



# The Town of Barnstable Town Council

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Janet S. Joakim  
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Administrator:  
Donald M. Grissom

Town Council  
Secretary:  
Cheryl A. Phillips

## TOWN COUNCIL AGENDA

August 17, 2006

7:00 PM

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **MOMENT OF SILENCE**
4. **PUBLIC COMMENT**
5. **COUNCIL AND TOWN MANAGER RESPONSE TO PUBLIC COMMENT**
6. **REPORTS FROM TOWN COUNCIL, BOARDS, AND COMMITTEES**
7. **ACT ON MINUTES**
8. **ORDERS OF THE DAY**
  - A. **OLD BUSINESS**
  - B. **NEW BUSINESS**
9. **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE AND ANNOUNCEMENTS**
10. **PRESIDENT/VICE PRESIDENT COMMUNICATIONS**
11. **TOWN MANAGER COMMUNICATIONS**
12. **PUBLIC COMMENT**
13. **ADJOURNMENT.**

**NEXT MEETING SEPTEMBER 7TH.**

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Minutes of Barnstable Town Council Meeting of July 20, 2006.

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**Please Note:** It is possible, if it so votes, the Council may go into executive session.

**A. OLD BUSINESS (To Be Referred To Joint Public Hearing September 7th)**

**BARNSTABLE TOWN COUNCIL**

**2006-147 AMENDMENT OF THE ZONING ORDINANCE BY THE CREATION  
OF AN AFFORDABLE HOUSING OVERLAY DISTRICT (AHOD)  
INTRO.: 6/15/06; 08/17/06**

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE  
MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

**AFFORDABLE HOUSING OVERLAY DISTRICT**

**1. Purpose.** The purpose of this Section is to establish an overlay district(s), in which a special permit process is created to encourage privately initiated affordable housing by for-profit and not-for-profit organizations that authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide a percentage of affordable housing as defined in Section 9 herein.

**2. Definitions.**

Affordable Housing Development (AHD) – A development of single-family (detached), duplex (two family detached) and/or multi-family (three or more dwelling units per building) residential dwellings, including required Affordable Units, and permissible accessory structures authorized by special permit from the Planning Board as set forth herein for parcels located in the AHOD.

Affordable Unit - A dwelling unit reserved in perpetuity for ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in 760 CMR 45.03(4), in order that such Affordable Units shall be included in the DHCD Subsidized Housing Inventory.

Applicant - The person or persons, including a corporation or other legal entity, who applies for approval of an Affordable Housing Development (AHD), hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed AHD, or have authority from the owner(s) to act for the owner (s) or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Building Height – Building height shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridge line.

Building story - The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Vistability – Shall mean that a residence has: a) no steps between the exterior walking surface and interior first floor level; b) at least one external door three (3) feet wide; c) all first floor passage doors at least 2 feet 8 inches wide; and d) at least one toilet room on first floor.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**3. Affordable Housing Overlay District.** The AHOD is an overlay district that may be superimposed on any parcel(s) in any zoning district. Where the AHOD authorizes uses not otherwise allowed in the underlying district, the provisions of the AHOD shall control.

**4. Location.** The AHOD is to be shown on the Official Zoning Map of the Town of Barnstable.

**5. Concept Plan.** Prior to the rezoning of any property for inclusion in the AHOD, and as part of the petition for such rezoning, a schematic plan, called for purposes of this Section, a "Concept Plan", shall be filed by the applicant with the Planning Board for review at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Board. The Planning Board and the Barnstable Housing Committee shall hold a joint public meeting on the Concept Plan. The Concept Plan shall be consistent with the provisions of this AHOD ordinance and the town of Barnstable Affordable Housing Plan. In deliberation on approval of a Concept Plan, the Planning Board shall give consideration to the Town of Barnstable Village Plans as appended to the Town of Barnstable Local Comprehensive Plan.

The Concept Plan shall include:

- A. A schematic site development plan showing in general, the location of all proposed buildings, general site grading, parking, landscaping, roads, walkways and access ways, open space, wetlands, lighting and signage;
- B. A general breakdown of building types, i.e. single family, two family, multi family (and number of bedrooms in each building type);
- C. A schematic subdivision plan(s), if applicable;
- D. The proposed level of affordability;
- E. Specific floor plans, building plans or other detailed construction documents are **not** required at the Concept Plan stage.

The Barnstable Planning Board and the Barnstable Housing Committee will notify the public of the time and date of the public meeting on the Concept Plan. Thereafter, the Barnstable Planning Board shall determine that (i) the Concept Plan has been approved; or (ii) the Concept Plan has been approved subject to modifications; or (iii) the Concept Plan has been disapproved. If the Barnstable Planning Board disapproves the Concept Plan, it shall provide to the applicant, in writing, the reasons for such disapproval. The determination of the Barnstable Planning Board on the Concept Plan shall be the basis for a recommendation to the Town Council for the rezoning petition.

