



# Town of Barnstable Town Council

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## **TOWN COUNCIL MEETING AGENDA August 4, 2011 – 7:00 PM**

### Councillors:

Frederick Chirigotis  
President

Janice L. Barton  
Vice President

Richard G. Barry  
Ann B. Canedy  
James H. Crocker  
Debra S. Dagwan  
Henry C. Farnham  
Janet S. Joakim  
J. Gregory Milne  
James F. Munafo, Jr.  
John T. Norman  
Tom Rugo  
James M. Tinsley

Acting Administrator:  
Barbara A. Ford

Administrative  
Assistant:

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES (Includes Executive Session)**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
  - Review of Open Meeting Law Complaints filed with the Barnstable Town Clerk on March 30, 2011 and April 8, 2011 respectively by Councilor James Crocker, for the purposes of formulating responses to the Attorney General's Office.
  - Review of Open Meeting Law Complaint filed with the Barnstable Town Clerk on July 1, 2011 by Councilor Janet Joakim, for the purposes of formulating a response to the Attorney General's Office.
  - Review of an Open Meeting Law Complaint filed with the Barnstable Town Clerk on August 1, 2011 by John Julius, for the purposes of formulating a response to the Attorney General's Office (July 25, 2011 OML complaint withdrawn).
  - Review of an Open Meeting Law Complaint filed with the Barnstable Town Clerk on August 1, 2011 by Gary Lopez, for the purposes of formulating a response to the Attorney General's Office (July 25, 2011 OML complaint withdrawn).
  - The Town Council may go into executive session:
    - 1) To review and approve draft minutes of the first executive session held on March 17, 2011, which was entered into for the purposes of conducting contract negotiations with non-union personnel; and
    - 2) To review the minutes of the executive session held on June 15, 2011 by the Town Council Town Manager Contract Review Subcommittee; which was entered into for the purposes of conducting contract negotiations with non-union personnel; and
    - 3) To review and approve the draft minutes of the executive session held on June 16, 2011, which was entered into for the purposes of conducting contract negotiations with non-union personnel; and
    - 4) To review the minutes of the executive session held on June 23, 2011 which was entered into for the purposes of conducting contract negotiations with non-union personnel; and
    - 5) To discuss complaints brought against a public officer, employee, staff member or individual.
- A. OLD BUSINESS**
- B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

**NEXT REGULAR MEETING: September 8, 2011**

**A. OLD BUSINESS**

2011-138	Amending the Zoning Ordinance C. 240, Article III, Section 20-20 by adding a new zoning district - West Barnstable Village Business District <b>(Refer to public hearing 09/08/11) (Roll-call, 2/3)</b> .....	3 - 9
2011-147	Appropriate - \$375,000 for park revitalization of Ridgewood Park, Hyannis <b>(Public hearing) (Roll-call, 2/3)</b> .....	10 - 11
2011-148	Order Authorizing the Town Manager to execute a substantial amendment to the regulatory agreement – 89 Lewis Bay, LLC <b>(May be acted upon)</b> .....	12 - 14
2012-002	Acceptance of a Massachusetts’ Cultural Council Cultural Facilities Fund grant award of \$18,800 <b>(May be acted upon)</b> .....	15 - 16
2012-004	Appropriation of \$432,954 for park revitalization at 182 Pleasant Street, Hyannis on Map 326, Parcel 131 <b>(Public hearing) (Roll-call, 2/3)</b> .....	17 - 18

**B. NEW BUSINESS**

2012-005	Adoption of the Town of Barnstable Multi-Hazard Plan <b>(May be acted upon)</b> .....	19 - 20
2012-006	Acceptance of a \$17,285 grant from the MA Executive Office of Public Safety and Security for the purchase of two automated license plate readers <b>(May be acted upon)</b> .....	21 - 22
2012-007	Acceptance of a FY12 \$177,282 9-1-1 Department Support and Incentive Grant from MA Executive Office of Public Safety <b>(May be acted upon)</b> .....	23 - 24
2012-008	Acceptance of a \$10,000 gift from the Bluecoats of Barnstable, Inc. to the Barnstable Police Department <b>(May be acted upon)</b> .....	25 - 26
2012-009	Appropriation and transfer \$25,000 for the repair and maintenance of the Sandy Neck Gate House and Air Compressor Shack <b>(Refer to public hearing 09/08/11) (Roll-call, 2/3)</b> .....	27 - 28
2012-010	Acceptance of a gift of two easements for the Stewarts Creek Restoration Project <b>(May be acted upon)</b> .....	29 - 30
2012-011	Transfer order of \$1,000 for acquiring real property for the Stewarts Creek Restoration Project <b>(Refer to public hearing 09/08/11) (Roll-call, 2/3)</b> .....	31 - 32
2012-012	Transfer \$950,500 from Employee Benefits and Insurance into the Insurance Reserve Trust Fund for the self-insuring Workers’ Compensation Program <b>(May be acted upon)</b> .....	33 - 36
2012-013	Establishing a gift account to accept donations and gifts for improvements and ongoing maintenance & repairs of the Centerville playground located at 524 Main St, Centerville <b>(May be acted upon)</b> .....	37 – 38
2012-014	Re-appointments to a board/committee/commission <b>(First reading)</b> .....	39 - 40
2012-015	Appointments to a board/committee/commission <b>(First reading)</b> .....	41

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**Approve Minutes** — May 19, 2011; June 2, 2011; June 16, 2011; June 23, 2011; July 14, 2011

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**Please Note:** The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session.

Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice.

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



**The Town of Barnstable  
Planning Board**

Matthew K. Teague, Chairman  
200 Main Street, Hyannis, MA 02601 Phone 508-862-4679 Fax 508-862-4725

[www.town.barnstable.ma.us/growthmanagement](http://www.town.barnstable.ma.us/growthmanagement)



**Growth Management Department**  
367 Main Street, Hyannis, MA 02601  
Jo Anne Miller Bunlich, Director

July 12, 2011

Frederick Chirigotis, President  
Barnstable Town Council  
367 Main Street  
Hyannis, MA 02601

Reference: Proposed Zoning Amendment - West Barnstable Village Business Zoning District  
Town Council Agenda Item No. 2011-138 - Introduced 05-19-2011

11 JUL 18 P 3:37  
BARNSTABLE  
TOWN

Dear Council President Chirigotis:

At the regular schedule July 11, 2011 meeting of the Planning Board, a duly posted and noticed public hearing was held on the proposed rezoning of the VB-B Village Business B District to WBVBZ the West Barnstable Village Business Zoning District. After presentation of the proposal by the West Barnstable Civic Association and public comment, the Planning Board discussed the rezoning.

At the conclusion of the hearing, a motion was duly made and seconded to recommend to the Town Council adoption of the amendment as written. The vote on this recommendation was unanimous.

