



# The Town of Barnstable Town Council

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Councilors:

Janet S. Joakim  
President

Gary R. Brown  
Vice President

Richard G. Barry  
Janice L. Barton  
Ann A. Canedy  
Frederick Chirigotis  
James H. Crocker, Jr.  
Leah C. Curtis  
Henry C. Farnham  
J. Gregory Milne  
James F. Munafo, Jr.  
Tom Rugo  
Harold E. Tobey

Administrator:  
Donald M. Grissom

Town Council  
Secretary:  
Cheryl A. Phillips

## TOWN COUNCIL MEETING AGENDA July 19, 2007 7:00 PM

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **MOMENT OF SILENCE**
  - **TOWN CLERK PRESENTATION**
4. **PUBLIC COMMENT (May be limited to 2 minutes)**
5. **COUNCIL RESPONSE TO PUBLIC COMMENT**
6. **ACT ON MINUTES**
7. **COMMUNICATIONS FROM ELECTED OFFICIALS,  
BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE,  
ANNOUNCEMENTS AND COMMITTEE REPORTS**
8. **ORDERS OF THE DAY**  
**A. OLD BUSINESS    B. NEW BUSINESS**
9. **TOWN MANAGER COMMUNICATIONS**
10. **ADJOURNMENT**

**NEXT MEETING AUGUST 16TH.**

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**Minutes** of Barnstable Town Council Meeting of June 14th and June 21, 2007.

**Please Note:** It is possible, if it so votes, the Council may go into executive session.  
The council may act on items in a different order than they appear on this agenda.

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

**BARNSTABLE TOWN COUNCIL**

<p><b>2007-152 APPOINTMENTS</b> <b>INTRO.: 05/24/07; 07/19/07</b></p>
---------------------------------------------------------------------------

That the Barnstable Town Council appoint the following individuals to a multiple member town board/committee/commission.

**COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE APPOINTMENT:**  
Alan Donheiser, 111 Old Kings Road, PO Box 213, Cotuit, MA 02635, term expires 06/30/2008

**DISABILITY COMMISSION APPOINTMENT:**  
Jim Berks, 402 Prince Hinckley Road, Centerville, MA 02632, term expires 06/30/2008

**JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE APPOINTMENT:**  
Betty Nilsson, 2414 Meeting House Way, Box 3, W. Barnstable, MA 02668, term expires 06/30/2009

**SPONSORS:** Appointments Committee

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

- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

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

**BARNSTABLE TOWN COUNCIL**

**2007-165 AN ORDER AUTHORIZING THE TOWN OF BARNSTABLE TO  
ENTER INTO THE FORMATION OF A REGIONAL ELECTRIC  
GENERATING COOPERATIVE:  
INTRO.: 06/14/07; 06/21/07; 07/19/07**

**ORDERED**, that the Town Manager, on behalf of the Town, is authorized to join with the County of Barnstable and Cape Light Compact in the formation of a Massachusetts corporation that shall function as a regional electric generating cooperative, subject to such provisions as are set forth in the corporation’s Articles of Organization, as well as M.G.L. c. 164, Section 136 (the “Electric Co-op Law”) and M.G.L. c. 156B.

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

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

- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-165  
INTRO.: 06/14/07**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** June 5, 2007  
**SUBJECT:** An Order Authorizing the Town of Barnstable to enter into the formation of a regional electric generating cooperative

**RATIONALE:** The purposes of the Cooperative are to develop and/or own renewable and non-renewable electric generation facilities, and to procure and/or sell long term electric supply or other energy-related goods or services (including renewable energy certificate contracts) at competitive prices to Members and, in furtherance of the foregoing purposes, to carry on any lawful business permitted for a corporation organized under c. 164, Section 136 and c. 156B of the General Laws of the Commonwealth of Massachusetts, as now in force or as hereafter amended. The Cooperative shall be organized and shall conduct its business primarily for the mutual benefit of its Members as patrons of the cooperative.

Copies of the Articles of Organization and By-laws are available on request.

**A. OLD BUSINESS (Second Reading May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

**2007-166 ORDERED THAT BARNSTABLE ESTABLISH AN AGRICULTURAL COMMISSION.  
INTRO.: 06/21/07; 07/19/07**

**ORDERED,**

That the Administrative Code is hereby amended by inserting a new Section in Chapter 241 of the Administrative Code titled AGRICULTURAL COMMISSION, as follows: There is hereby established an Agricultural Commission to be an advisory committee to the Town. The Agricultural Commission, in conjunction with other town agencies and committees as necessary, will establish methods to improve and increase agricultural and farming opportunities within the Town of Barnstable; assist existing and future agricultural businesses with their needs, and work to ensure an environment of healthy, safe products for human consumption.

The Agricultural Commission's focus will be to help create and maintain an agricultural environment conducive to sustainable economic development. In addition, the Agricultural Commission will work toward the preservation and improvement of private and public agricultural land and resources. The Agricultural Commission will bring private and public sector support and volunteers together to develop and carry out specific agricultural plans, where feasible, throughout the town. For the purposes of this order, agriculture shall include, but not be limited to, the production of crops, keeping and boarding of horses or livestock, horticulture, fresh water and marine aquaculture, forestry, nurseries, greenhouses, and other related activities.

**SPONSORS:** Town Councilor's Henry Farnham, Ann Canedy, Rick Barry and the Agricultural Commission Steering Committee.

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

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

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-166**  
**INTRO: 06/21/07**

**TO:** Town Council  
**FROM:** Town Councilor's, Henry Farnham, Ann Canedy, Rick Barry and the Agricultural Commission Steering Committee.  
**DATE:** June 12, 2007  
**SUBJECT:** Administrative Code Amendment to Establish an Agricultural Commission

**BACKGROUND:** Massachusetts provides for communities to have an agricultural commission to support the creation and preservation of agricultural initiatives in a community. There are now about 100 agricultural commissions throughout the commonwealth, and the needs for such a commission in Barnstable have become more apparent as the challenges to farmers of all types has grown in recent years.

Agricultural Commissions are performing valuable outreach and mediation efforts as well as education and conservation initiatives to help foster safer and more economically viable agricultural endeavors in communities. The Barnstable Agricultural Commission will assist town departments and committees, the town manager and the town council in these efforts.

**FISCAL IMPACT:** It is anticipated that savings would result from having the commission involved in resolving disputes between town and state agencies and private parties. Also, the commission will help develop and refine ways to improve agricultural efforts within Barnstable resulting in a positive impact on the town's economy.