**6. Map Amendment.** In order for approval of an AHD, the applicant must file a petition for the amendment of the Town of Barnstable Zoning Map for inclusion of the subject parcel(s) within the AHOD.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**7. Application for Special Permit in AHOD.** After successful re-zoning of an AHOD, an application for a special permit for an AHD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the following:

- A) Information pertaining to any association which the Applicant proposes to form for the private management of the AHD;
- B) Drawings showing floor plans, elevations, and sections as required to fully describe the proposed project;
- C) If a subdivision is proposed, then all documents as required for the subdivision, if any, shall be reviewed during the Special Permit process;
- D) Copies of proposed deed restrictions and monitoring agreements, drafted consistent with all requirements of 760 CMR 45 Local Initiative Program (LIP) and guidelines promulgated there under assuring the affordable units remain affordable in perpetuity, and assure the resale of Affordable Units at the restricted price, and providing a right of first refusal in favor of the Town;
- E) Special permits in the AHOD are exempt from Site Plan Review.

**8. Standards.** In order to be eligible for consideration for a special permit, the proposal must contain parcels included in the AHOD and shall meet all of the following standards:

A) Compliance with Applicable Regulations and Standards:

1) In the case of a subdivision, all plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.

B) Bulk Regulations – For all lots and building within the AHOD the following Bulk Regulations shall apply as long as the Planning Board determines such bulk regulation is consistent with Section 10 herein:

Density:	as proposed by applicant
Lot area:	as proposed by applicant
Minimum Lot frontage:	40 feet
Property line and Road Layout setbacks:	as proposed by applicant
Maximum Building Height	
in feet/# of Stories:	40 feet/3 stories
Minimum building separation:	zero

C) Parking - A minimum of two (2) on-site parking spaces per dwelling unit shall be provided.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

D) Building Permit Cap - An applicant proposing an AHD under this Section shall be exempt from the terms and conditions of Article XI Growth Management, Section 240-114 Rate of Residential Development.

E) Visitability – The applicant shall provide visitability for all or some of the dwelling units, if feasible.

**9. Affordable Units.** At least forty percent (40%) of the dwelling units shall be Affordable Units, subject to the following conditions:

A) The Affordable Unit(s) shall be affordable in perpetuity. A Deed Rider shall assure this condition. The Deed Rider shall be structured to survive any and all foreclosures;

B) The continuing enforcement of the Deed Rider through subsequent resale of the Affordable Units shall be the subject of a Monitoring Agreement;

C) The Deed Rider and the Monitoring Agreement shall be drafted in compliance with 760 CMR 45.00 Local Initiative Program and guidelines promulgated there under. The Deed Rider and the Monitoring Agreement shall be subject to review and approval by the Barnstable Housing Committee and approved as to form by Town Attorney prior to the issuance of a certificate of occupancy for any dwelling unit;

D) The Affordable Unit(s) shall conform to the standards of the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory;

E) A right of first refusal for such Affordable Unit(s) shall be granted to the Town or its designee for a period not less than 120 days after notice thereof;

F) The Affordable Unit(s) shall not be segregated within the AHD. The Affordable Unit(s) shall satisfy the design and construction standards of the Local Initiative Program, 760 CMR 45.00, with regard to distinguishability from market rate units. It is the intent of this ordinance that the Affordable Unit(s) shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units;

G) The Affordable Unit(s) shall be constructed, and occupancy permits issued at the rate of two (2) Affordable Units for every three (3) market rate units;

H) In computing the number of required Affordable Units, any fraction of a unit shall be rounded up and the result shall be the number of Affordable Units to be built within the AHD and not off site.

**10. Decision.** The Planning Board may grant a special permit for an AHD where it makes the following findings:

A) The proposed AHD complies with all applicable Subdivision Rules and Regulations, the Zoning Ordinances and the requirements of this section except as they may be waived by the Board;

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

- B) The proposed AHD provides Affordable Units consistent with the requirements set forth herein;
  
- C) The proposed AHD does not cause substantial detriment to the neighborhood.

**11. Expiration.** The provisions of this ordinance shall expire on XXXX XX, 200? (date 18 months hence). Any application for an affordable housing development duly filed prior to the above date may continue through the process for final determination by the Town Council for an AHOD and the Planning Board for a special permit.

Upon the expiration of this ordinance, the Planning Board shall report to the Town Council a recapitulation of applications received under this ordinance stating the final disposition of all applications including units created, both market rate and affordable.

After review of the Planning Board report, the Town Council shall reconsider extension of this ordinance after a duly publicized hearing.

