

COMMITTEE TO REVIEW TOWN COUNCIL RULES AND TOWN CODE
Selectmen's Conference Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

July 30, 2024
5:00pm

MEETING MINUTES

The Chair of the Committee, Councilor Kris Clark opened the meeting of the Committee to Review Town Council Rules and Town Code in the Selectmen's Conference Room at 5:00pm and 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 in the Selectmen's Conference Room.

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

The Chair of Committee asked for public comment from those attending and via the Zoom link provided to the Public.

Bob Schulte- Centerville, respectfully asks that the Committee members consider the following that he has requested before both verbally and in writing.

1. The establishment of term limits for all Town committee and board positions (e.g. three terms max). We have term limits for councilor positions, and I believe we should also have them for committee and board positions.
2. The establishment of a cap on the number of committee and/or board positions that any person can sit on at one time (e.g., two committees or boards).
3. The establishment of a limit on the number of consecutive terms that an individual can serve as the chairperson of a specific committee and/or board (e.g., three terms max).

Mr. Schulte voiced concern over the changes Attorney Nober proposed changes to Rule 11B, specifically the language highlighted in yellow.

RULE 11A 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~~ ~~Ceomprised 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 a Councilor, unless expressly permitted otherwise by the Council in its vote establishing the committee.~~

Heather Hunt- Osterville Ms. Hunt had sent her comments in writing to the committee members and the Town Attorney prior to the meeting; (see comments below submitted)

Heather Hunt
P.O. Box 322
Osterville, MA 02655

July 14, 2024
Members, Ad Hoc Committee to Review Town Council Rules and the Town Code
Town of Barnstable Town Council
367 Main Street
Hyannis, MA 02601

Dear Town Councilors:

Thank you for the opportunity to provide views on issues in the Town Charter, Code and Town Council Rules that warrant review and consideration. This list of provisions that merit adjustment in my view comes with much appreciation for the Town Council recognizing the need for this important and overdue work. It also comes with thanks for the time you are dedicating to execute it.

When I have a question or issue with the Town, my first stop is the Town Charter, Town Code, and Town Council Rules. The suggestions here are based on that. As the Council is aware and thus this exercise, there are provisions that have no connection to how the Town does business. Some of those are provisions that give residents rights or are designed to ensure the appropriate operation of government on their behalf. I applaud the recognition that taxpayers ought to be able to read any of the provisions and rely on them.

Some of my suggestions for provision adjustments will appear critical, inherently. The basis for those is captured in public records – videos, minutes, communications, etc. Please take the suggestions, the rationale, and a few examples to ground them as reflective of citizen experience.

1. SPECIFICITY TO GUARD AGAINST TOWN COUNCIL LEADERSHIP OVERREACH

We've all seen the wide variation in how Town Council Presidents and Vice Presidents approach their roles. Indeed, a prior President announced publicly he no longer had gainful employment during the workdays so that he could perform a function that is not by design an actual job, as is a full-time Mayor, for example. The duties assigned to such leaders are set out in the governing documents or can be delegated to them by the Council. Yet, some assume more authority than the governing documents or their peers on the Council give them in fact.

When that happens and it affects citizens, citizens have little to no recourse but to wait until the next election, even when actions those leaders take run counter to citizen rights in the Charter, Code or Town Council Rules. The examples are abundant. To make the suggestion for changes to protect against such

overreach concrete, I offer just two examples of assumed authority that came up in recorded public meetings.

Example No. 1. It has been reported that it became practice for prior Town Council leaders to position themselves as gatekeepers of citizen communications sent to all elected Councilors via a generic council or town staff email address. No provision authorizes Town Council leadership to gatekeep citizen communications the Town Council, and there is no record of the Council assigning that job to leaders. As such, leaders have no right to assume that role.

Example No. 2. A Housing Committee member expressed that he wanted to discuss short-term rentals' impact on housing stock and affordability. Public commenters supported that. At a public meeting, town staff told the Committee it would check with the Town Council on whether the Council wanted the Housing Committee to discuss that issue. Staff came back at a next meeting and reported that the Town Council did not want the Housing Committee to discuss short-term rentals. There had been absolutely no public Council discussion about the issue, no noticed agenda item, and thus, no "Town Council" direction. One of three things could have occurred: 1) Town Council discussion happened without notice, in violation of open meeting laws, which other Councilors indicated did not happen) 2) Staff made that report up from whole cloth and reported it publicly, which is highly doubtful or, 3) Council leadership assumed authority it did not have, offered a personal point of view, and spoke as if on behalf of the full Council that was not consulted on a substantive matter.

To prevent such prior Town Council leadership overreach, the Code should:

- 1) list with specificity the authorities and duties of Town Council leadership and make clear that any other authority or duty cannot be assumed without express consent recorded in minutes following Council discussion at a noticed Council meeting, and,**
- 2) provide that the Town Council will make a public list each year of any other duties the Council decided to assign to leadership for public knowledge. (There may be other ways to prevent such overstepping, but whatever the means it should be visible to the public.)**

2. TOWN COUNCIL AGENDAS

Section 401-20 provides that residents can place items for action on the Council agenda. ("Items of business. Individuals and community organizations may submit items of business for Council action by delivering in writing such items to the Clerk of the Town Council no later than 12:00 noon on the Monday preceding the regular Council meeting.")