Respectfully Submitted,

Matthew K. Teague, Planning Board Chair

Copy: Barbara Ford, Town Council Administrative Assistant  
Jo Anne Miller Bunlich, Director  
Linda Hutchenrider, Town Clerk  
Nancy Traitor, West Barnstable Civic Association Subcommittee Chair

**A. OLD BUSINESS (Refer to public hearing 09/08/11) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-138  
INTRO: 05/19/11, 08/04/11**

**2011-138 AMENDING THE ZONING ORDINANCE-ADDING WEST BARNSTABLE  
VILLAGE BUSINESS DISTRICT**

**ORDERED:**

That Chapter 240, of the Code of the Town of Barnstable, The Zoning Ordinance hereby amended as follows:

**Section 1:** (Shown in its entirety below.)

Amends Article III, Section 240-20 by adding a new zoning district titled West Barnstable Village Business District (WBVBD)

**Section 2:**

Amends The Zoning Map of the Town of Barnstable, to rename the VB-B Zoning District located near the intersection of Meetinghouse Way (Route 149), and Main Street (Route 6A) in the Village of West Barnstable to WBVBD as shown on The Zoning Map of the Town of Barnstable, Massachusetts Index Map dated June 7, 2011, and The Zoning Map of the Town of Barnstable, Massachusetts, West Barnstable, Sheet 2 of 7 dated June 7, 2011.

**Section 3:**

Amends Section 240-5, Establishment of Districts by adding “WBVBD – West Barnstable Village Business District” to the listing of Commercial Districts

**Section 4:**

Amends Section 240-67 to delete “VB-B” and add in its place “WBVBD” so the section now reads “Section 240-67 Signs in the CVD, OM, HG, TD, VB-A, MMVD and WBVBD Districts”

**Section 5:**

Amends Section 240-125.B (1) (e) Use Variances by adding “and the West Barnstable Village Business District (WBVBD)” after “(MMVD)” and by adding “and the WBVBD” before the word “boundary” the section to read:

“Use Variances: To authorize variances for uses in accordance with the provisions of this ordinance provided, however, that no such variances shall be granted within three hundred (300) feet of the major arteries known as Route 28, Route 132, Route 149 and West Main Street, within the Marstons Mills Village District (MMVD) and the West Barnstable Village Business District (WBVBD) and within 300’ of the MMVD and WBVBD boundary.

**Section 6:**

Amend Chapter 240, by deleting references and regulations for the VB-B. Specifically:

- A. Section 240-5, Establishment of Districts by deleting the “VB-B – Village Business B District”
- B. Section 240-53, Landscape requirements for parking lots, table of “Landscape Buffer Setbacks (in feet) to Parking Lots and Drives”
- C. Section 240-24.A, that sentence that reads “provided that in the VB-B District, no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as

follows: household quantities; waste oil retention facilities for retailers of motor oil required and operated in compliance with MGL Ch. 21 § 52A; oil on site for heating of a structure or to supply an emergency generator”

- D. Section 240-24. B(2), that Part of the second sentence that reads “No more than three total rooms shall be rented to not more than six total guests at any one time in the VB-B Business District, and”
- E. Section 240-24.D – all of the text in that subsection D, and
- F. Delete the remaining VB-B references in Section 240-24 and the single reference in Section 240-23. E (2).

**Section 1:**

To amend the Zoning Ordinance of the Town of Barnstable, Chapter 240 of the General Ordinances of the Code of the Town of Barnstable, Article III, District Regulations by adding a new Section 240-20 (now reserved for future use) West Barnstable Village Business District, to read as follows:

**§240- 20 West Barnstable Village Business District**

- A. Purpose and Intent: The purposes and intent of this section is to guide development and redevelopment in West Barnstable Village Business District so that it:
  - 1. Promotes a location-appropriate scale and traditional mix of business, institutional and residential land uses that contribute to and respect the historic character and historic neighborhood development patterns;
  - 2. Acknowledges the historic context of the village and preserves or enhances historic buildings or other historic resources;
  - 3. Protects and preserves the historic and scenic streetscape.
  - 4. Provides a variety of functions that support residents’ day-to-day use of the district;
  - 5. Supports and enhances the diverse local economy and retains established village goods and service offerings;
  - 6. Preserves and protects the traditional New England village character of West Barnstable through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of Cape Cod and New England to enhance the aesthetic quality of Barnstable as a whole.
  - 7. Conforms with the Old Kings Highway Regional Historic District Act;
  - 8. Is consistent with the Barnstable Comprehensive Plan and the West Barnstable Village Plan.

The following uses are permitted in the WBVBD, provided that no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as follows: household quantities; waste oil retention facilities for small scale retailers of motor oil required and operated in compliance with MGL Ch. 21 § 52A; oil on site for heating of a structure or to supply an emergency generator.

**A. Principal permitted uses.**

- 1. Single-family residential dwelling. A single family residential dwelling may be free standing or attached to a building also used for non-residential uses. More than one single family residential dwelling per lot is permitted as long as there is a minimum of one acre per single family dwelling, but in no case will more than one principal permitted single family residential dwelling be contained in any one building.
- 2. Small scale retail store.
- 3. Professional, business or medical office.
- 4. Office of a bank, credit union, savings and loan or other financial institution.

- B. Accessory uses.** The following uses are permitted as accessory uses in the WBVBD:
1. Bed-and-breakfast operation within an owner-occupied single-family residential structure, subject to the provisions of § 240-11C (6) except Subsections (b) [1] and [2]. No more than three total rooms shall be rented to not more than six total guests at any one time in the WBVBD. No special permit shall be required in the WBVBD. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests.
  2. Automated banking facilities (ATM) shall be located within a principal building and shall not be accessed from the exterior of the building.
  3. Accessory apartments as provided for in The Town of Barnstable Code, Chapter 9 Affordable Housing, Article II Accessory Apartments and Apartment Units.
- C. Special Permit Uses.** The following uses are permitted provided that a special permit is first obtained from the Special Permit Granting Authority (SPGA) subject to the provisions of § 240-125C herein and subject to the specific standards for such uses as required in this section:
1. Artisans and craftspeople
  2. Personal service business
  3. Windmills and other devices for the conversion of wind energy to electrical or mechanical energy subject to the provisions of § 240-44.1
- D. Special Permit Performance Standards.** In addition to the standards for the grant of a special permit set forth in § 240-125C, the grant of any special permit within the WBVBD requires findings to support that the development meets the following criteria:
1. Is compatible with and supports the purpose and intent of this section;
  2. Mitigates impacts to safety and congestion from development;
  3. Protects and preserves water supply for both drinking water and fire protection;
  4. Stormwater shall be contained on site and mitigated using best management practices;
  5. Manages waste, by-products and other debris that may be associated with artisan and crafts use in a manner compatible with abutting or nearby residential uses;
  6. Does not generate noise, vibration, smoke, dust or other particulate matter, odors, heat, glare or intrude with similar nuisance on abutting or nearby residential uses;
  7. Storage of all raw material and finished product associated with artisan or craft use shall be stored within a duly permitted permanent structure. All outdoor storage associated with artisan or craft use is prohibited.
  8. Deliveries may take place not sooner than one hour before, or later than one hour after the permitted operating hours of a business.
  9. Vehicles are prohibited from running motors, refrigeration units or other mechanical units outside of permitted hours of operation.