**SPONSORS:** Councilor Ann Canedy and Councilor Leah Curtis upon recommendation of the Planning Board and the Housing Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**A. OLD BUSINESS (Public Hearing May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

<p><b>2006-048 ORDER TAKING OF GALLAGHER LANE EASEMENTS FOR HIGHWAY PURPOSES INTRO: 12/01/05; 01/05/06; 07/20/06; 08/17/06</b></p>
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**ORDER:** that the layout of Gallagher Lane, with areas and dimensions as shown on plans which are on file with the Town Clerk's Office, is hereby accepted and that the Town Manager is authorized to take by eminent domain easements for highway purposes over the parcels of land shown as abutting the said street and to appropriate the sum of \$1.00 therefore.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____



**BARNSTABLE TOWN COUNCIL**

**AGENDA ITEM SUMMARY**

**2006-048**

**INTRO.:** 12/01/05; 01/05/06; 07/20/06; 08/17/06

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Mark S. Ells, Director, Department of Public Works  
Ruth Weil, Director, Growth Management Department  
**DATE:** August 14, 2006  
**SUBJECT:** Gallagher Lane Taking

**BACKGROUND:** In 1999, the Barnstable Housing Authority was awarded a grant under the town's CBDG program to construct a road to access 7 homes, four of which are affordable. One of the requirements of the grant received by the Barnstable Housing Authority was that the dwellings must be accessed via a public way. Gallagher Lane is presently a private way.

**ANALYSIS:** In order to retain the grant funding received by the Housing Authority, Gallagher Lane must be accepted as a public way by the Town of Barnstable. In 1998, the Town Council accepted the report of the Road Committee, which recommended a Proposed Town Ordinance and Policies Governing repair, layout and acceptance of private ways and betterment assessments.

Gallagher Lane is a newly constructed road and is in excellent condition and will not require the maintenance for many years. It is in the Town's best interest to obtain an easement over these ways to assure that the roads are appropriately maintained and to ensure that the funding to construct these affordable housing units is retained for its intended purpose.

**FISCAL IMPACT:** There is little or no fiscal impact to the Town.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends that the Town Council approve the action proposed by this order.

**BOARD AND COMMISSION ACTION:** N/A

**STAFF ASSISTANCE:** Steven Seymour, P.E. Supervisory Project Engineer

**A. OLD BUSINESS (SECOND READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-001 APPOINTMENTS**

**INTRO.: 07/20/06; 08/17/06**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**AIRPORT COMMISSION APPOINTMENT:**

Daniel W. Santos, 111 Stoney Point Road, Cummaquid, MA 02637, term expires 06/30/2009

Thomas B. Dolby, 12 Mountwood Road, Marstons Mills, MA 02648, term expires 06/30/2009

**TRUST FUND ADVISORY BOARD APPOINTMENT:**

Christopher J. Ward, 19 Cats Paw Way, Centerville, MA 02632, term expires 06/30/2009

**SPONSORS:** Appointments Committee

**DATE**

**ACTION TAKEN**

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\_\_\_\_\_

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**A. OLD BUSINESS (SECOND READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-004 ORDER AUTHORIZING SALE OF LAND SHOWN ON ASSESSORS  
MAP 143, PARCEL 003, 30 OAKVILLE AVENUE, OSTERVILLE FOR  
AFFORDABLE HOUSING  
INTRO.: 07/20/06; 08/17/06**

**RESOLVED:** that the Town Manager is authorized to dispose of by sale on behalf of the Town all right, title and interest in surplus Town land acquired by tax foreclosure having a street address of 30 Oakville Avenue, Osterville shown on Assessors Map 143 as Parcel 003 for a price to be established by competitive proposal or auction, provided it is appropriately restricted for affordable housing, and to execute and deliver any and all documents necessary to complete the sale in accordance with the terms of this Order.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-004**  
**INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** Town Manager  
**THROUGH:** Ruth Weil  
**DATE:** July 20, 2006  
**SUBJECT:** Authorization to Sell for Affordable Housing: Map 143 Parcel 003; 30 Oakville Avenue, Osterville

**BACKGROUND:** The Town is interested in developing a 2.06 acre parcel of land (Map 142, Parcel 060) on Old Mill Road in the village of Osterville for affordable housing. This parcel was obtained through a tax foreclosure.

At present, 6.8 percent of the housing in the Town of Barnstable is considered affordable. The Town's Affordable Housing Plan and the village plans submitted for both the 1997 and the current Local Comprehensive Plans (LCP) have specifically identified municipally-owned land in this area as a preferred site for building affordable housing. In fact, The Osterville Village Plan specifically cites this area as a preferred location for much needed family housing: "this site has remained dormant for well over a decade ... the Town should (must) develop the sites they currently own for affordable housing before developing any other sites".

