



Town of Barnstable Town Council

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Harold E. Tobey
Vice President

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Janice L. Barton
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Leah C. Curtis
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James F. Munafo, Jr.
Tom Rugo
James M. Tinsley, Jr.

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA

November 5, 2009

7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
 - **Proclamation – Firefighter Frederick Lewis**
 - **Budget Policy Discussion – Town Manager/Union Representatives**
 - **Director of Finance - Update**
- 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: November 19th

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A. OLD BUSINESS

2010-016	Appropriation & transfer \$137,500 from Community Preservation Fund set aside for open space (Public hearing continued) (Roll-call)	3 – 4
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B. NEW BUSINESS

2010-044	Appropriate & transfer \$356,286 for Barnstable Municipal Airport Capital Budget Expenses (Refer to public hearing 11/19/09)	5 – 6
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2010-047	Order for recall election in Precinct 13 (To be acted upon)	12 -13

Minutes – October 15, 2009

Please Note:

It is possible that if it so votes, the Council may go into executive session.

The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Public hearing continued) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-016

INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09, 10/15/09, 11/05/09

2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET ASIDE FOR OPEN SPACE

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of One hundred thirty seven thousand five hundred dollars and no/100 (\$137,500.00) be appropriated and transferred from the amount set aside for Open Space in the Community Preservation Fund on June 18, 2009 under agenda item 2009-129; 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 acquisition of a conservation restriction on 1.05 acres of land located at 671 Main Street, Cotuit, MA., Map / Parcel 036/015.

SPONSOR: Town Manager John C. Klimm upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-016

INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09, 10/15/09, 11/05/09

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: July 27, 2009
SUBJECT: Rationale: Bay Point, LLC – Conservation Restriction

BACKGROUND: The Community Preservation Committee (CPC) met on July 20, 2009, and recommends that the town support this funding request for the Open Space Conservation Restriction on 1.05 acres of land located at 671 Main Street, Cotuit, Map / Parcel 036/015, in an amount not to exceed \$137,500 and shall be appropriated and transferred from the Community Preservation Funds.

RATIONALE: The project goal is to secure a conservation restriction (CR) for a combined sum of \$275,000, of which the Cotuit Water District will share the cost with the town – each will contribute \$137,500.

In the agreement with the developers in return for the purchase of the conservation restriction extensive portions of the property will be restricted from any development. The remaining project will be dramatically reduced in size and density. The developer will physically set off the conservation restriction property with fencing, landscaping and signage at Cotuit Water District's direction. The Town's Growth Management Department will have design and landscaping approval rights. An enhanced Bioclere septic system or its equivalent will be installed and will be subject to extensive regulation and examination requirements that will be reflected in a comprehensive set of documents via order of Housing Appeals Committee, Condominium documents and Board of Health Order.

Barnstable's character will be preserved by protection of nitrate loading and injection of pathogens into ground water near a public water supply wellhead; increased affordable housing opportunities and protection of land.

Cost sharing with the Cotuit Water District and co-management of the CR with Cotuit Water District will assure strict compliance with the terms of settlement and maximize protection of the wellhead. Monitoring costs will initially be paid by the developer and later assumed by the condominium association as an encumbrance on the fee monitoring well installation costs will be paid by the developer to Cotuit Water District, which will install the wells to its specifications. Either Cotuit Water District or the Town, acting through the Board of Health, will have authority to act upon any reported threat to the wellhead or to groundwater.

STAFF ASSISTANCE: Theresa M. Santos, Growth Management Department

B. NEW BUSINESS (Refer to public hearing 11/19/00) Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-044
INTRO: 11/05/09**

2010-044 APPROPRIATE & TRANSFER \$356,286 FOR AIRPORT CAPITAL BUDGET EXPENSES

ORDERED: That the sum of \$356,286 be appropriated for the Barnstable Municipal Airport’s capital expense budgets and be added to Appropriation Order #0586A for the purposes of funding additional contracted architectural and engineering design costs associated with the down-sizing of the proposed airport terminal; and that to meet this appropriation that \$356,286 be transferred from the Airport’s Reserve Fund, and furthermore that the Barnstable Municipal Airport Commission is authorized to contract for and expend the appropriation made available for these purposes, and for these purposes be authorized to accept any grants or gifts in relation thereto; subject to Town Council approval.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-044
INTRO: 11/05/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager, (2) Barnstable Municipal Airport Commission
DATE: October 13, 2009
SUBJECT: Appropriation and transfer order

BACKGROUND: The Barnstable Municipal Airport Commission (BMAC) contracted with AECOM Technical Services Northeast, Inc. (AECOM) on January 15, 2008 for the purpose of designing a new Airport Terminal, Terminal Area Roadways, and Parking Final Design Services; and due to circumstances beyond the project team's control, additional costs were necessary to amend the project schedule, project budget and project oversight that required funding additional contracted architectural and engineering design costs associated with the down-sizing of the proposed airport terminal.