In practice, some prior Town Council Presidents have taken liberties not authorized by the Code and told their peers - elected Councilors - that they cannot put items on the Town Council agenda, even when Section 401-20 allows them to do so as citizens. Some Town Council Presidents have assumed authority to tell other Town Councilors that none are permitted in room when the agenda is discussed.

Access to Council agenda setting should not turn on whether a President has an insecure leadership style that causes them to prefer closed agenda-setting processes contrary to the Code's

intention. As the Code allows residents to advance items for Council action, it is really nonsensical for a President to claim authority to deny all our elected Councilors that same right, or to keep all of our Councilors in the dark about the agenda until it is published for the public. The problem to be solved here is that everyone's Councilors should have the rights they are due, not only those rights an insecure leader pretends are his or hers to hand out.

Section 401-20 should remain on the books, and that the Council should let residents know it and live to it.

Relatedly, the Code should be modified to ensure Town Council Presidents do not assume authority to ban elected Councilors from agenda-setting discussions or to keep them from identifying agenda items for action. As the Code allows residents to advance agenda items for Council action, it is an abuse of authority to pretend to be able to keep Councilors from doing the same.

3. EFFICIENT TOWN COUNCIL PRACTICES THAT ENCOURAGE PUBLIC ATTENTION

This year, we saw the Town Council President recommend new practices that make Town Council meetings more efficient. This facilitates public observation and engagement and was much appreciated. This includes:

- Living by the existing requirement in the Code that Town Manager Reports are to be in writing, rather than take up one to two hours of Town Council meetings before the Town Council commenced its business, which is the point of Council meetings and what the public tunes in to hear.
- Issue agendas on the Friday before the Thursday Town Council meeting, rather than the past leadership practice of waiting to give the public the least amount of notice required by law and posting agendas 48 hours before the Thursday meetings.
- Running certain first reads on a consent agenda to shorten meetings, which encourages the public to stay tuned in, provided, however, that if any Councilor wishes to discuss any item, that it can be pulled off of the consent agenda.

The Code or Town Council Rules should be modified to codify these best practices as follows:

Announce and live by the requirement that Town Manager Reports are to be provided in writing unless the subject matter precludes written communications. If a verbal report is required, it should be at the end of the Council meetings to allow the viewing public to hear the primary purpose of the Council meetings first, which is the Council conducting its business, unless Councilors have questions for the Town Manager.

Provide that Council agendas be issued at least five (5) days before Town Council meetings to allow the public reasonable notice of upcoming items.

Run business as appropriate by consent agendas to shorten meetings.

4. TOWN COUNCIL AD HOC SUBCOMMITTEES

The problems with prior Ad Hoc Subcommittees (Economic Development Task Force and the Regulatory and Zoning Subcommittee, for example) are well known and do not need to be recited here. Suffice it to say, prior Town Council leadership abused authority to create Ad Hoc Subcommittees by not identifying specific scopes and set timeframes and instead letting them go on and on for years, wandering from subject to subject, with no end date. This adversely affects the public's right to know how and what public business would be conducted, by whom, when and where. The public never would have assumed for instance that one ad hoc committee populated only by Hyannis business owners would be asked by staff to work on a Hyannis zoning proposal before the staff announced the beginning of the public process, and to work on town-wide housing, with a housing subcommittee and an inclusionary housing subcommittee without public notice and with the express support of town staff.

The current Town Council leadership has addressed Ad Hoc Subcommittees properly. How Town Council Ad Hoc Subcommittees run should always conform to the rules, and not turn on the whims of leaders who are dismissive of rules.

Increasing the need for a Town Code adjustment to prevent this abuse is that when citizens repeatedly raised concerns about the abuse of prior ad hoc committees to the Council leadership that willfully violated the rules, those leaders ignored the concerns or overtly dismissed them as invalid. When citizens then raised the same issues to the Town Manager and Town Attorney, they know the Code but do nothing to ensure the town works according to it. It is not constructive to speculate why.

The Code and Council Rules should be modified to require that in order for Ad Hoc Committees to be placed on Town Council agendas, they must include a defined scope and an end date.

Some paid professional staff should be given responsibility to provide taxpayers with the benefit of the processes and rules as written in the Code and other governing documents. A citizen ombudsman has been proposed in the past and may be worth considering.

5. THE CALL OF SPECIAL MEETINGS

The Town Council Rules, revised in 2019, included a provision about the number of Councilors required to call a special meeting - five. This increased the number over what is required by Sec. 220-2.

The Town Council Rules should be amended to reflect [Section § 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.”

6. INTEGRITY OF PUBLIC RECORDS

The integrity of public records rests on record retention. Barnstable's current record retention system, and thus public records production, lacks integrity.

In brief, in 2023, a records request showed that a department director's planning and zoning-related public records between herself and a property owner on Hyannis Main Street that was then the subject of a zoning change proposal, were accessed by an unidentified "non-town employee" and destroyed.