**E. Bulk Regulations.**

		Minimum Yard Setbacks					
Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Front <sup>3</sup> (feet)	Side (feet)	Rear (feet)	Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
43,560	160	—	30	30	30	30 <sup>1</sup>	10 <sup>2</sup>

**NOTES:**

1 Or two stories, whichever is lesser

2 No more than 33% of the total upland area of any lot shall be made impervious by the installation of buildings, structures and paved surfaces.

3 Front yard landscaped setback from the road lot line: 20 Feet. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

**F. Non-Conforming Use Limitations.** Within the WBVBD the change of a non-conforming use to another non-conforming use is prohibited notwithstanding the provisions of Section 240-94.A. A nonconforming use shall only be permitted to change to a Principal Permitted Use as of right or to a Special Permit Use as provided for by the grant of a special permit pursuant to Section 240-20 C and D herein.

**G. Corporate Branding -** Buildings, colors, signage, architectural features, text, symbols, graphics, other attention getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. All structures and sites shall be designed to include architectural and design elements that are consistent with the WBVBD architectural composition, character, and historic context. Interior corporate branding elements shall not be visible to the street through windows, doors or by any other means. The Town will work with applicants to adapt critical functional features of prototype plans to their sites, but will not accept standard plans, building forms, elevations, materials, or colors that do not relate to the site, adjacent development or West Barnstable community character.

**H. Site Development Standards.** In addition to Article IX, Site Plan Review and Article VI, Off-Street Parking the following additional requirements shall apply within the WBVBD.

1. Loading docks. Loading docks shall be screened from Meetinghouse Way (Route 149), Main Street (Route 6A), Lombard Avenue, Navigation Road, Packet Landing Road and Whitecap Lane with landscaping or fencing materials of an appropriate scale.
2. To the greatest extent feasible, all new parking areas shall be located to the side and rear of the building. Parking is not permitted in the required front yard setback with the exception of parking required by ADA compliance as determined by the Building Commissioner.
3. Curb cuts and driveways.
  - (a) Shared driveways and parking area interconnections are strongly encouraged. No more than one curb cut on Meetinghouse Way (Route 149, Main Street (Route 6A), Lombard Avenue, Packet Landing Road, Navigation Road and Whitecap Lane shall be allowed for any lot. For traffic safety and to reduce traffic congestion, no new driveways shall be permitted on Route 149, Route 6A, Lombard Avenue and Whitecap Lane within 200 feet of any intersection.
  - (b) Driveways shall not exceed the width required by Site Plan Review

4. Lighting. In no case shall exterior or outdoor lighting cause glare that impacts motorists, pedestrians or neighboring premises.

(a) All exterior lighting shall use full cutoff light fixtures in which no more than 2.5 percent of the total output is emitted at 90 degrees from the vertical pole or building wall on which it is mounted.

(b) Up lighting is prohibited.

I. **Definitions.** The following terms are defined in the WBVBD and shall not be construed to apply to other regulations.

**Artisan or Craftsperson Use**– A small scale use that typically employs one or two people who practice craft or artisan activities. A key feature of works produced by artisans or craftspeople is the high degree of manual expertise involved. The use must be compatible with abutting and nearby residential and non-residential uses. The following is included in the definition of Artisan or Craftsperson Use:

**Artisan or Craftsperson**– A person using manual skills to produce, in limited quantities, ornamental or functional works in ceramic, glass, metal, paper, wood or textiles. Examples include, without limitation, the following: drawing, painting, sculpture, pottery, photography, graphic design, interior design, fashion design, jewelry making, wood turning, glass blowing, furniture making, small wooden boat building, upholstering and weaving.

**Personal Service** – Establishments engaged in the provision of services, but not goods, of a personal nature to individuals and households. Such establishments include barber shop, beauty salon, clothing repair or seamstress shop, shoe repair shop, florist and day spas. Personal service establishments that are not commonly found in rural village environments such as check cashing services, fortune tellers, psychics, palm readers and similar services, spas and hot tubs for rent, tanning, piercing and similar services are prohibited.

**Small scale retail store** – Small stores and businesses, including but not limited to, corner groceries, bookstore, galleries and other small retail uses typically found in small New England towns. Small scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline and oil filling stations, garages for automotive repair. Small scale retail is subject to corporate branding limitations as described herein and shall not include drive through window service.

**SPONSOR:** Councilor Henry C. Farnham

DATE	ACTION TAKEN
_____	_____
_____	_____

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



# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-138**  
**INTRO: 05/19/11, 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Henry Farnham, Precinct 11 Councilor  
**DATE:** February 17, 2011  
**SUBJECT:** Zoning Amendment Changing the VB-B zoning to WBVBD

**SUMMARY:** This is an amendment conceived, drafted and put forward by the LCP Committee of the West Barnstable Civic Association pursuant to their new Village Plan. This amendment more clearly specifies the type of commercial activity sought for the business district within the Village. The amendment adds site design guidelines, performance standards for special permits, use limitations and definitions specific to this district.

**ANAYLSIS:** Adoption will amend the zoning ordinance by eliminating the existing VB-B regulation, and renaming the commercial district the West Barnstable Village Business District (WBVBD), and adds new regulations for the WBVBD. No amendments to the district boundary are proposed by this order. This ordinance amendment was drafted with the active participation of the residents of West Barnstable through the West Barnstable Civic Association's Local Comprehensive Planning Committee. The proposal was unanimously approved by the membership at the annual meeting of the West Barnstable Civic Association in January 2011.

**RATIONALE:** Adoption of the amendment follows Village based planning long embraced by Barnstable.

Approval of the zoning amendment promotes West Barnstable's and the Town's planning objectives, protects the character and environment of West Barnstable and promotes locally focused economic development.

**STAFF ASSISTANCE:** Jo Anne Miller Buntich, Growth Management Director

**A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-147**

**INTRO: 06/16/11, 07/14/11, 08/04/11**

**2011-147 APPROPRIATION OF \$375,000 FOR PARK REVITALIZATION, RIDGEWOOD PARK IN HYANNIS**

**ORDERED:** That sum of \$375,000 is appropriated for the purpose of the revitalization of park land located at 0 Linden and 0 Maple Streets in Hyannis otherwise known as Ridgewood Park; that in order to meet this appropriation, the sum of three hundred seventy five thousand (\$375,000.00) Dollars is to be appropriated, subject to reimbursement of up to \$204,000.00 (54% of project costs) from the proceeds of the PARC (Parkland Acquisitions and Renovations for Communities) grant to be accepted; and that the Town Manager is authorized to contract for and expend the amount appropriated and accept any gifts and grants in relation thereto.

**SPONSOR:** Councilors Debra S. Dagwan and James M. Tinsley

<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**

**ITEM# 2011-147**

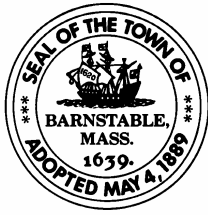
**INTRO: 06/16/11, 07/14/11, 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Jo Anne Miller Buntich, GMD Director  
**DATE:** June 7, 2011  
**SUBJECT:** Ridgewood Park Improvements

Improvements to Ridgewood Park located between Linden, Locust, Mulberry and Oak Streets in the “tree streets” neighborhood in Hyannis has been the subject of a process spanning several years. Working with the Recreation Commission and the park neighbors through formal and informal discussions, a design concept has been developed for project funding. These modest improvements incorporate toward low maintenance design. Once funding is secured, the design will be finalized with Town departments and the park neighbors.