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

**BARNSTABLE TOWN COUNCIL**

**2007-167 COMMUNITY PRESERVATION FUND APPROPRIATION FOR  
OPEN SPACE (2 PARCELS ADJACENT TO HATHAWAY'S POND)  
INTRO.: 06/14/07; 07/19/07**

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B, the sum of Fourteen Thousand, Five Hundred and No/100 (\$14,500.00) Dollars be appropriated and transferred from the amount set aside for Open Space CPA funds in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144 for the purpose of purchasing two parcels of land, totaling .17 acres, adjacent to Hathaway's Pond that are entirely surrounded by 36 acres of existing Town of Barnstable Recreation land.

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

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

- \_\_\_ Read item
- \_\_\_ Motion to open public hearing
- \_\_\_ Rationale
- \_\_\_ Public hearing
- \_\_\_ Close Public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote



**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-167**  
**INTRO.: 06/14/07**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** June 7, 2007  
**SUBJECT:** Rationale for Hathaway's Pond Land Acquisition

**BACKGROUND:** The Community Preservation Committee (CPC) met on May 15, 2007 and has recommended that the Town support the funding request of \$14,500.00 from the Town of Barnstable Recreation Division for the purchase of two parcels adjacent to Hathaway's Pond.

**RATIONALE:** The funding request of \$14,500.00 is to acquire two parcels of land, totaling 0.17 acres, having an address of Phinney's Lane in Barnstable Village. These parcels are entirely surrounded by 36 acres of Town owned recreation land which abuts Hathaway's Pond North and South. There are no buildings on the lots and both lots are not accessible by public way. The acquisition of these two parcels will add to the open space land that the Town already owns for recreational purposes as well as promote passive recreation to the existing Town facility.

**A. OLD BUSINESS (Public Hearing May Be Acted Upon) (Roll Call)  
(Postpone to August 16, 2007)**

**BARNSTABLE TOWN COUNCIL**

**2007-143 RESOLVE BARNSTABLE TOWN COUNCIL MOVES TO ADOPT  
PROVISIONS OF G.L. C. 33 SEC 59 EFFECT OF MILITARY  
SERVICE ON SALARY OR VACATION ALLOWANCE OF  
PUBLIC EMPLOYEES  
INTRO.: 05/24/07; 07/19/07**

**RESOLVE,** The Barnstable Town Council moves to adopt the provisions of G.L. c. 33 sec 59 Effect of military service on salary or vacation allowance of public employees.

Section 59 Any person in the service of the commonwealth, or of a county, city or town which, by vote of its county commissioners or city council or of its inhabitants at a town meeting, accepts this section, or has accepted similar provisions of earlier law as, shall be entitled, during the time of his service in the armed forces of the commonwealth, under section thirty-eight, forty, forty-one, forty-two or sixty, or during his annual tour of duty of not exceeding 34 days in any state fiscal year and not exceeding 17 days in any federal fiscal year as a member of a reserve component of the armed forces of the United States, to receive pay therefore, without loss of his ordinary remuneration as an employee or official of the commonwealth, or of such country, city or town, and shall also be entitled to the same leaves of absence or vacation with pay given to other like employees or officials.

**SPONSOR:** Town Councilor Rick Barry

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

- \_\_\_ Read item
- \_\_\_ Motion to open public hearing
- \_\_\_ Rationale
- \_\_\_ Public hearing
- \_\_\_ Close Public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-143  
INTRO: 05/24/07**

**TO:** Town Council  
**FROM:** Town Councilor Richard Barry  
**DATE:** April 25, 2007  
**SUBJECT:** Resolve the Barnstable Town Council moves to adopt the provisions of G.L. c. 33 sec. 59 Effect of military service on salary or vacation allowance of public employees

**RATIONALE:** There are approximately ten Town Employees that are currently serving in various branches of the Massachusetts National Guard. When they have training they are forced to use vacation time in order to serve our country. Adoption of this provision would allow these dedicated employees to retain their vacation time and serve our military. The Personnel Board estimates that the fiscal impact would be less than ten thousand dollars.

**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

**2008-001 APPOINTMENTS**  
**INTRO.: 07/19/07**

That the Barnstable Town Council appoint the following individuals to a multiple member town board/committee/commission.

**WATER POLLUTION CONTROL BOARD APPOINTMENT:**

Allen W. Morrisey, M.D., M.P.H., 69 Country Club Drive, Cummaquid, MA 02637, term expires 06/30/2009

**WATER QUALITY COMMITTEE APPOINTMENT:**

Oliver Patrick Cipollini, Jr. 20 Biscayne Drive, Marstons Mills, MA, 02648, term expires 06/30/2009

**SPONSORS:** Appointments Committee

**DATE**

**ACTION TAKEN**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

**2008-002 PROPOSED CHANGES TO THE TOWN'S ADMINISTRATIVE CODE  
BY THE COUNCIL ON AGING  
INTRO.: 07/19/07**

Amend Town of Barnstable's Administrative Code Section **241.9 Council on Aging.**

A. Term of office to read as follows:

**241-9. Council on Aging.**

A. Term of office. There shall be a Council of Aging consisting of three member classifications: 13 regular members, one alternate member, and two associate members. The alternate member may serve on committees and will have voting rights at meetings if there is an absence of a regular member. Associate members may serve on committees, but have no voting privileges if a regular member is absent.

**SPONSOR:** Town Council President Janet Joakim

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

- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-143  
INTRO: 05/24/07**

**TO:** Town Council  
**FROM:** Town Councilor President Janet Joakim  
**DATE:** July 11, 2007  
**SUBJECT:** Proposed changes to the Town's administrative code by the Council on Aging

**BACKGROUND:** This administrative code change relating to membership was promulgated by the Council on Aging. It is consonant with and reflective of the wishes of the Council on Aging.

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

**BARNSTABLE TOWN COUNCIL**

**2008-003 COUNCIL VOTES ON THE MERITS OF PETITION (RELATIVE TO WITHDRAWAL FROM CAPE COD COMMISSION) AS FOLLOWS:  
INTRO.: 07/19/07**

**PETITION**

We, the Undersigned, who are at least 150 registered voters of the Town of Barnstable, hereby petition under Section 8-7(b) of the Barnstable Home Rule Charter, for the Barnstable Town Council to act by holding a public hearing and taking a vote on the merits of the following question: "Shall the Town of Barnstable withdraw from the Cape Cod Commission?"