It took repeated requests (ultimately with a state office on the email) for clarification of vague, passive voice-styled answers from the Town Attorney to get the facts: requested public records about planning and zoning didn't exist because someone who does not work for the town accessed a publicly funded communication device and destroyed a public employee's planning and zoning records.

I called the State Archive office about this to learn about record retention. The office representative encouraged a complaint. Getting to the bottom of the story took persistence, and months. Taxpayers should not bear that burden to get what they are entitled to by state law. In the end, the Town's systems allowed public records to be destroyed with no recourse for the public that was denied access.

The Code should not have to direct employees to comply with the laws they are responsible for executing but facts show this is necessary in connection with record retention.

The need for the Code to more specifically require compliance is that Town Council and regulatory body members have long been allowed to create public records without any back-up. The Town Attorney's office has been aware of this for years and with no change proposed until recently, telling the Council backup was the "right thing." Respectfully, retaining records according to the law was the right thing years ago when flagged as a gap.

The Code should provide that Town Hall must back up all public records that are subject to record requests at all times.

If records are not provided to citizens because they were not retained properly or they were improperly destroyed, the Code should require the Town's response to citizens to so indicate and not simply imply that there are no records responsive to the request. Without that full and true answer, one would not know to ask for system corrections.

The Code should provide someone in Town Hall with responsibility, and protection if needed, to be straight and not prioritize protection of employees' unlawful conduct over the rights state laws give citizens. A citizen ombudsman has been proposed in the past and may be worth considering.

7. CITIZEN REQUESTS FOR INFORMATION

The Town Code has several long passages about responding to citizen requests for information at 401-18 and 19. For example, people can write to the Planning Department Director for information or even for release of so-called "public forum" questions and answers - designed for public consumption but withheld - over and over, for weeks on end, and ultimately need to appeal to the Town Manager for help getting any response. The provisions that pretend there is a specific response to citizens process should be struck unless it is real and implemented in practice. There should be some place citizens are told who to contact when employees ignore requests.

8. ZONING ENFORCEMENT RESPONSIVENESS TO CITIZENS

The Town of Barnstable's obligations under state law with respect to citizen zoning enforcement requests are clear:

"If the officer or board charged with enforcement of zoning ordinances or by-laws is requested in writing to enforce such ordinances or by-laws against any person allegedly in violation of the same and such officer or board declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of such request."

The Town has interpreted that to mean it can reply to a taxpayer who asks for zoning enforcement that the Town intends to act and then do nothing at all and consider itself to have met its legal obligations.

For example, the Building Commissioner stated in one case (mine) that "we intend to act on your request for enforcement and have begun an investigation into the matter . . . you may feel free to check in . . . after two weeks to inquire as to the status of your request at the number below." After repeated inquiries over time including to town management, a record request showed a pattern of willful delay, indicating that the Building Commissioner had no intention to undertake zoning enforcement. The Building Commissioner then took a pass on attending a ZBA hearing about the issue. In the end, a Massachusetts court ruled that the Town could not do what it did, and simply say to taxpayers "we intend to get to you someday" when asked for enforcement – the Town must give taxpayers substantive answers. Residents shouldn't have to pay to get a judge to get the Building Commissioner to simply do his obvious job.

The Town Code should make clear what the courts told Barnstable – that it must do the substantive job assigned to it by law and cannot put off or give taxpayers the run around. The Code should give residents clarity about their rights and the Building Commissioner's duties. To be clear, this change in the code would bring clarity residents deserve; it would not create any new rights for citizens or impose any new duties on the Building Commissioner. It would simply give residents clear information about their rights and avoid games at taxpayers' expense.

9. OCCUPANCY CODE

The Town Code limits the number of occupants in a home (§ 59-3Maximum number of occupants):

"The maximum number of occupants in a residential dwelling shall be determined by the number of bedrooms contained therein. A maximum number of two occupants is permitted for each of the first two bedrooms; for each additional bedroom a maximum number of one occupant is permitted. It shall be a violation of this chapter for any person in excess of that provided herein to occupy any residential dwelling."

This limit has important implications on septic systems that the Town should care about as a matter of water system and public health. (It would be interesting to see analysis of what the need for sewers would look like if the Town over time cared about people regularly piling into homes with septic systems designed for a limited number of people...). It also matters to quality of life in neighborhoods.

When one reports the regular and significant overstuffing of homes, particularly those used as Airbnbs, including those that advertise occupancy well in excess of permitted levels and that in fact rent to occupants well in excess of permitted levels, the Town does nothing to enforce the occupancy code. Reports of three families – 3 set of parents and many children piled into a legal two bedroom - or multiple transport mini-busses with dozen+ adults piling into a small home, and the like, is routinely ignored and/or residents are asked to produce evidence of violations. Another example: a parent wrote to me about a call she made to the Health Department to ask about occupancy limits when her son wanted to rent a home for his entire fraternity for a long weekend and the parent was concerned about numbers and safety. The employee who answered the phone told the mom not to worry about occupancy limits or enforcement. She said “couches, pull-outs anything is ok” as they “do not enforce” and “no worries.”

The Code should be revised to provide the Building Commissioner the rights, obligations, and tools needed to enforce the Occupancy Code.

