However, at the Town's urging, the Board ordered the Town and PCW to meet to discuss the Town's recommended conditions and ordered PCW to file a so-called "Compliance Filing" with the Board on January 5, 2024, in which PCW reports back to the Board on those discussions. PCW is required to provide a copy of its Compliance Filing to the Town, and the Board may provide the Town an opportunity to respond to that Compliance Filing if there are still areas of disagreement. Board staff noted that the Board has authority to investigate a Compliance Filing and can conduct proceedings or issue discovery. Board staff also indicated that the Host Community Agreement could be a mechanism to incorporate any agreements between PCW and the Town.

The Board limited construction activity to 7 AM – 6 PM, but allowed staging and no-idling prep beginning at 6:30 AM. It excluded emergency work and long-duration work (e.g., 24-hour work) from the limits and required notice to and coordination with the Town.

- The Board required compliance testing for EMF once 100 MW's are energized. It did not act on the Town's request for testing of the full length of the cable nor at the substation nor was annual testing post-construction ordered.
- The Board declined to require detailed construction coordination but left those details to the PCW and the Town.
- The Board did not reach the Town's request to contain ALL fluid-containing equipment, not just the major equipment.
- The Board banned the use of PFAS foam and equipment but did not impose laboratory certification requirements on substitute foams.
- The Board did not get into details of the Emergency Response Plan, leaving that to the Town and PCW to try to work out.

Town legal staff met with Park City Wind representatives to commence discussions on what the Town had proposed as amendments to the EFSB Tentative Decision.

In addition, on December 18th, the Town filed with the Board a Petition to Intervene in the Commonwealth Wind project. The standard practice is that a petition to intervene is filed after the Notice of Adjudication is given, and that has not happened yet in Commonwealth Wind – there is only a draft Notice at the present time. Because we filed early, we do not anticipate that a hearing officer will rule on our petition until after the Notice of Adjudication is given.

5. As reported in my last report the Town has contracted with consultant to assist with the development and implementation of a public outreach program relative to the use of opioid funds that we received from drug manufacturers and distributors as part of a legal settlement. A “Design Team” consisting of the Chair of the Human Services Committee, Deputy Chief of Police, Hyannis Fire Chief, Inspectional Services Director, the Town’s Communications Director, and Barnstable Public Schools’ Director of Social-Emotional Learning and Student Services has been created to work with the consultant. Their first meeting was conducted in November. They will meet weekly or bi-weekly, as needed, to plan and execute the efforts of this process. This group will be responsible for honing the process and determining if other elements or events are needed and how the efforts will be rolled out. Some important actions the consultant and Design Team will implement include identifying key stakeholders, developing a communications strategy, and conducting public meetings in the form of workshops and focus groups. The first public meeting is expected to occur in late January 2024. On December 4, 2023, Governor Healey signed [Chapter 77 of the Acts of 2023](#), Section 9 of which provides, in part, for the following exception to the general rule that all receipts are to be recorded as general fund revenue per [G.L. c. 44, § 53](#):

*“(4) non-recurring, unanticipated sums received by multiple cities, towns or districts and not otherwise provided for by general or special law, may, upon the approval of the director of accounts, be expended at the direction of the chief executive officer without further appropriation only for the singular purpose for which the monies were received” (emphasis added)*

The Director of Accounts has determined that cities and towns that have received or will receive funds in Fiscal Year 2024, or thereafter, pursuant to settlement agreements entered into by the Commonwealth with opioid distributors and opioid-makers for prevention, harm reduction, treatment, and recovery, may place said funds into a special revenue fund. The proceeds can then be expended, without further appropriation, at the direction of the chief executive officer only for the purpose identified in said settlement agreements.

This change was made as the settlement proceeds have restrictions in place unlike other receipts that have to be credited to the General Fund. In addition, settlement funds that have become part of free cash may be appropriated into the special revenue fund by vote of the community’s legislative body.

6. Kelly Collopy, Communications Manager for the Public Works Department, will provide an update on Water Resource Management planning including the Comprehensive Wastewater Management Plan.