**DATE**

**ACTION TAKEN**

\_\_\_\_\_  
\_\_\_\_\_

- \_\_\_ Read item
- \_\_\_ Motion to open public hearing
- \_\_\_ Rationale
- \_\_\_ Public hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

## **B. NEW BUSINESS (FIRST READING)**

### **BARNSTABLE TOWN COUNCIL**

<b>2008-004 REAPPOINTMENTS</b>
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<b>INTRO.: 07/19/07</b>
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That the Barnstable Town Council reappoints the following individuals to a multiple member board/committee/commission:

#### **CABLE TV ADVISORY COMMITTEE REAPPOINTMENTS:**

J. Douglas Murphy, Esq., 111 Wild Goose Way, Centerville, MA 02632, term expires 06/30/2010  
Nancy L. Richard, 4022 Main Street, PO Box 196, Cummaquid, MA 02637, term expires 06/30/2010

#### **COMMUNITY PRESERVATION COMMITTEE REAPPOINTMENTS:**

Marilyn Fifield, 49 Colonial Way, PO Box 532, Barnstable, MA 02630, term expires 06/30/2010  
Laura Shufelt, 1696 W Barnstable Rd, W. Barnstable MA 02668, term expires 06/30/2010  
Joseph O'Brien, 65 Trinity Place, Centerville, MA 02632, term expires 06/30/2010

#### **COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE REAPPOINTMENTS:**

William S. Brower, 890 Santuit-Newtown Rd, Marstons Mills, MA 02648, term expires 06/30/2010  
Thomas Michael, 170 Buckskin Path, Centerville, MA 02632, term expires 06/30/2010

#### **CONSERVATION COMMISSION REAPPOINTMENTS:**

Tom Lee, 1081 Old Putnam Avenue, Marstons Mills, MA 02648, term expires 06/30/2010  
Peter Sampou, 111 Cedar Street, West Barnstable, MA 02668, term expires 06/30/2010  
Louise Riemenschneider Foster, 204 Clamshell Cove Rd, Cotuit MA 02635, term expires 06/30/2010

#### **COUNCIL ON AGING REAPPOINTMENT:**

Charlie Fox, 290 West Main Street, Hyannis, MA 02601, term expires 06/30/2010

#### **DISABILITY COMMISSION REAPPOINTMENTS:**

Jean Boyle, 24 W Hyannisport Circle, Box 624, W Hyannisport, MA 02672, term expires 06/30/2010  
Susan Bethel, 85 Wakeby Road, Marstons Mills, MA 02648, term expires 06/30/2010  
Ms. Raffaele L. Kaddy, Box 531, Hyannisport, MA 02647, term expires 06/30/2010

#### **ECONOMIC DEVELOPMENT COMMISSION REAPPOINTMENT:**

Howard K. Penn, 21 Lookout Lane, Hyannis, MA 02601-0068, term expires 06/30/2010

#### **ELDERLY & DISABLED TAXATION AID COMMITTEE REAPPOINTMENT:**

William Murdoch, 760 South Main Street, Centerville, MA 02632, term expires 06/30/2010

#### **ENOCH COBB TRUST REAPPOINTMENT:**

David B. Cole, Esquire, 420 South Street, Hyannis MA 02601, term expires 06/30/2010

#### **GOLF COMMITTEE REAPPOINTMENTS:**

Richard Aliberti, 126 Trout Brook Lane, Cotuit, MA 02635, term expires 06/30/2010  
David E. Herlihy, 70 Bay Shore Road, Hyannis, MA 02601, term expires 06/30/2010

#### **BOARD OF HEALTH REAPPOINTMENT:**

Wayne Miller, 2231 Meeting House Way, Box 711, W Barnstable, MA 02668, term expires 06/30/2010



**BARNSTABLE TOWN COUNCIL  
2008-004 REAPPOINTMENTS (CONTINUED)  
INTRO.: 07/19/07**

**HYANNIS MAIN ST WATERFRONT HISTORIC DISTRICT COMMISSION  
REAPPOINTMENTS:**

Marina Atsalis, 242 Ocean Street, Hyannis, MA 02601 term expires 06/30/2010  
George Jessop, 863 Bumps River Road, Centerville, MA 02632, term expires 06/30/2010

**JANE ESHBAUGH COMMUNITY SERVICE AWARD COMMITTEE REAPPOINTMENT:**

Jaci Barton, 87 School Street, Cotuit, MA 02635, term expires 06/30/2010

**JFK MEMORIAL TRUST FUND REAPPOINTMENTS:**

Henry L. Murphy, Jr., 243 South Street, Hyannis, MA 02601, term expires 06/30/2010  
Hugh Findlay, 500 Ocean Street #153, Hyannis, MA 02601, term expires 06/30/2010

**LAND ACQUISITION AND PRESERVATION COMMITTEE REAPPOINTMENT:**

Allison Rescigno, 12 Calvin Hamblin Road, Marstons Mills, MA 02648, term expires 06/30/2010

**LICENSING AUTHORITY REAPPOINTMENT:**

Paul Sullivan, 209 Longview Drive, Centerville, MA 02632, term expires 06/30/2010

**MID CAPE REGIONAL CULTURAL COUNCIL REAPPOINTMENT:**

Patricia A. Kelly, 333 Megan Rd, Hyannis, MA 02601, term expires 06/30/2010

**OLD KINGS HIGHWAY HISTORIC DISTRICT COMMITTEE REAPPOINTMENT:**

George Jessop, 863 Bumps River Road, Centerville, MA 02632, term expires 11/30/2010

**PERSONNEL ADVISORY BOARD REAPPOINTMENT:**

Paul Sullivan, 209 Longview Drive, Centerville, MA 02632, term expires 06/30/2010

**PLANNING BOARD REAPPOINTMENT:**

David Munsell, 3528 Main Street, Barnstable, MA 02630, term expires 06/30/2010

**RECREATION COMMISSION REAPPOINTMENTS:**

Andrew Gauthier, 48 Eastwood Lane, Cotuit, MA 02635, term expires 06/30/2010  
Joseph O'Brien, Jr., 65 Trinity Place, Centerville, MA 02632, term expires 06/30/2010  
Katherine I. Pina, 49 Windmill Lane, Cotuit, MA 02635, term expires 06/30/2010

**REGISTRAR OF VOTERS REAPPOINTMENT:**

Agnes Sorenson, 187 Flintrock Rd, PO Box 927, Barnstable MA 02630, term expires 06/30/2010

**SANDY NECK ADVISORY BOARD REAPPOINTMENTS:**

William S.Carey, 171 Harbor Pt. Road, Cummaquid, MA 02637, term expires 06/30/2010  
Holly Heaslip, 47 Chole Court, PO Box 905, Barnstable, MA 02630, term expires 06/30/2010