The PARC grant allows 54% reimbursement to the Town. The grant application requires that the entire amount be set aside by the Town Council. Once the project is awarded the PARC grant reimbursements will be requisitioned as the project moves toward completion. Once funding is in place early in the fall of 2011, we would anticipate project completion by the end of June 2012.



# Town of Barnstable Planning Board

[www.town.barnstable.ma.us/growthmanagement](http://www.town.barnstable.ma.us/growthmanagement)



Jo Anne Miller Buntich  
2007  
Director

**TO:** Town Council  
**FROM:** Planning Board  
**DATE:** May 6, 2011  
**SUBJECT:** Proposed Regulatory Agreement Substantial Amendment  
Lewis Bay Court formerly Greenery Development, LLC

Following is a proposed Substantial Amendment to the Regulatory Agreement between the Town of Barnstable and Lewis Bay Court, LLC formerly Greenery Development, LLC.

The Developer proposes to modify the existing Regulatory Agreement to eliminate the following mitigation requirements in the 2007 agreement (excerpted):

WHEREAS, in addition to the improvements cited above, the Developer has agreed to provide financial mitigation to offset project impacts ...

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;

A counter offer to the applicant's proposed substantial amendment was discussed by the Planning Board and the applicant over the course of two public hearings held on January 10 and January 24, 2011 and additional informal discussions held on November 8 and 22, 2010 and March 15, 2011. The counter offer amendment, as described in the Town Council Order, was recommended by a majority vote of the Board on March 15, 2011.

Should the Town Council approve this Substantial Amendment to the Regulatory Agreement, it would then be endorsed by the Town Manager and recorded at the Registry of Deeds.

**A.**

**OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2011-148**

**INTRO: 06/16/11, 07/14/11, 08/04/11**

**2011-148 ORDER AUTHORIZING THE TOWN MANAGER TO EXECUTE A SUBSTANTIAL AMENDMENT TO THE REGULATORY AGREEMENT- 89 LEWIS BAY, LLC**

AMENDMENT # 2 TO REGULATORY AGREEMENT

89 LEWIS BAY ROAD AND 42 SOUTH STREET, HYANNIS

This modification to a regulatory agreement (“Agreement”) is entered by and between the developer, 89 Lewis Bay, LLC (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this \_\_\_ day of \_\_\_\_\_, 2011 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS the Developer has undergone at least two public hearings on the Agreement amendment application and received a majority vote from the Planning Board approving the following substantial amendment on March 15, 2011;

WHEREAS the Developer has undergone a public hearing on the Agreement amendment application before the Town Council and received a majority vote approving the application on \_\_\_\_\_, 2011;

WHEREAS, the 2007 Regulatory Agreement including the February 2011 Amendment #1 remains in full force and effect except as modified herein;

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: that the regulatory agreement dated July 22, 2007 and recorded at the Barnstable Registry of Deeds, Book #22250, Page 286 be amended as follows

1. Paragraph #4 of the 2007 Regulatory Agreement shall be amended as follows:

- \$150,000 towards streetscape improvements within the layout of South Street;
- \$150,000 towards improvements of public water supply infrastructure on School Street through the Department of Public Works, Water Supply Division;
- \$30,000 towards pedestrian improvements within the layout of School Street

These funds shall be paid to the Town over a ten (10) year period, the first payment due one year from the date of this Modification and where no payment shall be less than 10% of the total of the amounts above.

WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Town of Barnstable  
By: John C. Klimm  
Barnstable Town Manager

\_\_\_\_\_  
89 Lewis Bay LLC  
By: Charles F. Doe  
Principal

**SPONSOR:** Councilor Richard Barry

# BARNSTABLE TOWN COUNCIL

**ITEM# 2011-148**

**INTRO: 06/16/11, 07/14/11, 08/04/11**

## SUMMARY

**TO:** Town Council  
**FROM:** Planning Board  
**DATE:** March 23, 2011  
**SUBJECT:** Proposed modification of Regulatory Agreement  
Property: 89 Lewis Bay Road and 42 South Street, Applicant 89 Lewis Bay LLC

**ANALYSIS/RATIONALE:** The 2007 Regulatory Agreement allowed for the renovation of the subject Property, which consisted of a main building located at 89 Lewis Bay Road, which is was formerly used as a nursing home and allowed for the demolition of two dilapidated residential structures, located at 42 South Street. The main building has been renovated to include. Forty-two (42) residential condominiums, constructed on the second and third floors and within the newly constructed fourth floor. The 2011 Regulatory Agreement Amendment allowed 10,000 SF of the first floor to be used for a for profit educational use, a culinary arts school.

The 2007 agreement contained the following provisions (excerpted):

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

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;

The applicant proposed to entirely eliminate this provision citing unexpected financial obligations incurred to move the stalled project forward.

After conducting negotiations with the applicant that included a reduction in the amount of mitigation and the offer to allow payment over time the Planning Board at their meeting on March 15, 2011, by a 4-1, margin voted to send their counter offer recommendation for amendment, included in this order, to Town Council for further action.

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-002**  
**INTRO: 07/14/11, 08/04/11**

**2012-002 ACCEPTANCE OF AN \$18,800 MASS CULTURAL COUNCIL GRANT**

**RESOLVED:** That the Town Council does hereby accept the grant award in the amount of \$18,800 from the Massachusetts' Cultural Council, Cultural Facilities Fund.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-002**  
**INTRO: 07/14/11, 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Jo Anne Miller Buntich, Growth Management Director  
**DATE:** July 5, 2011  
**SUBJECT:** Acceptance of grant in the amount of \$18,800 from Massachusetts Cultural Council Cultural Facilities Finds (MCC CFF).

**BACKGROUND:** In 2007 the Growth Management Department applied for and was awarded funding from MCC CFF in the amount of \$18,800 to support efforts to revitalize downtown Hyannis through Arts and Culture Economic Development Initiatives.

In 2010 GMD worked with MCC to alter the grant's original intent to allow these funds to be used to hire a qualified professional to analyze the integrity of the Armory building and systems.

**FISCAL IMPACT:** This grant will allow the Town to provide additional support and services to residents, businesses, organizations and stakeholders in downtown Hyannis. This grant requires a 100% match. Matching funds from a County grant have been set aside since 2008.