ANALYSIS: The design, project schedule and oversight to be provided by AECOM, the contracted architectural and engineering firm for the construction of the new Barnstable Municipal Airport Terminal project is currently funded at \$1,662,441 for required services only through construction documents; and for a variety of reasons the 60% design documents proffered by AECOM were unfortunately over budget by an estimated \$4.0 to \$6.0 million dollars. All design work was stopped and further design services to essentially redesign a reduced scope and sized Terminal required additional time and redesign services, extensive design modifications, Cape Cod Commission coordination and additional CM at Risk services for which an additional negotiated amount of \$356,286 was agreed upon for this phase of services.

FISCAL IMPACT: The appropriation and transfer of \$356,286 from the Airport's Reserve Fund shall be sufficient to complete the design and pre-construction phases of the Barnstable Municipal Airport Terminal, Terminal Area Roadways, and Parking Final Design Services. These funds have been budgeted and will be deducted from the total project cost allocation for the construction of the project when approved by the Town Council. These funds are also subject to reimbursement from the MAC on a ratio of 80% MAC and 20% BMAC.

BOARD AND COMMISSION ACTION: N/A

STAFF ASSISTANCE: Airport Manager R. W. (Bud) Breault, Jr.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-045

INTRO: 11/05/09

2010-045 ACCEPTANCE OF A \$3,015,000 FEDERAL AVIATION ADMINISTRATION GRANT

RESOLVED: That the Town Council does hereby accept the grant award in the amount of \$3,015,000 from the Federal Aviation Administration and that the Barnstable Municipal Airport Commission is authorized to enter into contracts and to expend the grant monies for the purposes specified therein.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____
___ Read item	
___ Council discussion	
___ Move/vote	

BARNSTABLE TOWN COUNCIL

ITEM# 2010-045
INTRO: 11/05/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager, (2) Barnstable Municipal Airport Commission
DATE: October 13, 2009
SUBJECT: Acceptance of a Grant in the amount of \$3,015,000 from the FAA

BACKGROUND: In 2008 the Department of Transportation and Federal Aviation Administration Appropriations through H.R. 2764, Division K (Transportation and HUD) received \$145,530,000 for the national airport terminal air traffic control facilities replacement program; and which included funds for the Barnstable Municipal Airport in the amount of \$3,185,000, as sponsored by the late Senator Edward Kennedy, Senator John Kerry and Representative William Delahunt for replacement of the Air Traffic Control Tower facility at Barnstable, MA. The initial earmark of \$3,185,000 has been reduced by \$170,000 by the FAA for its direct costs associated with siting the new ATCT. The remaining funds in the amount of \$3,015,000 are the subject of this agreement.

ANALYSIS: The purpose of the Agreement is to provide funds to site, obtain permits, design, construct, and equip a replacement Airport Traffic Control Tower (ATCT) at Barnstable Municipal Airport which meets the requirements of Federal Aviation Administration Order 6480.4A, meets the criteria established by the Code of Federal Regulations, meets the requirements of the FAA Contract Tower Program, and receives permitting approval from state and municipal agencies for design, construction and environmental purposes. The Agreement was approved by the FAA on May 27, 2009 and will remain in effect until April 30, 2017 or when the Agreement is either successfully concluded or earlier terminated by the parties. In the event that there are unforeseen or excusable delays acceptable to the FAA, the Agreement may be extended for an additional 5-year period to complete the project.

FISCAL IMPACT: An FY2010 Supplemental CIP Request accompanies this Grant Acceptance for the siting, permitting, design, construction and equipping the replacement FAA Contract Air Traffic Control Tower; and to commence a phased approach to completion of the project. The initial earmark of \$3,185,000 has been reduced by \$170,000 by the FAA for its costs associated with siting the new ATCT. The ATCT siting location process conducted by the FAA Technical Laboratory should be completed before the end of FY2010. The remaining funds in the amount of \$3,015,000 are the subject of this agreement. Within the grant allocation, the Barnstable Municipal Airport Commission (BMAC) must reserve funds in the amount of \$230,000 for a reimbursable agreement with the FAA for the purchase and installation of telecommunications circuits, lines and equipment and related work, and for other FAA-provided equipment, leaving a useable balance in the amount of \$2,785,000 for all remaining project related costs.

An initial amount of \$300,000 was disbursed by the FAA and received by the Town on June 26, 2009, for the purpose of siting, design, specifications, permits, and related work. To date, none of these funds have been obligated nor expended. Additional funds will be disbursed for construction costs within 60 days after receipt and acceptance of a bid for the construction of the ATCT and associated structures and related facilities. The BMAC is responsible for obtaining any additional funds over and above those provided by the FAA for any additional costs, including but not limited to cost overruns,

**SUMMARY
(Continued)**

for the design and construction, equipment, and so forth. However, the BMAC will not make any commitment to expend additional funds beyond those provided in the grant until the business plan can support additional funding for construction, and is approved by the Town Council.