**SCHOLARSHIP COMMITTEE REAPPOINTMENT:**

Deborah J. Hill, 70 Fernbrook Lane, Centerville, MA 02632, term expires 06/30/2010

**SHELLFISH ADVISORY BOARD REAPPOINTMENTS:**

Stuart W. Rapp, 601 Lumbert Mill Road, Centerville, MA 02632, term expires 06/30/2010  
Robert A. Lancaster, 21 Hannah Circle, Cotuit, MA 02635, term expires 06/30/2010  
Barbara Enos, 103 Long Pond Circle, Centerville, MA 02632, term expires 06/30/2010

**BARNSTABLE TOWN COUNCIL  
2008-004 REAPPOINTMENTS (CONTINUED)  
INTRO.: 07/19/07**

**SOUTH CAPE BEACH ADVISORY COMMITTEE REAPPOINTMENT:**

Robert Lancaster, 21 Hannah Circle, Cotuit, MA 02635, term expires 06/30/2010

**HUMAN RIGHTS COMMISSION FOR BARNSTABLE COUNTY (TOWN REPRESENTATIVE) REAPPOINTMENT:**

Rosario Quiroz, 55 Walnut Street, Hyannis, MA 02601, term expires 06/30/2010

**TRUST FUND ADVISORY BOARD REAPPOINTMENTS:**

Linda Gadkowski, 419 Huckins Neck Road, Centerville, MA 02632, term expires 06/30/2010

William A. Murdoch, 760 South Main Street, Centerville, MA 02632, term expires 06/30/2010

**VILLAGE IMPROVEMENT FUND REAPPOINTMENT:**

Christina Largay, 69 Shirley Point Road, Centerville, MA 02632, term expires 06/30/2010

**WATER POLLUTION CONTROL BOARD REAPPOINTMENT:**

Phillip C. McCartin, 10 Hollingsworth Road, Osterville, MA 02655, term expires 06/30/2010

**WATER QUALITY ADVISORY BOARD REAPPOINTMENTS:**

Thomas Camberari, 62 Joan Road, Centerville, MA 02655, term expires 06/30/2010

Jon Erickson, Box 546, Barnstable, MA 02630, term expires 06/30/2010

**WATERWAYS COMMITTEE REAPPOINTMENTS:**

Frederick Komenda, 65 Elliot Road, Centerville, MA 02632, term expires 06/30/2010

Guile Wood, 49 Blue Heron Drive, Osterville, MA 02655, term expires 06/30/2010

**ZONING BOARD OF APPEALS REAPPOINTMENTS:**

Kelly Kevin Lydon, 8 Preakness Way, Box 244, West Barnstable, MA 02668, term expires 06/30/2010

**SPONSORS:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____
___ Read item	
___ Discussion	
___ Move/vote	

**B. NEW BUSINESS (To Be Referred To Public Hearing August 16th)**

**BARNSTABLE TOWN COUNCIL**

**2008-005 COMMUNITY PRESERVATION FUND APPROPRIATION FOR  
COMMUNITY HOUSING  
INTRO.: 07/19/07**

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B, the sum of Three Hundred Thousand and No/100 (\$300,000.00) Dollars be appropriated and transferred from the amount set aside for Community Housing in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144. The purpose of this appropriation is to partially fund the construction of up to 40 units of low income rental housing; all are to remain affordable in perpetuity. Of the 40 units, 28 will be single family units located adjacent to the YMCA on Route 132 and the 12 remaining units will be senior rental housing located on Route 149 at the old Lombard Farm. Both sites are in the village of West Barnstable. The Town Manager is authorized to acquire restrictions, easements, or other interests or rights in order to secure the purposes established hereunder.

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

**DATE**

**ACTION TAKEN**

\_\_\_\_\_

\_\_\_\_\_

- \_\_\_ Read item
- \_\_\_ Discussion
- \_\_\_ Move/vote

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2008-005  
INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** May 18, 2007  
**SUBJECT:** Rationale for Housing Assistance Corp., West Barnstable Communities

**BACKGROUND:** The Community Preservation Committee (CPC) met on May 15, 2007 and has recommended that the town support the funding request of \$300,000.00 from the Housing Assistance Corporation to go towards the construction and related costs of creating 40 units of affordable rental housing in the village of West Barnstable.

**RATIONALE:** This project is the result of an RFP issued by the Town of Barnstable in October 2004 which called for 28 units of family rental housing adjacent to the YMCA and 12 units of senior rental housing in West Barnstable Village at the site of the old Lombard Farm. Affordable housing restrictions will be placed on 100% of the units at both locations that are proposed to be affordable. The units will include universal design features and there will be fully handicap accessible units at each site.

The YMCA site will have 18 two-bedroom and 10 three-bedroom units in seven quadraplexes arranged around cul-de-sac. The units have been clustered so as to maximize the amount of remaining open space.

The twelve units at the Lombard site will be contained within a single building that was designed to reflect the historic Lombard House which was razed in the 1970's after serving the Town's poor for decades. There will be 8 units located on the first floor, along with a community room, laundry and mail facilities and a management office. The remaining units will be located on the second floor, accessible by elevator or lift.

The project has received Comprehensive Permits for both sites in December 2006. Low Income Housing Tax Credits were recently awarded.

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

### **BARNSTABLE TOWN COUNCIL**

**2008-006 RESOLVE TO AMEND PRIOR TOWN RESOLUTION 2003-027 IN  
OPPOSITION TO PROPOSED STOP & SHOP PROJECT, IYANNOUGH  
ROAD, HYANNIS  
INTRO.: 07/19/07**

**WHEREAS:** Town Council under Resolve 2003-027 expressed its opposition to the proposed Stop & Shop expansion project for Iyannough Road/ Route 132 in Hyannis (“Project”), and

**WHEREAS:** There have been significant revisions and improvements to the Project since the time of the Council’s previous Resolution, including:

The size of the proposed building footprint has been reduced by more than 26 percent, where the proposed building footprint has been reduced almost a half-acre, from 74,588 square feet to 55,120 square feet;

Proposed Parking has been reduced by 26 percent, from 402 spaces to 297 spaces;

Proposed Open Space has increased by 21 percent, from 4.9 acres to 6.2 acres;

Building coverage is half the square footage of the five buildings previously on-site;

Proposed parking lot landscaping has been enhanced with landscaped islands between the parking rows;

Proposed site buffer landscaping along Attucks Lane as increased from a depth of 65 feet to 185 feet, and improved screening has been provided for site loading areas and compactors;

The revised site plan includes a connection to abutting properties, decreasing street traffic on Iyannough Road/ Route 132;

Smaller site detention/infiltration basins have been proposed; instead of one large basin, plans call for two smaller basins, one of which would become a landscape feature along the Route 132 frontage. The other basin has been moved back on the site approximately 100 feet from Attucks Lane;

Construction of a connector roadway between Route 132 and Attucks Lane is proposed at no cost to the Town;

Installation of upgraded traffic signals at the Route 132 aforementioned connector roadway and Attucks Lane intersections are proposed;

Land banking of commercial land for traffic mitigation is proposed;

Long-planned State Highway improvements along Route 132 in the vicinity of the Project Site have now begun;

Substantial contribution to infrastructure improvements is proposed.