The Town intends to put at an RFP to sell the land for development of affordable housing

**FISCAL IMPACT:** None.

**STAFF ASSISTANCE:** Ruth J. Weil

**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call 2/3 Vote)**

**BARNSTABLE TOWN COUNCIL**

**2007-006 APPROPRIATION ORDER FOR STUDY OF AESTHETICALLY AND  
HISTORICALLY APPROPRIATE STREET LIGHTING IN THE HYANNIS  
GROWTH INCENTIVE ZONE  
INTRO.: 07/20/06; 08/17/06**

**ORDERED:** that the Town Council hereby appropriate \$50,000 for the purpose of preparing a lighting study in Hyannis, MA, and to meet such appropriation, that \$50,000 be transferred from the reserves in the Capital Trust Fund.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-006**  
**INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 10, 2006  
**SUBJECT:** Appropriation Order for Study of Roadway Lighting in Hyannis

**BACKGROUND:** The Growth Incentive Zone (GIZ) along with Sea and Ocean Streets lack appropriate street and walk lighting. Such lighting would aid in defining the character of this coastal resort neighborhood in the evening hours while making the area inviting to residents and visitors alike. Well designed illumination would aid in creating an inviting downtown historic district while showcasing the Cape character of the community while providing for the safe use of its walks and streets.

**ANALYSIS:** A total of \$50,000 is required for a lighting design study by a professional lighting consultant. The study will analyze the existing lighting of the district and develop conceptual ideas for historic village lighting along streets, walks and at important areas of visual interest while creating excitement within the community in the evening while insuring the safety of the public on our walks and roadways.

**FISCAL IMPACT:** The current balance in the Capital Trust Funds reserves is \$7,203,951. Approval of this item will not impact the current operating budgets.

**TOWN MANAGER RECOMMENDATION:** The Town Manager requests favorable action by the Town Council.

**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call)**

**BARNSTABLE TOWN COUNCIL**

**2007-008 COMMUNITY PRESERVATION FUND APPROPRIATION FOR AFFORDABLE HOUSING PRESERVATION  
INTRO.: 07/20/06; 08/17/06**

**ORDERED:** that, pursuant to the provisions of G. L. c. 44B, the sum of Seventy-five thousand and No/100 (\$75,000.00) Dollars be appropriated and transferred from the amount set aside in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144; and that the Growth Management Department is authorized to contract for and expend from year to year the amount appropriated with the prior approval of the Town Manager for acquisition of interests in land or buildings and other costs and expenses limited to the necessity for retention, preservation and support of existing or hereafter created community housing until fully expended.

**SPONSOR:** Town Manager upon recommendation of the Community Preservation Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-008**  
**INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** July 11, 2006  
**SUBJECT:** Affordable Housing Preservation Request

**RATIONALE:** The Community Preservation Committee (CPC) met on June 20, 2006 and has recommended that the town support the funding request of \$75,000.00 from the Growth Management Department for Affordable Housing Preservation.

The Growth Management Department is seeking funds to preserve the affordability of existing affordable housing stock. In the early 1990s, the Commonwealth of Massachusetts created several affordable housing homeownership programs. Unfortunately, the formula to ensure the long-term affordability of the units contained in the deed restrictions does not take into account large upward swings in the real estate markets. As a result, under certain circumstances, the maximum resale price exceeds what an affordable buyer can afford to pay. Under the terms of the older deed restriction, when an affordable buyer can not be located after a specified period of time, the unit may be sold to a market rate purchaser. There are forty-two affordable homes in Barnstable with the older deed restriction. Through the use of the funds requested, the affordable unit can be preserved by reducing the purchase price for the affordable buyer.

**ANALYSIS:** The use of CPA funds to preserve existing affordable units meets the following criteria: contributes to the goal of 10% affordability, promote a socioeconomic environment that encourages a diversity of income, ethnicity, religion and age, provide housing that is harmonious in design and scale with the surrounding community, ensure affordability in perpetuity, and promotes the use of existing buildings or construction on previously developed or Town owned sites.

The preservation of the existing affordable housing stock has been cited as a priority in the Town's Local Comprehensive Plan and the Housing Plan that has been approved by the State's Department of Housing and Community Development. The Barnstable Housing Committee fully supports this project.

**FISCAL IMPACT:** Funds available under the Community Preservation Act.

**TOWN MANAGER'S RECOMMENDATION:** The Town Manager upon recommendation of the Community Preservation Committee recommends recognition of the order.

**BOARD OR COMMISSION ACTIONS:** The Community Preservation Committee Recommends adoption.



**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call 2/3 Vote)**

**BARNSTABLE TOWN COUNCIL**

**2007-009 APPROPRIATION AND LOAN ORDER FOR THE HYANNIS YOUTH  
AND COMMUNITY CENTER  
INTRO.: 07/20/06**

**ORDERED:** that the sum of \$1,600,000 be appropriated, in addition to the \$1,000,000 appropriated under council order 2002-080 and the \$8,000,000 appropriated under council order 2002-101, for a total of \$10,600,000 all for the purpose of funding the construction of the Hyannis Youth & Community Center, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,600,000 in addition to the \$1,000,000 borrowing authorized under council order 2002-080 and the \$8,000,000 borrowing authorized under council order 2002-101 for a total borrowing authorization of \$10,600,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, and furthermore, that the town rescind \$1,600,000 of borrowing authorization under council order 1998-054 for the purpose of the Barnstable Unified Transportation And Parking System (BUTAPS).