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

**STAFF ASSISTANCE:** John O'Brien, Economic Development Coordinator  
Melissa Hersh, Economic Development Arts and Culture Coordinator



**A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-004**  
**INTRO: 07/14/11, 08/04/11**

**2012-004 APPROPRIATION OF \$432,954 FOR PARK REVITALIZATION, 182 PLEASANT STREET IN HYANNIS ON MAP 326 PARCEL 131**

**ORDERED:** That sum of \$432,954.00 is appropriated for the purpose of the revitalization of park land located at 182 Pleasant Street, Hyannis, MA on parcel 131 of map 326; that in order to meet this appropriation, the sum of Two Hundred Thousand and NO/100 (\$199,159.00) Dollars is to be transferred from the embarkation fee special revenue account, subject to reimbursement of up to \$233,795.00 from the proceeds of the PARC (Parkland Acquisitions and Renovations for Communities) grant to be accepted; and that the Town Manager is authorized to contract for and expend the amount appropriated and accept any gifts and grants in relation thereto.

**SPONSOR:** Town Manager John C. Klimm at the request of Growth Management Department

<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**

**ITEM# 2012-004**  
**INTRO: 07/14/11, 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Jo Anne Miller Buntich, GMD Director  
**DATE:** July 8, 2011  
**SUBJECT:** Pleasant Street Dock Park Improvements

**RATIONALE:** Improvements to the parcel located at the end of Pleasant Street in Hyannis adjacent to the newly improved dock, has been a part of the vision to extend the “Walkway to the Sea” for several years. Working with the Harbor Master’s Office, Steamship Authority and Commercial Fishermen, through formal and informal discussions, a design concept has been developed for project funding from the state PARC (Parkland Acquisitions & Renovations for Communities) grant opportunity. These improvements support and encourage public access while sustaining the unique location for the commercial fishing industry. Once funding is secured the design will be finalized with Town departments.

The PARC grant allows 54% reimbursement to the Town. The grant application requires that the entire amount be set aside by the Town Council. Once the project is awarded the PARC grant reimbursements will be requisitioned as the project moves toward completion. Once funding is in place early in the fall of 2011, we would anticipate project completion by the end of June 2012.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-005  
INTRO: 08/04/11**

**2012-005 ADOPTION OF THE TOWN OF BARNSTABLE MULTI-HAZARD MITGATION PLAN**

**RESOLVED AND ORDERED:** that the Town Council hereby adopts the Town of Barnstable Multi-Hazard Mitigation Plan

**SPONSOR:**

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-005**  
**INTRO: 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Jo Anne Miller Buntich, Growth Management Director  
**DATE:** July 21, 2011  
**SUBJECT:** Adoption of the Multi Hazard Mitigation Plan

**BACKGROUND:** Multi-hazard mitigation is defined as any sustained action to reduce and/or eliminate short or long term risk to life and property from natural disasters. Effective hazard mitigation planning provides benefits to the Town and its residents, including creating a safer community by protecting life and property; preventing the loss of property, infrastructure and natural and cultural resources; and increasing public awareness of risk and vulnerability to natural disasters.

The Federal Emergency Management Agency (FEMA) requires local governments to develop a hazard mitigation plan as a condition for receiving certain types of non-emergency disaster assistance. FEMA administers a number of grant programs to assist communities with hazard mitigation efforts, both prior to disasters and following a Presidential disaster declaration.

To develop the Barnstable Multi-Hazard Mitigation (MHM) Plan, the Growth Management Department worked in cooperation with many Town departments, emergency service agencies, and the Cape Cod Commission to identify and profile the town's risk and vulnerability to potential natural hazards. Specifically, the MHM plan assesses the potential impacts of hurricanes, winter storms, shoreline change/coastal erosion, earthquakes, drought/wildfire, and dam failure and identifies properties, resources, and critical facilities which may be impacted by these hazard events. The plan outlines mitigation strategies and actions aimed at reducing the loss of or damage to potentially vulnerable property, infrastructure, and resources within the Town. A corresponding implementation plan is also included.

FEMA conditionally approved, for a six month period, the Multi-Hazard Mitigation Plan on February 18, 2011. A Town Council vote to adopt the Multi-Hazard Mitigation Plan will secure the Town's eligibility to apply for and receive FEMA hazard mitigation grant funds for the next five years.

**FISCAL IMPACT:** The fiscal impact of the plan adoption is neutral. Plan implementation would result in an overall positive fiscal impact.

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-006  
INTRO: 08/04/11**

**2012-006 ACCEPTANCE OF A \$17,285 GRANT FOR TWO AUTOMATED LICENSE  
PLATE READERS – MA EXEC. OFFICE OF PUBLIC SAFETY & SECURITY**

**RESOLVED:** That the Barnstable Town Council does hereby accept the Fiscal Year 2011 Automated License Plate Reader Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security/Highway Division in the amount of \$17,285.00.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2012-006**  
**INTRO: 08/04/11**

## SUMMARY

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Paul B. MacDonald, Chief of Police  
**DATE:** July 8, 2011  
**SUBJECT:** Acceptance of FY11 Automated License Plate Reader Grant

**BACKGROUND:** The Barnstable Police Department applied for and was awarded the FY2011 Automated License Plate Reader Grant from the Commonwealth of Massachusetts, Executive Officer of Public Safety and Security/Highway Safety Division in the amount of \$17, 285.00.

The Barnstable Police Department Traffic Division has an opportunity to obtain an Automatic License Plate Reader (ALPR) to detect motor vehicles driven by traffic law violators. The department will be better able to target repeat offenders and focus on the apprehension of driver/vehicles operating with suspended/revoked licenses and/or expired registrations and/or insurance suspensions. It will also enhance our ability for perform better data collection to disseminate traffic record information in a timely and accurate manner to field personnel, as well as to assist in the identification of outstanding warrants in conjunction with the Criminal Justice Information System (CJIS) .

The Barnstable Police Department proposes that this funding be used to fund the Automated License Plate Reader Grant as follows:

- \$16,350.00 for a Mobile License Plate Reader (2 units)
- \$ 600.00 for a permanent mounted case
- \$ 335.00 for a permanent power cord

**ANALYSIS:** The acceptance of this grant will allow the Department to identify specific, measurable, attainable, realistic and time-bound goals by focusing on the detection and apprehension of traffic law violators.

**FISCAL IMPACT:** This is a reimbursement grant for purchase of equipment. This grant requires an in-kind match of \$4,321.25, which will be satisfied with time spent on project by the Traffic Supervisor.

**TOWN MANAGER RECOMMENDATION:** Town Manager John C. Klimm recommends acceptance of this grant.

**STAFF ASSISTANCE:** Paul B. MacDonald, Chief of Police

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-007  
INTRO: 08/04/11**

**2012-007 ACCEPTANCE OF FY12 \$177,282 9-1-1 DEPARTMENT SUPPORT AND  
INCENTIVE GRANT FROM MA EXECUTIVE OFFICE OF PUBLIC SAFETY**

**RESOLVED:** That the Barnstable Town Council does hereby accept fiscal year 2012 911 Department Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety, State 911 Department in the amount of \$177,282.00.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-007**  
**INTRO: 08/04/11**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Paul B. MacDonald, Chief of Police  
**DATE:** July 8, 2011  
**SUBJECT:** Acceptance of FY12 911 Department Support and Incentive Grant

**BACKGROUND:** The Barnstable Police Department applied for and was awarded the 911 Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Officer of Public Safety and Security, State 911 Department in the amount of \$177,282.00.