**BARNSTABLE TOWN COUNCIL**

**2008-006 RESOLVE TO AMEND PRIOR TOWN RESOLUTION 2003-027 IN  
OPPOSITION TO PROPOSED STOP & SHOP PROJECT, IYANNOUGH  
ROAD, HYANNIS (CONTINUED)**

**WHEREAS:** the Project Proponent has offered to include as a condition of approval the relinquishment of any rights it, or its agents or assignees may have which would prevent the location of a supermarket in downtown Hyannis;

**WHEREAS:** the Project Proponent's lease for its current location at 65 Independence Drive, Hyannis, Massachusetts, has at an additional twenty years (20) years remaining and the Project Proponent has offered to work with the Town to locate an acceptable tenant to lease said space;

**WHEREAS:** The Project as revised has been reviewed under the Massachusetts Environmental Policy Act (MEPA), and received approval thereunder by the Secretary of Environmental Affairs' issuance of a Final Certificate, and

**WHEREAS:** The Project Proponent now intends to undergo permitting and regulatory approval before the Cape Cod Commission and the Town of Barnstable.

**NOW THEREFORE,** be it

**RESOLVED:** that the Barnstable Town Council amend the action taken under Resolve 2003-027 by expressing its intention that the Project as revised with the changes, improvement, representations and offsets delineated and promised herein should be allowed to proceed with the required permitting and regulatory approval process; and further, that the Council hereby requests that the Proponent continue to keep the Council informed of the status of Project permitting and approval, for the Council's information and consideration.

**SPONSOR:** Town Councilor's Ann Canedy and Harold Tobey

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

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2008-006  
INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** Town Councilors Ann Canedy and Harold Tobey  
**DATE:** July 9, 2007  
**SUBJECT:** Stop and Shop Resolve

**BACKGROUND:** When over three years ago, Stop and Shop proposed a new 74,000 ± square foot store on Route 132, there was concern expressed by the Town Council regarding the size of the store and its potential impacts. The project proponent seriously responded to the expressed concerns by reducing the size of store, proposing a number of traffic improvements, providing substantial landscaping and screening, offering significant offsets and timing the completion of the project so that there would be concurrency with the Route 132 State Highway improvements. Based upon the cooperative spirit shown by Stop and Shop and the benefits and offsets now offered by the project proponent, we believe that it merits a review and reconsideration by the Town Council of its previous position.

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

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

**BARNSTABLE TOWN COUNCIL**

**2008-007 GRANT ACCEPTANCE AND TRANSFER ORDER**

**INTRO.: 07/19/07**

**ORDERED:** That the Town Council hereby accepts a Cape Cod Cooperative Extension Wildfire Assessment and Preparedness Program Land Management and Wildfire Grant in the amount of \$5,000 to continue reducing fuel loadings along the residential interface areas in Barnstable, along the Barnstable / Sandwich town line, and within a firefighter and public safety zone.

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

**DATE**

**ACTION TAKEN**

\_\_\_\_\_  
\_\_\_\_\_

- \_\_\_ Read item
- \_\_\_ Discussion
- \_\_\_ Move/vote



**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2008-007  
INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Thomas F. Geiler, Director, Regulatory Services Department  
**DATE:** June 20, 2007  
**SUBJECT:** Acceptance and Transfer Order for Cape Cod Cooperative Extension's Wildfire Assessment and Preparedness Program Land Management and Wildfire Grant

**BACKGROUND:** Cape Cod Cooperative Extension grant funding has been secured to continue work as listed in the Wild Fire Preparedness Plan for West Barnstable Conservation Area and Adjacent Open Space Lands. Initial work started under the same grant program in 2005. This round of funding will be used at the West Barnstable Conservation Area to continue reducing fuel loadings, along a residential interface zone, by mechanical methods. This entails continuing to clear a 100' swath in Barnstable behind houses that abut the Barnstable / Sandwich town line. In addition funding will be used for prescribed burning to reduce fuel loadings within a firefighter and public safety zone. This is a collaborative effort involving County, Town and Fire District staff.

**ANALYSIS:** The Cape Cod Cooperative Extension grant funding provides the Town with cost-effective means to address and combat wildfire hazards on town-owned or town administered open space tracts.

**FISCAL IMPACT:** The local match for the grant is \$400.00, to be provided through the Conservation Division's Land Management existing line item.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends favorable action.

**BOARD AND COMMISSION ACTION:** Reduction of fuel loading at residential interface zones and within a firefighter and public safety zones was approved by the Conservation Commission as part of our Wildland Fire and Preparedness Plan. No further board action is required.

**STAFF ASSISTANCE:** Darcy Karle, Conservation Division

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

**BARNSTABLE TOWN COUNCIL**

**2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS (THE GREENERY)  
INTRO.: 07/19/07**

REGULATORY AGREEMENT  
89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the developer, , Greenery Development, LLC (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this \_\_\_ day of \_\_\_, 2007 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Developer under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both;

WHEREAS this Agreement shall establish the permitted uses, densities, and traffic within the Development, the duration of the agreement, and any other terms or conditions mutually agreed upon between the Developer and the Town.

WHEREAS this Agreement shall vest land use development rights in the property for the duration of the agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare.

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code.

WHEREAS the Developer is the legal owner of the property (“Property”) at 89 Lewis Bay Road and 42 South Street, Hyannis, consisting of approximately 91,346 sq ft, shown on Barnstable Assessor’s Map 327 as Parcels 241&223, and desires to develop the Property pursuant to a regulatory agreement.

WHEREAS, the Development will rehabilitate a large, blighted and vacant building that was formally a nursing home, located on a highly visible parcel at the corner of South Street and Lewis Bay Road.

WHEREAS, the Development will result in a substantial reduction in water use, sewer use and traffic as compared to the previous nursing home use.

WHEREAS, the Development will renovate the existing building, including the existing brick façade, and will create a visual benefit to the South Street, Lewis Bay Road, and Hyannis Harbor area.