**SPONSOR:** Town Manager John C. Klimm

**DATE**

**ACTION TAKEN**

_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-009**  
**INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 10, 2006  
**SUBJECT:** Appropriation and Loan Order for the Construction of the Hyannis Youth And Community Center

**BACKGROUND:** The revised construction cost estimates for the HYCC is \$18 million requiring \$1.6 million more in additional borrowing authorization.

This agenda item proposes to redirect \$1.6 million of borrowing authorization under the BUTAPS project to the HYCC project. Originally, \$6,850,000 of borrowing authorization for BUTAPS was approved. To date, the town has issued \$2,500,000 million against this authorization leaving an unissued balance of \$4,350,000. This would leave a balance of \$2,750,000 in borrowing authorization for the BUTAPS project.

**ANALYSIS:** The revised cost estimates and source of funding for this project are as follows:  
Cost of construction \$18,000,000

**Detail Sources of Funds:**

Current Bond Authorizations	\$9,000,000
State grant	3,500,000
Federal Grant	993,000
Lyndon Paul Lorusso Charitable Trust Fund	1,000,000
Foundation fund raising	445,000
Unexpended bond proceeds	1,497,508 (separate agenda item)
Redirect portion of remaining bond authorization for BUTAPS	<u>1,600,000</u> (this agenda item)
Total sources	\$18,035,508

**FISCAL IMPACT:** Approval of this transfer will reduce the borrowing authorization for BUTAPS by \$1.6 million. There would be no overall impact on the town's operating budget as provisions have been made within the Capital Trust Fund to provide for the repayment of the remaining \$4,350,000 of additional borrowing authorization in future years when issued; regardless of the project to which it is associated.

**TOWN MANAGER RECOMMENDATION:** The Town Manager requests favorable action by the Town Council.

**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call 2/3 Vote)**

**BARNSTABLE TOWN COUNCIL**

**2007-010 TRANSFER OF UNEXPENDED BOND PROCEEDS FROM BUTAPS FOR  
CONSTRUCTING HYANNIS YOUTH AND COMMUNITY CENTER  
INTRO.: 07/20/06; 08/17/06**

**RESOLVED:** that the Town Council hereby transfers \$1,497,508 of unexpended bond proceeds from the following projects for the purpose of constructing the Hyannis Youth and Community Center:

2001-087 Sidewalk Construction	\$5,393
2002-080 Police Facility Addition	2,993
1998-092 Prince Cove Dock and Ramp	85,074
2000-110 Kennedy Rink Improvements	141,779
1995-155 Road Intersection Realignment	156,236
1998-054 BUTAPS	<u>1,106,033</u>
Total	1,497,508

**SPONSOR:** Town Manager John C. Klimm

**DATE**

**ACTION TAKEN**

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\_\_\_\_\_

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-010  
INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 10, 2006  
**SUBJECT:** Transfer of Unexpended Bond Proceeds for the Construction of the HYCC

**BACKGROUND:** The town has borrowed several million dollars over the past few years for various capital projects. Unexpended bond proceeds totaling \$1,497,508 remain in the town's treasury from the following projects:

2001-087 Sidewalk Construction	\$5,393
2002-080 Police Facility Addition	2,993
1998-092 Prince Cove Dock and Ramp	85,074
2000-110 Kennedy Rink Improvements	141,779
1995-155 Road Intersection Realignment	156,236
1998-054 BUTAPS	<u>1,106,033</u>
Total	1,497,508

This item requests that the town transfer these unexpended bond proceeds to construct the HYCC to fill the gap needed between available funds and revised project costs.

When the town issues bonds for capital projects certain requirements to spend the bond proceeds must be met to avoid a potential arbitrage liability. The strict definition of arbitrage is borrowing in one market and investing in another. Municipalities have the ability to borrow in the tax exempt market and invest the bond proceeds in the taxable market. When this occurs and the taxable investment yield on the proceeds exceeds the yield of the tax exempt bond issue, a rebate or repayment of arbitrage profits is due to the United States through the Internal Revenue Service. There are some exceptions to rebate and they are generally connected with spending bond proceeds quickly. When this occurs, the rules allow the issuer to retain all arbitrage profits. Generally, if the bond proceeds are spent within 24 months of the issue date, arbitrage can be avoided. Potential arbitrage liabilities come into play after this 24 month period if investment income exceeds interest expense on the bond issue. Investment rates on the town's investments have increased significantly over the past year to the point where they are beginning to exceed the average coupon rate on the bonds issued potentially creating an arbitrage liability. This requested transfer would avoid creating any such liability as it would provide for the expenditure of the remaining bond proceeds in the town's treasury.