The Barnstable Police Department serves as a primary Public Safety Answering Point (PSAP) in that it receives all categories of 911 calls (Fire, Police, & Medical Emergency) and then dispatches to the appropriate service according to the type of need of the call. Eligible entities for this grant are primary, regional and regional secondary PSAPS and Regional Emergency Communications Centers (RECC). Additional monies are available under the grant guidelines pertinent to this grant, because the Barnstable Police Department serves as a Primary PSAP.

The Barnstable Police Department proposes that this funding be used to fund 911 Communications Center as follows:

\$177,282.00: Personnel costs for the Replacement of 911 Center Personnel

**ANALYSIS:** The acceptance of this grant will allow the Department to replace qualified personnel in the communications center in order to provide adequate staffing to that area on an understaffed shift without incurring undo overtime expenses.

**FISCAL IMPACT:** This is a reimbursement grant for overtime and equipment.

**TOWN MANAGER RECOMMENDATION:** Town Manager John C. Klimm recommends acceptance of this grant.

**STAFF ASSISTANCE:** Paul B. MacDonald, Chief of Police



**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-008**  
**INTRO: 08/04/11**

**2012-008 ACCEPTANCE OF A \$10,000 GIFT FROM THE BLUECOATS OF BARNSTABLE, INC.**

**RESOLVED:** That the Barnstable Town Council does hereby accept a gift in the amount of \$10,000 from the Bluecoats of Barnstable, Inc. to the Barnstable Police Department. *(more detail here?)*

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

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2012-008**  
**INTRO: 08/04/11**

## SUMMARY

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Paul B. MacDonald, Chief of Police  
**DATE:** July 18, 2011  
**SUBJECT:** Acceptance of a \$10,000 gift from the Bluecoats of Barnstable, Inc. to the Barnstable Police Department

**BACKGROUND:** The Bluecoats of Barnstable, Inc. is a local organization, whose mission is dedicated to support the officers and the mission of the Barnstable Police Department towards a common goal of maintaining a quality of life in the Town of Barnstable that reduces crime and provides for a safe environment for all residents and visitors to enjoy.

In March of 2011, The Barnstable Police Department opened a Hyannis Station on Main Street in Hyannis in order to provide for a stronger police presence in response to increased concern for criminal activity specific to that area. The Hyannis Station will be open year-round and no funding for the operating costs of the new station are covered in the FY12 general fund operating budget. The Department is reliant on other sources of funding through grants and local organizations to pay for rent, utilities and supplies required to operate the Hyannis Station. The Town of Barnstable and especially the Barnstable Police Department are appreciative of this generous gift from the Bluecoats of Barnstable, Inc., which they have specifically directed towards the expenses of the Hyannis Station.

**ANALYSIS:** The acceptance of this gift will help the Department pay for the expenses related to the operation of the Hyannis Police Station.

**FISCAL IMPACT:** Here will be no negative financial impact.

**TOWN MANAGER RECOMMENDATION:** Town Manager John C. Klimm recommends acceptance of this grant.

**STAFF ASSISTANCE:** Paul B. MacDonald, Chief of Police

**B. NEW BUSINESS (Refer to public hearing 09/08/11) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-009  
INTRO: 08/04/11**

**2012-009 APPROPRIATE & TRANSFER \$25,000 FROM CAPITAL LOAN ORDER 2010-096 SANDY NECK BEACH HOUSE RENOVATIONS & ADDITIONS**

**ORDERED:** That the sum of \$25,000 be transferred from Town Council appropriation and loan order 2010-096 Sandy Neck Beach House Renovations and Additions, for the purpose of funding repairs to the Sandy Neck Gatehouse and Air Compressor shack

**TOWN MANAGER JOHN C. KLIMM:** John C. Klimm, Town Manager

<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

**ITEM# 2012-009**  
**INTRO: 08/04/11**

## SUMMARY

**TO:** Town Council  
**FROM:** John Klimm, Town Manager  
**DATE:** July 1, 2011  
**SUBJECT:** Transfer the sum of \$25,000 from capital loan order 2010-096 Sandy Neck Beach House Renovations and Additions, for the purposes of funding repairs to the Sandy Neck Gatehouse and Air Compressor Shack.

**BACKGROUND:** In 2010, the Town Council appropriated \$1,265,00.00 to complete construction on the new Sandy Neck Bathhouse, Garage and Walkway. The construction project is almost completed and there are remaining funds that could be utilized to improve other Sandy Neck structures. In particular, the Sandy Neck Gatehouse and Air Compressor Shack would benefit greatly from repairs. We are proposing new window frames, shingle siding and exterior painting for both of these structures

**FISCAL IMPACT:** If the requested funds are not transferred, additional funding will be needed for Sandy Neck Gatehouse and Air Compressor Shack maintenance and repairs as the exterior of these structures continue to deteriorate.

**TOWN MANAGER RECOMMENDATION:** Town Manager John C. Klimm recommends the approval of the transfer of these funds.

**STAFF ASSISTANCE:** John Juros, Director of Public Works Project Manager  
Nina Coleman, Sandy Neck Park Manager

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-010  
INTRO: 08/04/11**

**2012-010 ACCEPTANCE OF A GIFT OF TWO EASEMENTS FOR THE STEWART'S  
CREEK RESTORATION PROJECT**

**RESOLVED:** That the Town Manager be authorized to acquire by gift two easements for the construction, staging area and maintenance area for a replacement culvert to be constructed under Ocean Avenue, Barnstable (Hyannis), Barnstable County, Massachusetts, Assessors Parcel 288.180, as follows: (1) a permanent easement shown as Parcel A, containing 184 square feet of land, more or less, as described on the hereinafter mentioned plan, and (2) a temporary easement containing 246 square feet of land, more or less, as shown on a plan of land entitled "Plan of Easements & Taking for the Ocean Avenue Culvert in Barnstable (Hyannis) MA for The Town of Barnstable D.P.W. - Survey Section, Scale 1"=20' - Date: July 21, 2011," a copy of which plan is on file in the Town Clerk's Office.

**SPONSOR:** Councilor J. Gregory Milne

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-010**  
**INTRO: 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Thomas F. Geiler, Director, Regulatory Services Department  
Mark Ells, Director, Dept. of Public Works  
**DATE:** July 12, 2011  
**SUBJECT:** Acceptance of Gift Easements for Stewart's Creek Restoration Project

**BACKGROUND:** Stewart's Creek Restoration project is proceeding toward construction in Winter-Spring 2012. A permanent and a temporary easement are required for the construction, staging- and maintenance areas for the upgraded culvert to be constructed under Ocean Avenue. Both easements are proposed to be donated

**ANALYSIS:** The Army Corps of Engineers, the Town's partner in the project has specified that certain private parcels be acquired prior to construction. The acceptance of these donated easements satisfies part of that requirement.