**BARNSTABLE TOWN COUNCIL**

**2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND  
42 SOUTH STREET, HYANNIS (THE GREENERY)(CONTINUED)**

WHEREAS, the Developer demolished two blighted residential structures and will improve the lots upon which they were located with parking, lighting and landscaping;

WHEREAS the Development will improve blighted lots and a vacant building and will provide newly renovated office space and residential units, and the rehabilitation of the building will add economic and aesthetic value to the area;

WHEREAS, in addition to the improvements cited above, the Developer has agreed to provide financial mitigation to offset project impacts as set forth below:

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS the Developer has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS the Development is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and the Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, the Development is serviced by municipal sewer and does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS the Developer will require zoning relief from maximum density, building height and story limitations, front setbacks (for the existing building), parking stall size and parking lot buffers, and vegetated buffers to residential properties, all as further defined in paragraph 38 below;

## BARNSTABLE TOWN COUNCIL

### 2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS (THE GREENERY)(CONTINUED)

WHEREAS the Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on July 9, 2007;

WHEREAS the Developer has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on\_\_\_\_\_;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows:

1. If the development rights granted hereunder are exercised, the Developer agrees to construct the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
  - a) Plans entitled "Mixed Use Development, 89 Lewis Bay Road & 42 South Street, Hyannis, MA" all dated April 25, 2007, revised through June 14, 2007, sheets 1 through 7, prepared by BSC Group, as further detailed as follows:
    - Title Sheet, Sheet 1 of 7;
    - Existing Conditions Plan, Sheet 2 of 7;
    - Layout Plan, Sheet 3 of 7;
    - Landscape and Lighting Plan, Sheet 4 of 7;
    - Grading and Utility Plan, Sheet 5 of 7;
    - Site Details, Sheet 6 of 7;
    - Site Details, Sheet 7 of 7.
  - b) Plans entitled "Project, Lewis Bay Court, Exterior Elevations", dated April 10, 2007, prepared by JGA Architectural Design and Judd Brown Designs, Inc., including a South Street elevation, Lewis Bay Road elevation, and second, third and fourth floor plans, and Plans entitled "Lewis Bay Building Renovation" "Left Side Elevation Looking from South Street" and "Right Side Elevation Looking from Lewis Bay Road", Sheet A5.2, by JGA Architectural Design, undated, and "Lewis Bay Building Renovation" "Proposed First Floor Plan", Sheets A1.1 and A1.1B, by JGA Architectural Design, undated.
  - c) Such other plans and plan revisions as may be required by the terms and conditions of this Agreement;
2. The Developer proposes to renovate an existing building to create a mixed use development as follows: renovate the building façade and renovate and enhance site amenities, add a fourth floor, create 21,000 s.f. of non-residential space on the first floor to be developed as not more than four commercial condominium units, and create a total of 42 residential condominium units including 84 bedrooms with said residential units to be located on the second, third, and fourth floors. In addition, the Developer proposes to create additional parking with landscaping on the 42 South Street lot, and Developer

## BARNSTABLE TOWN COUNCIL

### 2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS (THE GREENERY)(CONTINUED)

demolished two blighted, residential structures to accommodate said additional parking. The 89 Lewis Bay Road lot is located within the Medical Services (MS) zoning district. The 42 South Street lot is located within the Harbor District (HD) zoning district. Both lots are located within the Growth Incentive Zone (GIZ) of Barnstable (the "Development");

3. Ground-floor uses shall be business and professional offices or medical/dental clinics, as allowed within the MS Zoning District, Section 240-24.1.4 of the Barnstable Code;
4. In addition to the rehabilitation of the existing structure and parking area and the reduction in impacts from the former nursing home use, mitigation offered by the Developer includes but is not limited to:
  - \$250,000 toward improvements within the layout of South Street in Hyannis;
  - \$150,000 toward improvements for the benefit of the Barnstable Department of Public Works, Water Supply Division;
  - \$34,421 toward improvements within the layout of School Street in Hyannis;
5. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of two years from the effective date of the Agreement, provided, however, that prior to the expiration of said two year period the Developer may request one six month extension to obtain development permits. Upon receipt of necessary development permits construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. The Developer estimates that construction will commence on or about August 1, 2007 and will be completed on or about July 31, 2009;
6. The Developer shall establish a condominium association or associations to carry out the terms and conditions of this Agreement which association(s) shall include all residential and non-residential condominium units. For the purposes of this Agreement, the term "Developer" shall mean the Developer and/or Developer's successor condominium association(s). The Developer shall remain a voting member and fee payer of any unsold condominium units. The form and content of condominium association documents, including the condominium master deed and association bylaws, shall be approved by the Town of Barnstable Legal Department for the purposes of ensuring compliance with the terms and conditions of this agreement, prior to the sale of any condominium units;
7. All building access, but for deliveries as discussed below, shall be through the main entrance with all commercial tenant use (i.e. office waiting areas) to be contained within each commercial tenant condominium;
8. All commercial tenants shall receive large deliveries via the separate, ramped entrances located on the north and west side of the building;
9. Developer agrees to renovate the fire hydrant on South Street to current standards;

**BARNSTABLE TOWN COUNCIL**

**2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND  
42 SOUTH STREET, HYANNIS (THE GREENERY)(CONTINUED)**

10. Developer will remove the existing utility poles that serviced the two demolished residential units at 42 South Street so long as those poles do not service other lots/structures;
11. The proposed crosswalk shall align with the sidewalk ramp accessing Cape Cod Hospital property on the opposite side of Lewis Bay Road. The Developer shall perpetually maintain the crosswalk with thermo plastic paint;
12. The Development shall eliminate 2 curb cuts on South Street and shall utilize one curb cut on South Street and one curb cut on School Street, as shown on the Plans. Developer shall install a “No Right Turn” sign at the South Street parking lot exit and a “One-Way” arrow sign across South Street in the vicinity of the South Street curb cut, as may be permitted by the Town. The sidewalk shall be reconstructed in areas where curb cuts are eliminated, consistent with Condition 13 below;
13. The Developer shall replace the sidewalk and sidewalk curbing along South Street between the proposed South Street curb cut and running west to School Street and then around the corner and up School Street to the edge of Developer’s property on 42 South Street. The newly constructed sidewalk shall be constructed of concrete (brick accent is allowed) with granite curbing and shall be constructed at a width of not less than five (5) feet, and the Developer may upgrade other areas of sidewalk along the frontage of the Development consistent with this agreement;
14. Developer agrees to provide an easement for the placement and maintenance of new municipal street lights on South Street if so requested by the Town;
15. Developer intends to reuse existing light fixture bases and shall install new light poles and fixtures, to be installed in accordance with the Downtown Hyannis Design and Infrastructure Plan;
16. Lighting for the Development shall be contained on-site, shall be down cast and shall not contribute to light pollution of the area;
17. Developer shall be responsible for snow plowing and snow removal on the Development site in perpetuity;
18. All landscaping within the development shall be low water use and shall minimize the use of fertilizers and pesticides;
19. Developer shall provide an eight-foot high wood fence to screen the Development from neighboring residences, and shall provide landscaping to abutting properties as shown on the Plans;