Absent enforcement, the limits should be struck so as not to pretend to have an occupancy code and to let potential homebuyers in Barnstable have notice that it’s an anything goes Town relative to occupancy. If given that information, people buying homes as permanent residences could choose to buy homes somewhere else that doesn’t allow a dozen people to live in a two bedroom with a septic system designed for the same.

10.CODE OF ETHICS

The Town’s Code of Ethics should have meaning and some implication for violations. Or should be struck.

The examples are many, but I offer just one to underscore the need for consequence.

Example No 1. An appointed official on a regulatory body with a familial financial interest in the outcome of a matter before that body failed to recuse. When asked about that, the officials recused after influencing the body. It also happened improperly – the official gave a mad speech rather than announcing recusal and moving along. After recusal, Town staff, trained in the ethics code and aware of the recusal, invited that official to participate in the matter by writing a report of that body to the Council. The Town Attorney dubbed all that a “procedural irregularity” when announcing the body’s action had to be redone due to the ethics violations.

We also very often see recusals with people just departing rather than saying ‘I recuse’ to make it known that the disappearance is due to a conflict. Officials and staff do this regularly and currently; it happened again recently at the Affordable Housing Trust Fund.

The Code should have consequences for clear violations.

Absent that, the ethics provisions should be struck so that there is not an expectation of ethical conduct with nothing behind it.

The Code should require recusing officials and staff to state for the record that they are recusing rather than letting them slither off and not make known why.

11. PUBLIC BODY SERVICE: DISCLOSURE OF INTERESTS AND MULTIPLE BODY MEMBERSHIP

The Council has expressed an intent to review service on multiple boards and committees, as well as reappointment without discussion or review. That's appreciated.

Again, one example per issue is sufficient to illustrate the problem.

Example No. 1. A business owner applied to sit on the regulatory body that regulates his business. He was appointed to it. After, someone raised the conflict, and he resigned. A former Town Council President, who belongs to the same commercial real estate office as this person, appeared at the Appointments Committee speaking on that applicant's behalf. The former Town Council President asked the Appointments Committee to place this person on the Zoning Board of Appeals. This person did not even show up to express that interest or explain his application to sit on the body that regulated his business. The minutes of this meeting left off the former Town Council President's appearance and request for this new appointment. Moreover, the person did not disclose on his application that he was also in the commercial real estate business and there was, of course, no discussion of that. It seems to any onlooker that the Appointments Committee and the Town Council had no knowledge it was appointing someone with financial interests in the commercial real estate business in Barnstable to the ZBA. This person has been moved into seats with longer terms with no discussion. Moreover, he was elevated to a regular member over other eligible members with no discussion, only a quick reference to support from the ZBA Chair. The Town Code does not by the way give public body chairs the right to select or elevate members. Indeed, one could see how giving the Chair that power chairs do not have under the code could cause public body members to side with the chair on substance rather than exercise independent judgment.

Example No. 2 One person who used to represent the Town before the Board of Health moved to the other side of the Board of Health bench. In fact, that person sits on three public bodies. He was selected to sit on a fourth until the Town selected his firm to be a consultant to that body. He then resigned. His colleagues from his firm now appear before the Boards on which he sits, and he must regularly recuse himself. The firm in which he is a principal also has multiple contracts with the Town of Barnstable for consulting services in a variety of areas, and has for many, many years. This web of relationships, appearance issues, influence, and multiple board service is never discussed as his reappointments to the three boards is a paper push.

I have sat before a regulatory body populated with two people who recused only after participating in my matter and being asked to recuse when I appeared again, at great expense. I had to google their financial interests in my matter after hearing their curious questions that were not connected to the law they were to apply to my case. These were members who did not take recusal seriously, in my view. In my view, the ZBA handed me an adverse decision with the participation of conflicted members. The ZBA, the members and Town management all refused to answer questions about that. Those members continue to serve on the ZBA. Respectfully, citizens need the Town to do a better job of vetting and reviewing applicants and emphasizing the need for ethics compliance.

The Code should require that people who volunteer to serve on public bodies attest that they have disclosed all personal financial interests at the very least related to the bodies on which they seek to serve.

The Code should require review of public body members that wish to be reappointed. Irrespective of the work some members of the Appointments Committee wish not to do, people who seek reappointment need to be reviewed. If this is overly burdensome for some as members of the Appointment Committee, they could choose not to serve on it and leave it to people who have time to do it right. Moreover, the Code allows at least two citizens to serve on the Appointments Committee; some volunteers with professional recruiting, interviewing and vetting experience is a nice alternative to a Committee of Councilors when some claim not to have time for the job.

The Code should consider imposing some limits, particularly for regulatory bodies, in connection with the number of boards one serves on, for how many terms, and for the length of time one serves as Chair absent a compelling need for extended service. This would be consistent with Council term limits.

Thank you for your consideration and your work on this important Ad Hoc Subcommittee.