**ANALYSIS:** The revised cost estimates and source of funding for this project are as follows:

Cost of construction \$18,000,000

**Detail Sources of Funds:**

Current Bond Authorizations	\$9,000,000
State grant	3,500,000
Federal Grant	993,000
Lyndon Paul Lorusso Charitable Trust Fund	1,000,000
Foundation fund raising	445,000
Unexpended bond proceeds	1,497,508 (this agenda item)
Redirect portion of remaining bond authorization for BUTAPS	<u>1,600,000</u> (separate agenda item)
Total sources	\$18,035,508

**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call 2/3 VOTE)**

**BARNSTABLE TOWN COUNCIL**

**2007-011 APPROPRIATION ORDER FOR HYANNIS YOUTH AND COMMUNITY CENTER  
INTRO.: 07/20/06; 08/17/06**

**ORDERED:** that the Town Council hereby appropriate \$442,328 for the purpose of constructing the Hyannis Youth and Community Center, and to meet such appropriation, that \$442,328 be transferred from the reserves in the Capital Trust Fund.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
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**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-011**  
**INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 10, 2006  
**SUBJECT:** Appropriation Order for Hyannis Youth And Community Center

**BACKGROUND:** The Barnstable Recreation Division was the recipient of a grant for \$993,000 from the U.S. Department of Education for the development of youth educational programs and the procurement of educational equipment. This request has no relationship to the additional funding request being made for the increase in construction costs of the HYCC. Action on this item is necessary for either the \$15 million option or the \$17 million option.

**ANALYSIS:** A total of \$442,328 of this grant covered personnel costs within the Barnstable Recreation Division over the past two years for the development of youth educational programs. The payment of this personnel cost by the grant created General Fund surplus that was transferred into the Capital Trust Fund. This request is to appropriate these funds within the CTF surplus for the construction of the HYCC. The balance of the grant, \$550,672, will be used to purchase educational equipment for the new youth center and requires no further council action.

**FISCAL IMPACT:** The current balance in the Capital Trust Funds reserves is \$7,203,951. Approval of this item will not impact the current operating budgets.

**TOWN MANAGER RECOMMENDATION:** The Town Manager requests favorable action by the Town Council.

**A. OLD BUSINESS (Public Hearing May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

**2007-012 ORDER AMENDING THE CODE, GENERAL ORDINANCES, PROHIBITING  
USE OF PERSONAL WATERCRAFT AT THE SHOOTFLYING HILL ROAD  
TOWN BEACH AND RAMP AT WEQUAQUET LAKE  
INTRO.: 07/20/06: 08/17/06**

**ORDERED:** that Chapter 32, Beaches and Waterways, of the Code of the Town of Barnstable, General Ordinances, be amended by designating the first paragraph of section 32-1 as 32-1(A) and by adding the following subsection “B.”

“B. No person shall fuel, launch, retrieve or otherwise operate from the Town property at 460 Shootflying Hill Road any personal watercraft (vessel) propelled by a water jet pump as its primary source of motive power and which is designed to be operated by persons sitting, standing or kneeling on the vessel.”

**DATE**

**ACTION TAKEN**

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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-012  
INTRO.: 07/20/06; 08/17/06**

**TO:** Barnstable Town Council  
**FROM:** Town Councilor Tom Rugo  
**DATE:** July 11, 2006  
**RE:** Order Amending the Code, General Ordinances, Prohibiting Use of Personal Watercraft at the Shootflying Hill Road Town Beach and Ramp

**BACKGROUND AND ANALYSIS:** The access point is immediately adjacent to the public beach. Fueling of personal watercraft -- which the sponsor has personally witnessed -- represents a significant hazard. In addition, personal watercraft activity near swimmers represents a safety concern.

**FISCAL IMPACT:** This is a general ordinance and has no adverse impact on the general fund.

<b>DATE</b>	<b>ACTION TAKEN</b>
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**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call 2/3 Vote)**

**BARNSTABLE TOWN COUNCIL**

**2007-014 APPROPRIATION ORDER FOR CONCEPTUAL DESIGN WORK ON SOUTH STREET IN HYANNIS  
INTRO.: 07/20/06; 08/17/06**

**ORDERED:** that the Town Council hereby appropriate \$39,000 for the purpose of preparing a conceptual design of the South Street in Hyannis, and to meet such appropriation, that \$39,000 be transferred from the reserves in the Capital Trust Fund.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-014  
INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 11, 2006  
**SUBJECT:** Appropriation Order for conceptual design work on South Street in Hyannis

**BACKGROUND:** The project is to prepare a conceptual design of South Street from the intersection with Main Street at the west end to the intersection with Lewis Bay Road on the east end. Improvements are recommended to coincide with the recent rejuvenation of downtown Hyannis, increased pedestrian circulation, and general water front access through intersections at Sea Street and South Street, and Old Colony, Barnstable Road and South Street.