## **BARNSTABLE TOWN COUNCIL**

### **2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS (THE GREENERY)(CONTINUED)**

20. The dumpster shall be located and screened as shown on the Plans. The dumpster shall be serviced solely between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday;
21. Bonds: Prior to the issuance of a foundation building permit Developer will provide a performance bond in an amount to be approved by the Planning Board or its designee, said bond to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said performance bond (including interest) may be released by the Planning Board to the Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of the Developer;
22. Bonds: Bonds shall be provided as required by applicable regulation (i.e. for road openings);
23. Developer and its successors will participate in the Town of Barnstable's Transportation Management Association (TMA) upon its formation. Participation shall include: (a) distribution of materials provided by the Town to all tenants, lessees, and purchasers of condominium units within the development; and (b) the identification of a representative for the development who will serve as the contact between the inhabitants and tenants of the development and the Town's TMA;
24. All plumbing fixtures shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
25. Consistent with approved plans, Developer shall construct a Passive Stormwater Maintenance and Infiltration System to service the Development;
26. Developer will provide a bicycle rack at the Development site;
27. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible;
28. Developer shall provide calculations demonstrating adequate water flow for fire suppression, and standpipes, as required by the Hyannis Fire Department;
29. Ground-floor tenants shall not use, store, generate, treat or dispose of hazardous waste or hazardous materials in quantities greater than 25 gallons (or the dry weight equivalent) or less, and shall not generate hazardous waste in quantities greater than the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353. In addition, all ground-floor tenants shall comply with state and local regulations regarding medical materials and wastes including the use of a licensed disposal company, as required by law;

**BARNSTABLE TOWN COUNCIL**

**2008-008 REGULATORY AGREEMENT, 89 LEWIS BAY ROAD AND  
42 SOUTH STREET, HYANNIS (THE GREENERY)(CONTINUED)**

30. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces), sewer permits and water permits. Contractors are required to have the insurance stipulated in the Street Excavation Rules and Regulations (SERR) and all work on town property must comply with all provisions of SERR;
31. Developer will make best efforts to complete construction work in accordance with a construction schedule and sequencing plan submitted to the Town prior to the execution of the Regulatory Agreement. To the extent construction impacts public property or public rights of passage, changes in the schedule, if needed as work progresses, are subject to the approval of the Town. The developer shall notify the Town of Barnstable Growth Management Department and the Department of Public Works at least 48 hours in advance of working on Town property. (The construction sequencing plan shall identify those areas of public street layout and sidewalk that may be used by the Developer at various points in the project construction and where barricades and fencing will be installed during construction.) The Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work;
32. Exterior construction impacts shall be minimized, and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 7:00 a.m. to 5:00 p.m. Saturdays. No exterior construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration;
33. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;
34. Upon completion of all work, a registered engineer of land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy;
35. Each residential condominium unit shall have at least one dedicated parking space;
36. In order to maintain the use of the Development as a residential condominium development, the rental of condominium units shall be restricted to not less than thirty (30) days tenancy;
37. During the construction of the Development, the Developer shall provide a contact number, to be clearly posted on the Development site, the purpose of which shall be to receive and respond to comments and concerns that may be raised by neighboring property owners during construction;





**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2008-008**  
**INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 10, 2007  
**SUBJECT:** Proposed Regulatory Agreement  
89 Lewis Bay Road and 42 South Street, Greenery Development LLC

**BACKGROUND/ANALYSIS/RATIONALE:** This involves the adoption of a Regulatory Agreement between the Town of Barnstable and Greenery Development, LLC to renovate and improve the existing building and parking area at the corner of South Street and 89 Lewis Bay Road in Hyannis.

The existing building was formerly used as a nursing home. The proponent intends to renovate the building and parking area, and to add parking at 42 South Street, to create a mixed-use condominium building with significant building façade, parking area and other upgrades. It is anticipated that the proposed development will use less than 50% of the water used by the former nursing home and will generate less traffic. Ground floor condominiums will include business and professional offices and/or medical and dental clinics, as allowed by zoning. Forty-two (42) residential condominiums will be constructed on the second and third floors and within a newly constructed fourth floor.

The developer has offered significant on-site and off-site improvements in conjunction with the Development, including, but not limited to:

- Significant improvements to the brick façade of the existing building and parking lot upgrades that increase the economic and aesthetic value of the area;
- Closing two curb-cuts on South Street and opening a curb cut on School Street, thereby improving traffic flow to and from the Development site;
- Improving the sidewalk on South Street and School Street along the Development frontage;
- Demolishing two dilapidated structures on South Street;
- Contributing \$250,000 for improvements to South Street;
- Contributing \$150,000 for improvement to the Hyannis Water Department;
- Contributing \$34,421 for improvements to School Street.

In order for the Development to proceed as recommended by the Developer and the Planning Board, the Regulatory Agreement must receive a 2/3 majority vote from the Town Council approving the zoning waivers requested by the Developer as set forth in paragraph 38 of the proposed Regulatory Agreement.

**FISCAL IMPACT:** The fiscal impact is positive.

**STAFF ASSISTANCE:** Patricia Daley, Director of Comprehensive Planning

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

**BARNSTABLE TOWN COUNCIL**

**2008-009 ORDER THAT THE TOWN COUNCIL VOTE TO GRANT TO NSTAR ELECTRIC COMPANY AND VERIZON NEW ENGLAND, INC. UTILITY EASEMENTS IN A PORTION OF 1200 PHINNEY’S LANE PROPERTY (MAP 274, PARCEL 31) IN BARNSTABLE (HYANNIS)  
INTRO.: 07/19/07**

**ORDERED:** that the Town Council vote to grant to Nstar Electric Company and Verizon New England, Inc. utility easements in a portion of 1200 Phinney’s Lane property (Map 274, Parcel 31) in Barnstable (Hyannis), Barnstable County, Massachusetts, as shown on a plan of land entitled “Iyannough Road (Rte. 132), Exhibit “A”, Easement Sketch, Prepared for Verizon, Phinney’s Lane & Iyannough Road, Barnstable, MA Scale: 1” = 40’, Date: February 16, 2007” by Canal Land Surveying & Permitting Inc, a copy of which plan is on file with the Town Clerk’s Office, and to authorize the Town Manager to take any steps necessary to finalize said easement.