The grant amount of \$3,015,000 is projected to cover the majority of the total project costs associated with this project. Should the cost estimates provided during the design of the project exceed available grant funds, the BMAC will have to seek additional grant funds and/or provide funds from available reserves at some point within the 8-year term of the Agreement. If adequate funding is not available within the specified agreement terms, the project will be placed on hold, and any remaining funds in the Agreement will be returned to the FAA without penalty to the BMAC or the Town.

This is an independent project, and should move forward on its own merit without regard to the BMA Terminal construction project. The project is also listed in the Draft FAA and Massachusetts Aeronautical Commission (MAC) FY2010 five-year CIP for an FY2010 start for the purpose of siting, design, specifications, permits, and related work. Assuming that adequate funding can be provided and approved by the BMAC and Town Council, construction is currently listed to commence in FY2013.

At this time, the Operating Budget impact appears to be negligible. Minor efficiencies may occur with regard to decreased maintenance and lower utility costs with better more energy efficient equipment.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE: Airport Manager R. W. (Bud) Breault, Jr.

B. NEW BUSINESS (Refer to joint public 11/19/09) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM NO.: 2010-046
INTRO.: 11/05/09**

2010-046 APPROPRIATE & TRANSFER \$75,000 CPC FUNDS FOR HISTORIC PRESERVATION

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum of Seventy Five Thousand Dollars and NO /100 (\$75,000) be appropriated and transferred from the amount set aside for Historic Resources in the Community Preservation Fund, on June 18, 2009 under 2009-129 and that the Town Manager be authorized expend the amount appropriated to acquire the historic resource consisting of the life estate interest for the property located at 2135 Meeting House Way, West Barnstable and found on Map 130, Lot 12.

SPONSOR: Town Manager John C. Klimm upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-046
INTRO: 11/05/09

TO: Town Council
FROM: Joanne Miller Buntich, Director of Growth Management Department
DATE: October 27, 2009
SUBJECT: Paine Black House

BACKGROUND: At their meeting on October 14, 2009, the Community Preservation Committee (CPC) unanimously recommended support for the Growth Management Department funding request for the amount not to exceed, \$75,000 for the acquisition of an interest in real estate.

RATIONALE: This request is for the acquisition of an interest in real estate located at 2135 Meeting House Way, West Barnstable located on map 130, lot 12. The requested amount for this purchase is \$75,000.00 under the Historic Preservation component of the Community Preservation Act (CPA). The purchase amount of this acquisition is supported by a recent appraisal. The interest to be purchased is a life estate, the remainder interest being held by the Town. This historic home was included in the 23.79 acre Conant Farm acquisition which occurred in 2000. Although most of the Conant Farm was purchased through the Land Bank Open Space program, the Town's remainder interest in the home was paid for by non-Land Bank funds.

The shared upkeep of this historic structure both inside and out as well as the landscape maintenance precluded substantive proactive improvements during the timeframe of town involvement at this site. The acquisition of this portion of the remaining interest will unify future repairs and provide permanent protection for this historic resource.

The historic farm house on the property was built in 1825 and is commonly known as the Paine Black House. It is listed as a contributing building in the Meetinghouse Way National Register District. The use of CPA funds for historic preservation meets the following criteria: protect, preserve, enhance and potential restoration of a threatened historical resource of significance.

STAFF ASSISTANCE: Alisha Stanley, Project Coordinator
Growth Management Department

B. NEW BUSINESS (To be acted upon) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM NO.: 2010-047
INTRO.: 11/05/09**

2010-047 ORDER ON RECALL ELECTION

Pursuant to Section 8-8© of the Code of the Town of Barnstable, and upon the receipt of a certificate from the Town Clerk that a sufficient petition for recall has been filed; the Town Council does hereby order:

THAT, the warrant and notice for meetings be issued in due form, notifying and warning the inhabitants of Precinct 13 of the Town of Barnstable, qualified to vote in elections, to meet in their polling place on _____, between the hours of 7:00 a.m. and 8:00 p.m. then and there to give in their votes on the following question:

“Shall J. Gregory Milne, Precinct 13 Town Councilor be recalled?”

YES

NO

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-047
INTRO: 11/05/09

TO: Town Council
FROM: Town Clerk Linda Hutchenrider
DATE: October 28, 2009
SUBJECT: Recall Election

BACKGROUND: Under Section 8-8 of the Code of the Town of Barnstable, an affidavit for recall was presented to the Town Clerk and certified. A Petition to Recall was created and 10% (202) of the registered voters in Precinct 13 signed said Petition. The signatures were verified by the Registrars and the Town Clerk certified to the above on October 15, 2009, with an official notice to the town Council on October 22, 2009.

The Precinct 13 Town Councilor was given written notice. A letter dated and received on October 26, 2009 from the councilor, stated that he does not intend to resign and as of November 5, 2009 has not resigned from his position.