**ANALYSIS:** A total of \$39,000 is estimated for this conceptual design. This conceptual design would include improvements at all major intersections, road resurfacing, sidewalk and drainage improvements, and investigation of relocating utilities subsurface.

**FISCAL IMPACT:** The current balance in the Capital Trust Funds reserves is \$7,203,951. Approval of this item will not impact the current operating budgets.

**TOWN MANAGER RECOMMENDATION:** The Town Manager requests favorable action by the Town Council.

**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call)**

**BARNSTABLE TOWN COUNCIL**

**2007-015 COMMUNITY PRESERVATION FUND APPROPRIATION  
FOR HAMLIN MARKER WEST BARNSTABLE  
INTRO.: 07/20/06; 08/17/06**

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B, the sum of Two thousand one hundred thirty-eight and No/100 (\$2,138.00) Dollars be appropriated and transferred from the amount set aside in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144 for historic resources; and that the Growth Management Department is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager for the creation of a historical marker citing the birthplace of Major Micah Hamlin in West Barnstable.

**SPONSOR:** Town Manager John C. Klimm

<b>DATE</b>	<b>ACTION TAKEN</b>
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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-015  
INTRO.: 07/20/06; 08/17/06**

**TO:** Town Council  
**FROM:** Town Manager John C. Klimm  
**DATE:** July 12, 2007  
**SUBJECT:** The Replacement of Major Micah Hamlin Historical Marker

**RATIONALE:** The Community Preservation Committee (CPC) met on June 20, 2006 and has recommended that the town support the funding request of \$2,137.25 from the West Barnstable Historical Society for the replacement of a historical marker of citing the birthplace of Major Micah Hamlin. The current marker has an incorrect death date. It would be best to replace the stone entirely as the repairs will not last nor will they look good. This project preserves the integrity of the Town's recorded history. The incorrect marker was made by a Town entity, the Barnstable Tercentenary Committee of 1939. The Barnstable Historical Commission fully supports the correction of the marker.

**ANALYSIS:** The total cost of \$2137.25, which includes a 30% discount, includes a new granite tablet, lettering which is all hand drawn and hand cut, removal of the old foundation and tablet, new poured cement foundation, installation of the new tablet, tax and shipping. There have been funds raised for a total of \$500.00 to go towards the new marker.

**TOWN MANGER RECOMMENDATIONS:** The Town Manager upon recommendation of the Community Preservation Committee recommends adoption of this resolution.

**BOARD OR COMMISSION ACTIONS:** Community Preservation Committee recommends adoption of this resolution.

## **B. NEW BUSINESS (MAY BE ACTED UPON)**

### **BARNSTABLE TOWN COUNCIL**

**2007-007 RESOLUTION ON "CAPE CARE" UNIVERSAL  
HEALTH CARE PROPOSAL  
INTRO.: 08/17/06**

**Whereas**, health care coverage has become less affordable and less available to growing numbers of people in our community, despite all efforts to date at both the state and federal level; and

**Whereas**, each person who lacks adequate health care coverage faces increased risks of illness, disability, and premature death. Our region has well above state-average rates of uninsured- and underinsured-people; and

**Whereas**, the families of such individuals are faced with growing out-of-pocket costs. These families must now confront the soaring expenses of health coverage, and the worry about bankruptcy or impoverishment in the event of serious illness. Their caregiver stress increases with the need to provide more and more uncovered care; and

**Whereas**, small businesses face the soaring expenses of covering their employees' health premiums, passing some of these costs along to employees in the form of rising premiums and out-of-pocket payments. Our regional predominance of small businesses and self-employed individuals is, understandably, a key factor in the low rates of health care coverage; and

**Whereas**, our Town government struggles with the costs of health coverage for town employees. We the people are regularly forced to choose among other important and accustomed community services for budget; and

**Whereas**, our community health care providers and institutions are caught in the inescapable financial squeeze of rising administrative costs and declining reimbursements. They are forced to reduce staffing, cut services, or close. Access to care for all they serve is diminished; and

**Whereas**, these consequences represent losses in quality of life for many (if not all) members of the Cape and islands community, and a threat to our collective welfare.

**Now therefore**, we petition our County Government to support the development of a proposed regional universal health care program, known as Cape Care, which would, at a minimum, meet these criteria:

- provide broad health care coverage for ALL residents of the Cape and Islands, to improve individual and community health; and
- control health care cost inflation by reducing excessive administrative expenses, as well as through bulk discount purchasing of necessary medications and medical supplies; and
- shape health care delivery to meet community needs for appropriate care, through a representative policy-making board of community members and health care providers; and

**BARNSTABLE TOWN COUNCIL  
2007-007 RESOLUTION ON "CAPE CARE" (CONTINUED)  
INTRO.: 08/17/06**

- strengthen the ability of our existing network of health care providers and institutions to provide high-quality care, by assuring adequate funding for necessary services.