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

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

- Read item
- Discussion
- Move/vote

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2008-009  
INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Mark S. Ells, Director  
**DATE:** July 16, 2007  
**SUBJECT:** Granting of Utility Easements on Phinney's Lane to Nstar and Verizon

**BACKGROUND:** The Town has received a request from Nstar and a second request from Verizon to locate two separate poles outside of the right of way of Phinney's Lane on the Police Department parcel. The need to place these poles outside the right of way is caused by the widening of Phinney's Lane as part of the Route 132 Project.

**ANALYSIS:** Utilities poles are typically located in the road right of way. In this instance, the road widening will not permit the placement of these poles within the layout of Phinney's Lane. There is Town owned land, the Police Station at 1200 Phinney's Lane, upon which the poles can be placed. The poles to be relocated are a part of the overall delivery of utility services to the area, and their relocation will not add or subtract from the available service in the area.

**FISCAL IMPACT:** There is no cost to the Town involved in granting this easement.

**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:** Robert A. Burgmann, P.E., Town Engineer

MAP OF IYANNOUGH ROAD (RTE. 132) AND PHINNEYS LANE  
ADOBE FILE

EXHIBIT "A"  
MAP OF PHINNEYS LANE AND IYANOUGH RD  
ADOBE FILE

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

**BARNSTABLE TOWN COUNCIL**

**2008-010 ACCEPTANCE OF A GRANT FROM THE EXECUTIVE OFFICES OF  
ELDER AFFAIRS TO THE BARNSTABLE SENIOR SERVICES DIVISION  
INTRO.: 07/19/07**

**RESOLVED:** that the Town of Barnstable hereby accept a grant in the amount of \$75,304.00 to support the ongoing provision of services through the Town of Barnstable's Senior Services Division. This grant is a state funded grant that is based on the number of seniors in a town's geographic region.

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

**DATE**

**ACTION TAKEN**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2008-010  
INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** Senior Services Director Elyse DeGroot  
**DATE:** July 16, 2007  
**SUBJECT:** Acceptance of a Grant from the executive offices of elder affairs to the Barnstable Senior Services Division to support staff salaries and ongoing services

**RATIONALE:** The Executive Offices of Elder Affairs awards each town in Massachusetts a grant based on the demographics of that town. The grant can be used in a variety of ways including: providing specific outreach services, helping to cover the cost of printing the Center's newsletter and magazine, allow staff and board members to attend conferences and workshops, as well as to support salaries for three (3) staff members.



**B. NEW BUSINESS (To Be Referred To Public Hearing with Planning Board August 16th)**

**BARNSTABLE TOWN COUNCIL**

**2008-011 AN ORDER TO CREATE A RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT  
INTRO.: 07/19/07**

**ORDERED that:**

**Section 1.** The zoning ordinance is hereby amended by adding the following new section:

**§240-37.1 Recreational Shellfish Area and Shellfish Relay Area Overlay District**

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Overlay District and by banning the construction of new docks and piers and limiting the expansion of existing docks and piers within said overlay zoning district.

The Recreational Shellfish Area and Shellfish Relay Area Overlay District implements the

- (2) Barnstable Local Comprehensive Plan, adopted by the Barnstable Town Council on October 30, 1997, and approved by the Cape Cod Commission on February 12, 1998. The purposes of the Recreational Shellfish Area and Shellfish Relay Area Overlay District include:
  - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law (Strategy 2.2.6.1.1);
  - (b) Docks and Piers shall not be permitted in coastal waters designated as significant shellfish habitats by the Division of Marine Fisheries or local shellfish officials (Policy 2.2.3.3.2.)

B. Establishment of district.

- (1) In order to implement the purposes of this section, the Recreational Shellfish Area and Shellfish Relay Area Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Overlay District shall include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated July 13, 2007, filed with the Town Clerk, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter..

- C. Overlay District Map. The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Overlay District established by this section are shown on the Official Zoning Map, § 240-6A, Identification of Zoning Map, as amended with a file date of August 30, 2000.

**BARNSTABLE TOWN COUNCIL**

**2008-011 AN ORDER TO CREATE A RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT (CONTINUED)**

- D. Prohibition. Within the Recreational Shellfish Area and Shellfish Relay Area Overlay District, the construction and/or installation of docks and piers is prohibited.
- E. Reestablishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95, Reestablishment of damaged or destroyed nonconforming use or building or structure. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- F. Expansion of existing docks or pier. For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.

**Section 2.** The official zoning map of the Town of Barnstable is hereby amended by adding a Recreational Shellfish Area and Shellfish Relay Area Overlay District as shown on the map entitled “Recreational Shellfish Area and Shellfish Relay Area Overlay District”, dated July 13, 2007.

**SPONSOR:** Town Councilor Richard Barry and Town Councilor Ann Canedy

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

- \_\_\_ Read item
- \_\_\_ Motion to open public hearing
- \_\_\_ Rationale
- \_\_\_ Public hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2008-011  
INTRO.: 07/19/07**

**TO:** Town Council  
**FROM:** Richard Barry, Town Councilor  
**DATE:** July 13, 2007  
**SUBJECT:** Recreational Shellfish Area and Shellfish Relay Overlay District

**BACKGROUND/ANALYSIS/RATIONALE:** This involves the amendment of the zoning ordinance to add a Recreational Shellfish Area and Shellfish Relay Overlay District. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers, and limiting the expansion of existing docks and piers, in areas identified as significant for recreational shellfishing and shellfish propagation.

The areas identified for inclusion in the overlay district include areas deemed to possess significant shellfish habitat by the Town's Natural Resource Department Shellfish Biologist. On April 18, 2007, the Barnstable Shellfish Committee voted unanimously to support the proposed Recreational Shellfish Area and Shellfish Relay Area Overlay District as proposed by Councilor Barry.

**FISCAL IMPACT:** The fiscal impact is neutral.

**STAFF ASSISTANCE:** Patricia Daley, Director of Comprehensive Planning

**SPONSORS:** Richard Barry, Town Councilor and Ann Canedy, Town Councilor

**AGENDA ITEM 2008-011  
RECREATIONAL SHELLFISH AREA  
& SHELLFISH RELAY AREA  
OVERLAY DISTRICT  
(MAP OF AREA ADOBE FILE)**