**FISCAL IMPACT:** None. Both easements are proposed to be donated

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

**BOARD AND COMMISSION ACTION:** None required for acceptance of easements

**STAFF ASSISTANCE:** R. Gatewood and B. Burgmann

**B. NEW BUSINESS (Refer to public hearing 09/08/11) (Roll-call, 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-011  
INTRO: 08/04/11**

**2012-011 TRANSFER \$1,000.00 TO ACQUIRE REAL PROPERTY FOR THE STEWARTS CREEK RESTORATION PROJECT**

**ORDERED:** That the Town Manager be authorized to take by eminent domain under Chapter 79 of the general laws of Massachusetts for general municipal purposes, a parcel of land located on Ocean Avenue, Barnstable (Hyannis), Barnstable County, Massachusetts containing 3,069 square feet of land, more or less, and shown as Parcel B on a plan entitled "Plan of Easements and Taking for the Ocean Avenue Culvert in Barnstable (Hyannis) MA for The Town of Barnstable D.P.W. - Survey Section Scale 1"=20' - Date: July 21, 2011," a copy of which is on file in the Town Clerk's office; and to appropriate the sum of \$1,000.00 for the said taking and to meet that appropriation that the sum of \$1,000.00 be transferred from Town Council Order 2009-93 and that the Town Manager is authorized to contract for and expend the appropriation made available for the stated purposes, to accept any gifts or grants, to grant easements, and to execute, deliver and record documents in relation thereto..

**SPONSOR:** Councilor J. Gregory Milne

<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

**ITEM# 2012-011**  
**INTRO: 08/04/11**

## SUMMARY

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Thomas F. Geiler, Director, Regulatory Services Department  
Mark Ells, Director, Dept. of Public Works  
**DATE:** July 25, 2011  
**SUBJECT:** Eminent Domain Taking for Stewart's Creek Restoration Project

**SUMMARY:** Stewart's Creek Restoration project is proceeding toward construction in Winter-Spring 2012. The Army Corps of Engineers has requested that the Town acquire rights in this parcel for the construction, staging- and maintenance areas for the upgraded culvert to be constructed under Ocean Avenue. Because the small parcel in question has never been assessed, the Town has been unable to identify any entity with whom it can negotiate an acquisition, necessitating a taking to obtain use of the parcel for the stated purpose.

**ANAYLSIS:** The Army Corps of Engineers, the Town's partner in the project has specified that certain parcels be acquired prior to construction. The taking of this small parcel located at the roadside of Ocean Avenue will complete the required land acquisition.

**FISCAL IMPACT:** None.

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

**BOARD AND COMMISSION ACTION:** None required for eminent domain taking

**STAFF ASSISTANCE:** R. Gatewood, B. Burgmann



**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-012  
INTRO: 08/04/11**

**2012-012 TRANSFER \$950,500 FROM EMPLOYEE BENEFITS & INS. INTO INSURANCE RESERVE TRUST FUND FOR SELF-INSURING WORKERS COMP. PROGRAM**

**ORDERED:** That the sum of \$950,500 be transferred from the FY12 appropriation for Employee Benefits and Insurance under council order 2011-122 to the Town's Insurance Reserve Trust Fund for the purposes of self-insuring the Town's FY12 Worker's Compensation Program.

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

DATE	ACTION TAKEN
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_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2012-012**  
**INTRO: 08/04/11**

## SUMMARY

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** July 13, 2011  
**SUBJECT:** Transfer to Insurance Reserve Fund

**BACKGROUND:** Since fiscal year 2005, the Town had been purchasing an insurance policy for worker's compensation that covered all medical costs and lost salary from dollar one. This policy covered all active Town employees including those working for the School Department and enterprise funds. The policy premium costs have risen significantly due to a number of recent factors. First, an increase in workplace claims and severity of claims has driven up our experience rating which translates into higher premiums. Second, the market for worker's compensation coverage has changed making fewer carriers interested in the large payroll exposure of the Town. This has limited our options for carriers and creative programs that allow us better pricing. In the past, discounted programs have been an option for the Town but these are no longer available. Finally, the payroll and job classification rates which determine our premium have continued to rise. These are set by the State and we have little control over this change, which has translated into increased premium.

Despite these financial challenges, the Town's objective is to strive to create a safe workplace through appropriate supervision and safety education. We adopt loss control measures and offer training programs to limit potential losses, and we actively engage in developing a climate of safety for all Town employees. The reality for this current fiscal year is that a number of factors including an aging workforce, which can be more prone to accidents in the workplace especially in physically demanding jobs, have combined to result in a dramatic increase in our workers compensation premium for FY12.

**ANALYSIS:** The Town conducted an analysis of its current insurance program and major areas of insurable exposure in April 2011. It was decided to issue a competitive bid for all existing lines of insurance coverage including workers compensation. We invited several locally qualified and competent insurance agents to participate in the bidding process. There were no special services or capabilities that could not be provided from local agencies however, the Massachusetts Interlocal Insurance Association (MIIA), which is a non-profit arm of the Massachusetts Municipal Association offering risk management services, was invited to join the bidding process. The preparation of flexible general insurance specifications was prepared with the assistance of a consultant in order to create an open and easy process as well as leaving room for creativity. This also argued against a tightly drawn specification that might pose a barrier to participating. All participating agents were assigned markets (insurance companies) to approach in the order of their preference. Every agent was assigned their first choice of market with no conflicts. A secured website was used to distribute all documents requested by the participants including, but not limited to, historical loss runs, financial information, premium history, asset listing and employee classifications. The purpose of this was to provide primary source documentation to all parties directly in as expeditious a manner as possible. All participants were also invited to perform site visits.

Market conditions

Going into this exercise, one of the primary challenges we identified was the state of the insurance market and how it would respond to the Town of Barnstable. Some of the expected response is industry-wide, some is sector-specific (i.e. related to municipalities or public entities) and some is related to the Town specifically. The predominant issues in the market were identified as follows:

- A general hardening in the commercial market. Insured catastrophe losses, such as the earthquakes in New Zealand and Japan, as well as Japan's subsequent tsunami losses have put pressures on reinsurers and the rates they charge primary insurers. Deteriorating experience, reductions in capital and lower investment earnings opportunities have put pressure on rates, particularly in the commercial property area.
- The limited commercial market. The municipal market in Massachusetts is historically underserved by the commercial insurance companies. As a result, two alternatives were developed in the 1980 during a municipal insurance crisis. These alternatives, MIIA and the Trident/Metrogard program, dominate the Massachusetts market. For most medium to small municipalities (and counties), these are the only two markets to quote coverage.
- An aversion to wind exposed or seacoast locations. Over time, underwriters have become increasingly wary of their aggregate exposure to wind storm losses arising out of a single storm. They rely on a small number of so-called catastrophe risk modelers to develop their marketing and pricing strategies. A recent revision to the industry standards significantly increases the expected losses on Cape Cod, causing certain underwriters to avoid, reduce or restrict their underwriting on the Cape.
- Concern over increasing workers' compensation loss experience. This is an example of both an industry-wide and a Town specific concern. State-wide, underwriters are seeing increasing pressure from medical expenses rising as well as the longer absences among the aging workforce. Coupled with some adverse experience in the Town over the last several years, the incumbent insurer, Trident, non-renewed the coverage effective July 1, 2011.