Sincerely,

Heather Hunt

Heather Hunt
Resident, Barnstable

Larry Morin- Cotuit had sent in his comments prior to the meeting, but unfortunately did not reach them in time to discuss or add to the Agenda, Administrator copied for all the members and distributed his comments and concerns, the Committee members will discuss them at the next meeting. Below are the comments distributed to the members

FIRST DRAFT AD HOC (TCR) for 7/30 meeting

To: Kris Clark, Chair; Craig Tamash, Kristin Terkelsen, Betty Ludtke and Seth Burdick, and Karen Nober, Town Attorney as a "courtesy copy".

What follows are my comments regarding each of the following Town Council Rules (10-3-2019) as well as the initial set of changes as proposed by the Town Attorney. This First Set of Comments is subject to further edits based on comments during each of the Ad Hoc Committee's meeting and any further proposed changes. It is requested that any member of this Committee provide her/his thoughts about these changes.

*Rule 1. Council Officers
the proposed changes as of the 6/25/24 meeting, no additional proposed changes at this time*

Rule 2. Role of Counsel President

at the end of the third sentence, the phrase "subject to the approval of the Council" is unnecessary and could be deleted. Otherwise, there are no additional proposed changes at this time.

Rule 3. Presiding Officer

to a logical extent, this seems to be duplicitous and adds very little to the useful rules. The three sentences lined out in green are "obvious" but the following provisions are suggested nonetheless:

The current Rule 13 should be deleted and replaced here with the following:

Dependent on any reasons as to why the President and/or Vice President are not able to retain their respective positions and/or to not be able to appear, the decisions and options for replacing either of them, whether temporary or permanently, these positions shall not be designated as "vacant" until the status has been discussed and confirmed by a roll call vote of the entire Council, whereupon replacements and other related decisions and assignments shall be determined.

Rule 4. Duties of the Presiding Officer(s)

At first glance, the description of these activities is reminiscent of kindergarden. It is my opinion that this rule be re-written or merged into other rules, such as quorum and voting provisions that follow.

Rule 5. TYPES OF MEETINGS CONVENED AND HELD BY TOWN COUNCIL

Should add: **DEFINITIONS AND REQUIREMENTS**

(break down into the following types of meetings, present separately and clearly with subsections):

with reference to "Clerk of Council", is that the Town Clerk(s) or Administrative Clerk? Regarding "rotating" council member to act as "president" in the absence of President and Vice President, it would be much better either to have alternate council members designated/assigned, or simply ask the council members: "which one(s) of you are willing and able to serve as "Acting or Interim President or Vice President?".

Rule 5A.

The following are the types, purposes and guidelines for meetings are:

1. Regular Meetings (Open for Public Comments)

*references to Town Council under Code Sec. 220-1
why only one meeting for the months of July and August
(see original 5B)?*

Delete and Replace Current Rule 5D. FILING DEADLINES FOR REGULAR MEETINGS and include with "Regular Meetings".

Delete and Replace current Rule 5D. FILING FOR DEADLINES FOR REGULAR MEETINGS and retain here as part of Rule 5A. 1. as follows:

Any of the items of business to be presented to the Town Council..... shall be submitted in writing to the Administrative Assistant/Clerk of the Council for prompt delivery to the President or to any other designated Council Member. Thereafter, the proposed item may be submitted to the Town Attorney and/or the Director of Finance based upon the relevance of the content as determined by the President of his/her designee but not for editing or

controlling the content or purpose of the filing.

2. Special Meetings (Open for Public Comments)
basically okay for now (but may warrant discussion and changes).

3. Open Meeting Law Requirements and Compliance
amend Code Sec. 220 to include specific references to the OML

why does this apply only to the Town Council? Why not to the
-- Town Manager? (refer to Administrative Code Sec. 241)
-- all Boards, Committees and Commissions?

what about references to all Town Code Sections and other authorities
if any of the measure items are for OML Complaints being filed?

There is no mention in the Town Charter or Town Council Code 220 as to
Open Meeting Law compliance. [SEE KN3]

If an OML Complaint is brought against "the Town (any department)",
the Agenda and Message posting has got to be much better than as
posted for the 7/18/24 matter!

Regarding "votes taken in Executive sessions", the first matter to be posted
must state that votes will be taken in response to wording of specific questions!

Roll call votes may be sufficient, but the minutes must disclose what the votes
were:in favor of; opposed to Or ... did not vote.

New Rule 5B.

EXECUTIVE SESSIONS (THIS SECTION DESERVES ITS OWN SECTION NUMBER)

why limited only to the Town Council? What about Town manager,
and all boards, committees and commissions?

Dealing with stating and explaining the Purposes of convening an Executive Session:

Why was the phrase "**Purposes Warranting Executive Session:**" deleted? If anything
it should be expanded and explained not only for the council members but especially
for the public.

With respect to "citing the reasonS for using and going into Executive Session",
the reasons must be specified much more clearly than has been provided.
List all of the reasonS and state verbally by the presiding officer who presents
the announcement.

The first listed "reason" should be **for matters and measures either presently
in pending litigation, or for which litigation may reasonably be anticipated:**

The Second listed "reason" should be Open Meeting Law Complaints filed and
directed against the Town Council (which may/may not include the Members)

All of the other enumerated, listed reasons currently in the Rule should be listed,
although may be presented in reduced content or format.