We call for public hearing process in Barnstable County, to include analysis of the proposed plan's organization and governance, its expected effects on community health, and its financial modeling, to be initiated by the end of the year 2006.

**The Clerk of the Town is instructed to give Notice of Passage of this Resolution to the town's representative to the County Assembly of Delegates, the County Commissioners, and the state and federal representatives and Senators, within 30 days.**

**SPONSOR:** Town Councilor Richard Barry

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-016 MEMORIALIZING AIRPORT COMMISSION TO TERMINATE PRACTICE OF  
ALLOWING PARTICIPATION BY A REPRESENTATIVE OF THE TOWN  
OF YARMOUTH  
INTRO.: 08/17/06**

**WHEREAS**

The Barnstable Municipal Airport Commission’s continued practice of maintaining membership which includes a member from the town of Yarmouth is a significant departure from administrative code provisions including a.) appointments to multiple member boards be made by the Barnstable Town Council and b.) members of such boards be a registered voter of the Town of Barnstable

**THEREFORE**

Be it resolved that the Barnstable Municipal Airport Commission is hereby memorialized to terminate its practice of allowing, as a matter of comity, participation by a representative of the town of Yarmouth on the board of the Barnstable Municipal Airport Commission and, in a desire to continue a good neighbor policy, invites the town of Yarmouth to use a liaison to observe the Barnstable Municipal Airport Commission meetings.

**SPONSOR:** Town Councilor James F. Munafo, Jr.

**DATE                      ACTION TAKEN**

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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-016  
INTRO.: 08/17/06**

**TO:** Town Council  
**FROM:** Town Councilor James F. Munafo, Jr.  
**DATE:** August 3, 2007  
**SUBJECT:** Memorializing Airport Commission to Terminate Practice of Allowing Participation by a Representative of the Town of Yarmouth

Whereas: The Town of Barnstable ascribes to a good neighbor policy; and

Whereas: The Town of Barnstable has continuously endeavored to redress any issue brought before it; and

Whereas: The Town of Barnstable has reached out to the Town of Yarmouth with a good neighbor policy of, allowing a Yarmouth resident to be recognized as a non-voting member on the Barnstable Municipal Airport Commission; and

Whereas: The Town of Barnstable has a municipal airport and not a regional airport; and

Whereas: the Town of Yarmouth does not have a financial interest in the operation and maintenance of the Barnstable Municipal Airport; and

Whereas: the Town of Yarmouth has sought to disrupt the Town of Barnstable's sovereignty in their frequent requests for a Yarmouth resident to participate in the operation and maintenance of The Town of Barnstable Municipal Airport; and

Whereas: the Town of Yarmouth has sought to usurp The Town of Barnstable's sovereignty by petitioning the Massachusetts State Legislature that a Yarmouth resident participate in the operation and maintenance of The Town of Barnstable Municipal Airport; and

Whereas: the Barnstable Municipal Airport Commissions' continued practice of maintaining a member from the town of Yarmouth is not consonant with or reflective of the Town's administrative code which includes provisions that a.) an appointee to a Standing Committee be a registered voter of the Town of Barnstable and b.) the appointment to a multiple-member board be made by the Barnstable Town Council; and

Whereas: the Town of Yarmouth's Board of Selectman's actions continue to interrupt and dishearten the good faith efforts of the Town of Barnstable.

Therefore: The Town of Barnstable's Municipal Airport Commission is memorialized to end the practice of recognizing a non-voting member from the Town of Yarmouth.



**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-018 FURTHER REGULATING COMPENSATION AND BENEFITS TO TOWN  
OF BARNSTABLE EMPLOYEES PERTAINING TO OPERATIONS AND  
TRAINING OF RESERVISTS  
INTRO.: 08/17/06**

**ORDERED:**

That Section 59 of Chapter 33 of the General Laws is hereby accepted.

**SPONSOR:** Town Councilor Richard Barry

**DATE**

**ACTION TAKEN**

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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-018  
INTRO.: 08/017/06**

**TO:** Town Councilors  
**FROM:** Town Councilor Richard Barry  
**SUBJECT:** 2007-018 – Further regulating compensation and benefits to town employees pertaining to operations and training of reservists.  
**DATE:** August 10, 2006

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This legislative item—relative to military reservists/guard leave—is proposed at the request of a citizen of Barnstable who is an employee of the town and who serves in the Navy reserve.

Section 59 of Chapter 33 of the General Laws provides for service members to receive regular compensation while they attend annual training up to seventeen calendar days per year.

Passage of this item would incorporate the provisions of Sec. 59 of Ch. 33 into the town personnel regulations as they relate to Military Reservists Leave.