Also, make it clear that only the members of the town council present will attend the Executive Session UNLESS the presiding officer states who else may or will be invited, why those persons are needed, and that they will not have any voting rights.

New Rule 5C NEW SECTION DESIGNATION for "Regular Meeting Schedule"

Include a provision that states and provides for changes/amendments to the annual schedule as initially chosen and voted upon following the election of President and Vice President. New provision shall confirm flexibility and ability, upon the request of any member of the Town Council, to state reasons and circumstances upon which the date of a scheduled hearing may be changed. (in other words, these dates should not be treated as if they're "set in stone")

It is often asked by citizens/residents:

"How can an "eligible citizen" (define criteria) be able to submit and enable an issue or message of interest not only to be posted on an Agenda, but also discussed and acted upon?"

*As to the ability or opportunity for members of the public to have certain measures posted on a Meeting Agenda, why is there no specific Rule or provision by which an individual person, corporation, charity, etc?) can have a clearly defined procedure by which their concerns can be presented to the Town Council and for which responses are taken seriously, and for having their name(s) recognized and stated?
As it now stands, residents/citizens, other than Public Comments (with three minute limitations) have minimal means to really "be heard" and to have their issues and concerns taken seriously.*

(I have drafted a new proposed Rule or regulation dealing with how Public Comments should or could be handled, and will submit separately)

Old Section Number 5C "Introduction of Council Business" should be renamed and numbered and replaced with New Rule 6 with relevant subsections such as:

New Rule 6

*AGENDA CONTENTS INCLUDING OLD BUSINESS, NEW BUSINESS,
MEASURES AND NON-MEASURES*

Rule 6A.

Measures and Non-Measures

What is meant by: "measures"? What is meant "to be inherently legislative in nature"?

Buried in the language as it now exists are the words "Contract approval"! What does that mean and include? It's essential to discuss and provide a clear, concise definition and examples that are recent and relevant.

Require that for every measure/application that involves a "contract approval" that information be stated as to its applicability and reason.

Why are "measures" that are posted require:

- Two (2) readings, the first of which is silent [unless pressured]?*
- Why have there been no discussions either invited or offered*

regarding appointments, some of the financial matters, etc.?
--- is the concept of "measures" a by-product of Mason's Rules of Procedure?

Why are "supplemental" budget/appropriations deleted from this rule?
Example: moving money to and from one account to another,
yet without any clearly stated reasons?

What is the difference and impact between "measures" and "NON-measures"?
Is that covered in the Charter? Any of the Town Code provisions?
Give examples as to both so that there is a much better understanding.
This is essential so that the Council Members will not depend upon
definitions, reasons or interpretations from only the Town Attorney.

Rule 6B.

How come appointment recommendations require two (2) readings, the first of
which is silent?

--- without any offer or opportunity, inquiries or expressions of support
or opposition or other nominations at the very first reading?

--- also, why can it not be allowed to offer objections, alternative
candidates, or reasons why a particular person should be
appointed? As it stands, the Appointments Committee should
only be viewed as a "filter" to interview and do as it says
in 241-..... to RECOMMEND!

--- I have been working on a complete re-write of Ch. 37 dealing with
the Appointments Committee, will present that to the Ad Hoc
"Committee on Committees".

New Rule 6C. ESTABLISHMENT OF AN AGENDA COMMITTEE

No later than days prior to either a regularly scheduled meeting (which may also include
inclusion of Executive Session or other contemporaneous meetings or subcommittees),
the President or her/his designee shall convene a meeting to assemble and organize the
items/measures to be scheduled, as outlined more definitely under (Current) Rule 5E
[to be renumbered].

New Rule 7..... PROCEDURES AND CONDUCT OF MEETINGS

(Replace current Rule 5E. With New Rule 7A) ... ORDER OF BUSINESS (to be revised as follows)
From current Rule 5E:

Items 1., 2., 3., may remain in this sequence.

It is suggested that Public Comments, Council Responses to Public Comment, and any
other matters to be presented by the President and/or any Member of the Council or
Town attorney or Town Manager either precede the Public Comments, or the
Order of Business may also include the reopening of Public Comments following
measures/matters for which public inquiry and/or comment is requested.

The remaining numbers: 6., 7., 8., 9., 10. and whatever else may come up seems
okay... so far.

(Current Rule 5F. To be re-designated as New Rule 8. and to be given extensive thought.)

Public Comment (this one needs and deserves tons of thought and effort!!)

- setting aside the period for public comment is essential and obvious
- "reserving a place" has no longer been used, employed or required. Delete it!
- recognizing at the podium is customary
- where possible and available, those persons presenting comments to be associated with a specific project or matter are asked and encouraged to state which projects and to adhere thereto;
- no idea what is meant by "other members or persons"... delete it
- regarding length of time, while it may face resistance as to allowing time beyond 3 minutes, if a speaker/presenter indicates the need to cover his/her topic that additional time should be granted
- as for addressing "all remarks and comments to the Council as a whole" that has been the procedure all the time; however, there should be no objection to having comments referred or focused on those council members who may be more familiar than other members
- (this next one is a great idea that's needed) "With permission of the presiding officer, members of the Council as well as the person(s) presenting comments may engage in appropriate discussion and dialogue directly, which may stimulate and encourage better "Councilor responses". Interaction between council members and presenters may serve to generate answers and even resolutions to certain issues of concern.
- the rest of what's there may survive.

(I have also drafted a proposed change to the entire Public Comments procedure primarily to create means and methods by which Public Comments can and should be recognized, answered and if needed, deferred for further investigation. I will submit that proposal to the "Committee on Committees" once that Ad Hoc committee becomes "active".)

(Current Rule 6. to be replaced by New Rule 9.)

Parliamentary Guidelines

In simple terms and for the following reasons, the current use and dependency on "Mason's Manual of Legislative Procedure" are and should be considered and deemed to be "out of date" and extremely cumbersome. Rather, it is requested and encouraged that those persons [not other Council Members or Town Legal] who are familiar with Robert's Rules of Order should be afforded the opportunity to present and explain the differences and reasons why Mason's should be discarded and Robert's installed in its place.

(Current Rule 6A., to be revised and renumbered as New Rule 10.

Quorum

The two sentences as edited are for starters, but not enough.

Add: for quorum purposes during which any votes are conducted during Executive Sessions, the roll count votes shall require a majority of those members of council who voted to go into executive session. However, for those votes that would require a 2/3rds vote during any public session, for any matter or issue voted upon during executive session, the 2/3rds count shall be required.

(Current Rule 6B. Needs to be reconsidered as to its usefulness and vitality).

If to be retained and revised, new number to be assigned as New Rule 11.

Order of speaking (Length of Speaking)

Is this really necessary??!! If so, then I'll submit my suggested revisions.

(Current Rule 6C. To be re-evaluated, discussed and revised and renumbered as New Rule 12)

Order of Motions

To my knowledge and observation, there has yet to be any circumstances where there may have been "a debate" or that there has been any sequential order as to topic or matters.

*For purposes of: adjournment, recess, lay to the table (what is that?) or to limit or extend limits for any debate/discussion, or to postpone to a certain date, **aren't all of these just customary and routine and normally "just happen"?***

However, for purposes of: to refer, amend or postpone, or leave to withdraw: referring any specific matter/measure either to another committee, or to be considered and reviewed for purposes of a delayed amendment, those few instances may just be addressed as each issue/topic arises. (query: how often, if at all, has any matter been "postponed indefinitely"?)

(Current Rule 6D. Also needs to be re-evaluated, discussed, revised and renumbered to New Rule 13)

Previous question

The apparent "need" or "use" for such a situation, the best way to resolve and eliminate this is to get rid of Mason's and adopt Robert's Rules of Order

It is somewhat interesting that this provision, as it currently exists, calls for a 2/3rds vote, but does that make any sense? What really is required is to identify every type of matter or issue for which a two-thirds vote is required, then put all of those into one compact Rule.

(Current Rule 8. covers and attempts to describe how "Votes" are to be handled and managed.

This rule can and should retain its title, but the content, sequence and detail necessitate a much clearer, more effective pattern as to "votes", "amendments", etc.

*New Rule 14. **VOTES***

this may be the logical source as to how to differentiate and describe which types of votes can be satisfied by a majority vote after confirmation of a quorum, and then distinguish those that require two-thirds votes.

*(Current Rule 8A. Needs to be renumbered to New Rule 14A. **Roll Call Votes***

The simple way to deal with all of the voting procedures and requirements is to lump them all together as noted above.

The mention under current Rule 8A, which says that "all votes taken in Executive Session shall be roll call votes. [and] All votes taken in meetings held remotely shall be roll call votes. This needs to be deleted!

Having "remote" hearings and votes, it's not about where or how the meeting is being held, but rather only based on the matters/measures at issue as to whether majority or two-thirds. (for instance, any Article 97 vote count calls for a two thirds vote of the quorum because it constitutes a waiver of the State Constitution)

(Current Rule 9 also needs to be reconsidered and renumbered)

New Rule 15. **Rejected Measures**

Doesn't this just mean that if a vote count fails to meet or satisfy either a majority or two thirds count based on the matter upon which votes are conducted that the motion and/or subject of the measure is "denied" (ie. rejected)?

(Current Rule 10. deals with Record Keeping)

New Rule 16. **Record Keeping** (will hold off on this one for the time being)

The following Set of Current Rules addresses and deals with a section and function of Town Council decisions that require a great deal of thought. That's just one of the reasons why there's a separate Ad Hoc Committee
Committee to Review the Purpose, Composition, Functionality and Effectiveness of Standing Committees
(ie. being referred to as "the Committee on Committees)

(Current Rules 11, 11A and 11B, not only necessitate a current revision of content, but also, should be held in abeyance pending the recommendations from the above-referenced

Ad Hoc Committee) In the interim, this Rule should be redesignated as:

New Rule 17. Administration and Oversight of Committees under jurisdiction of Town Council. Subsections can then be assigned to specific topics.
continued

Town Council Committees (name them or provide an index/list coordinated with Administrative Code Sec. 241)

Ad Hoc Committees (refer to new Rule number)
the requirement that the "chair of any such ad-hoc committee shall be a Councilor... has already been overruled and should be deleted.

Current Rule 11B attempts to cover way too many topics, and tries to include certain provisions that really should be covered elsewhere.

(Current Rule 12. not only should be covered under the New Rule 17, but also necessitates cross references to Administrative Code Sec. 241 and the interaction and/or designation of authorities to other entities such as the Town Manager, School Board, Airport Authority, etc.)

The Rule dealing with Appointments also should include the rules to be considered and covered regarding the Appointments Committee

(I have already drafted a proposed complete revision to the Appointments Committee and will submit that separately, first to the Ad Hoc Committee, then to the Town Counsel)

The KN9 suggestion that this (reference to the Appointments Committee's recommendations and procedures under Town Council approvals) should "require" 2 reads must be rewritten. There may be times when only one reading is sufficient, just as there may be times when more than two readings are sufficient.

The entire appointment process must clarify that the Appointments Committee does not "appoint", just recommends to the Full Council. Further, it should be clearly

stated that the recommendations from the Appointments Committee are not final and can be waived, revised or overruled. (see my new changes to Ch. 37)

(as noted under Rule 1. the current Rule 13 should, in my opinion, become a subsection under Rule 1.)

First, this entire provision should appear under new Rule where the election of both President and Vice President occur.

The four lines underlined in green still deserves review and revisions.

Current Rule 14., dealing with "Inquiries and Investigations", while rarely used or deployed, involves more than just a "legislative" procedure; rather, it's more "judicial". This subject matter should be reviewed, renamed, and New Rule 18. designated. Holding off for now, too long to summarize, breakdown and rewrite.

(Current Rule 15. "Agenda Items", should be deleted and as noted above under New Rule 6C) to be considered and covered under those matters)

(Current Rule 16. "Suspension of Rules", should be reviewed and revised and renumbered to New Rule 19.

Will look this one over later, too tired right now.

Sue Hamel, and Anne Schulte (just listening)

The Committee members thanked the individuals that came to speak at public comment and will take the comments under advisement for discussion at the next meeting.

Attorney Nober introduced the following document. The discussion started with where the Committee had left off prior on June 25, 2024 which was Rule 6B.

TOWN COUNCIL RULES (Updated KLN 07/29/2024)

RULE 1 COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, Councilors shall nominate a President and a Vice President, election of which shall take place at the next regular meeting. At the meeting at which the election takes place, time shall be allotted for speeches by each candidate, limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each 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 may designate Councilors to serve as liaisons between the Council and the Town's boards, committees and commissions. 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 councilors to serve in this ceremonial capacity.

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 in rotating precinct order.

RULE 4 DUTIES OF THE PRESIDING OFFICER

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

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 chair in rotating precinct order.

RULE 5 MEETINGS

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).

RULE 5A MEETING REQUIREMENTS

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 5B – 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 should solemn be changed to **religious**) 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 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 makes 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 the first and third Thursdays of each month, except in the months of July and August when meetings will be held on the third Thursday only. 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** (or should solemn be changed to **religious**) or legal holiday, the president shall make every effort to reschedule such meeting to the Thursday of the following week but may choose another day if warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5C 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.

Commented [KN1]: Deleted General Laws

Commented [KN2]: Insert language from memo

RULE 5D 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. 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.

Commented [KN3]: Redlined language is new

RULE 5E 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 5F 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 state his/her name and, if a resident of Barnstable, the village in which they reside (if not a resident of Barnstable, they shall 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 intention 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. 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).

RULE 6 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, 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 6A QUORUM

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

RULE 6B 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 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 6C 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 6D 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 6E 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 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 committee, commission or board for advice sought by the Town Council.

RULE 6F 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. 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 8 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 rules set forth in the Policy and Procedures Manual of the Barnstable Town Council.~~

RULE 8A 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 Administrative Assistant shall 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 Department staff shall videotape ~~Said Administrative Assistant shall also videotape record~~ all Public Sessions of Council meetings, post said tapes 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 Council Administrative 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 11 COUNCIL COMMITTEES

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.

RULE 11A 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~~ ~~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 a Councilor, unless expressly permitted otherwise by the Council in its vote establishing the committee.

RULE 11B COMMITTEE PARAMETERS AND GUIDELINES

All Committees shall be advisory to the Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrative 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 chair~~person~~ of any standing committee.

Ad hoc committees shall select a Councilor as 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. 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 Administrative 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 chair~~person~~ 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 Administrative 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 12 APPOINTMENTS - (Nominations by the appointments committee)

Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented.

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, 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

~~A vacancy on the council and or vacancy of an office on the Council shall be filled in accordance with the 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 an 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 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 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 eCommittee 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 committee's work, subject to review at the request of the subcommittee. If the subcommittee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. 14 of 15 Amended TC Rules 11/06/14 cap

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 subcommittee 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 the meetings shall be recorded and transcribed verbatim and provided to the full Council along with a copy of subcommittee findings. Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.

9. The subcommittee 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; 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; 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.

Public hearings are required for budget item, Capital Improvement Plan Items, supplemental budget/appropriation items and ordinances.

RULE 16 SUSPENSION OF RULES

Upon a motion and an affirmative vote of 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 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.

ADJOURN: 6:52 pm