Participants and responses

The following agents, brokers and sales representatives responded to the Town's invitation to participate. As mentioned previously each participant was assigned their first choice of market and in most cases had two or more markets available for each line of coverage. Furthermore, when reviewing all the assigned markets, we found that every insurance company that we knew of in the municipal arena was assigned to someone. Therefore, we concluded that the full market was approached. This was further supported by the number of questions and detailed requests that the Town received.

- **Dowling and O'Neil.** Dowling and O'Neil is the incumbent agent of the Trident/Metrogard program including the workers compensation coverage. They proposed a renewal with the incumbent program, a stand-alone Assigned Risk Pool (ARP) option for workers' compensation and an excess workers' compensation alternative. They also provided most of the optional quotes we looked for in the specifications. They did not propose on the Aviation Liability for the airport or on the Police Accident coverage.
- **MIIA.** MIIA was approached for a quotation. They were also assigned some additional markets for specialty coverages. However, MIIA did not submit a proposal, citing concerns from their excess carriers about the concentration of property coverage on Cape Cod (MIIA insures other municipalities on the Cape). They were unable to secure excess or reinsurance coverage for windstorm. They also declined the workers' compensation.

- **Olde Cape Cod Insurance.** Olde Cape Cod Insurance is the incumbent broker on the Aviation Liability and the Police Accident coverage. They did not request markets for the other lines. They provided a renewal proposal for these two lines of coverage.
- **Rogers and Gray.** Rogers and Gray has done some work for the Town in the past and is a well-known agency on Cape Cod. They were assigned a full complement of insurance markets for every line of coverage. Despite their efforts, all their assigned markets declined to quote, except in the marine (hull, protection and indemnity, and marina operators) area.
- **TD Insurance.** TD Insurance is a large regional broker with an office in Hyannis. One of their strengths is in alternatives to traditional insured workers' compensation. TD insurance was assigned markets for all lines of coverage and they approached a property specialist broker, Alliant Insurance Services, to explore a proprietary property program. All their assigned markets declined as well, citing the windstorm exposure and class of business.

Bid Results

The Town received limited proposals from the six participants that were involved. Essentially, those agents currently servicing the Town bid only on the current lines of insurance they provide and were awarded those lines. The premium on these policies falls within the FY12 budget that was approved.

One proposal was received for a workers' compensation policy, a stand-alone Assigned Risk Pool (ARP) option with a premium of almost \$1.2 million. This is almost double the FY11 premium and well above the \$950,500 budgeted for FY12. As an alternative the Town recommends self-insuring for this program and contracting with a third party administrator to manage claims and provide other cost control services. Town staff is currently in the process of attempting to procure an excess coverage policy to protect us against unusually large claims but the hardening in the market has made choices limited and expensive.

**FINANCIAL IM PACT:** The Town budgeted \$950,500 for workers' compensation insurance and \$1.3 million for all other policies in FY12. The awarded bids total \$1,270,000; excluding any workers' compensation, leaving a small balance for premium adjustments and deductibles that may occur throughout the year. It is proposed that the \$950,500 be transferred into the Town's Self-Insurance Trust Fund and any claims that arise in FY12 will be paid for out of the Trust. Any balance in the Trust at the end of the fiscal year will remain in the Trust and be set aside for claims incurred but not yet paid as well as future program costs.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of this transfer.

**STAFF ASSISTANCE:** Mark Milne, Director of Finance  
David Anthony, Chief Procurement Officer  
William Cole, Director of Human Resources

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-013  
INTRO: 08/04/11**

**2012-013 AUTHORIZE THE ESTABLISHMENT OF A GIFT ACCOUNT FOR THE  
ACCEPTANCE OF GIFTS FOR THE CENTERVILLE PLAYGROUND**

**RESOLVED**, that the Town Council, pursuant to the provisions of G.L. c. 44, §53A, hereby establishes an account for the purposes of receiving gifts to help pay for improvements to and ongoing maintenance of the Centerville playground located at 524 Main Street, Centerville and hereby authorizes the Town Manager to approve the expenditure of monies from said gift account for that purpose.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-013**  
**INTRO: 08/04/11**

## **SUMMARY**

**TO:** Town Council  
**DATE:** July 26, 2011  
**SUBJECT:** Establishing a gift account for accepting donations and gifts for improvements, maintenance and ongoing repairs of the Centerville Playground

**BACKGROUND:** Centerville Village residents have wanted a way to contribute money to the town for the improvement of the Centerville Playground, have organized The Friends of Centerville Playground. The Friends of Centerville Playground in collaboration with the Centerville Civic Association has begun fundraising for a new playground; replacing the existing structure behind the Centerville Recreation Building.

The Recreation Commission at its March 7, 2011 meeting voted a preliminary approval in support of the proposed upgrades to the playground.

**RATIONALE:** The creation of this account will allow the acceptance of gifts to pay for equipment, improvements, and repairs of the Centerville Playground

**B. NEW BUSINESS (First reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-014  
INTRO: 08/04/11**

**2012-014 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town Council reappoint the following individuals to a multiple-member board/committee/commission:

**AGRICULTURAL COMMISSION**

J. Timothy Friary, 241 Commerce Road, Barnstable, as a member to a term expiring 6/30/2014

**AIRPORT COMMISSION**

Donald Megathlin, 925 Main St Apt 2., Cotuit, as a member to a term expiring 6/30/2014

Timothy Luzietti, 119 Pond View Drive, Centerville, as a member to a term expiring 6/30/2014

**BARNSTABLE HISTORICAL COMMISSION**

Nancy Shoemaker, 21 Meadow Lane, West Barnstable, as a member to a term expiring 6/30/2014

Jessica Rapp Grassetti, 1611 Main Street, Cotuit, as a member to a term expiring 6/30/2014

**BARNSTABLE YOUTH COMMISSION**

Christa Mullaly, BHS 744 W. Main Street, Hyannis, as a member to a term expiring 6/30/2012

Elizabeth Ells, BHS 744 W. Main Street, Hyannis as a member, term expiring 6/30/2012

**COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE**

Robert Ciolek, 325 Green Dunes Drive, W. Hyannisport as a member, term expiring 6/30/2014

Ralph Krau, 10 Pram Road, Hyannis as a member, term expiring 6/30/2014

**CONSERVATION COMMISSION**

Laurence Morin, 41 Orchard Rd., Centerville as a member, term expiring 6/30/2014

John Abodeely, 476 Baxter Neck Road, Marstons Mills as a member, term expiring 6/30/2014

**COUNCIL ON AGING**

Haskell Kennedy, 59 Pontiac Street, Hyannis as a member, term expiring 6/30/2014

Nancy Wilder Boudreau, 29 Curry Lane, Osterville as an associate member, term expiring 6/30/2014

John Ross, 40 High Street, West Barnstable as a member, to a term expiring 6/30/2014

**CULTURAL COUNCIL**

J. Richard Kirk, 7 Brookshire Road, Hyannis as a member, to a term expiring 6/30/2014

Joline Diehl, 63 Snowcreek Drive, Hyannis as a member, to a term expiring 6/30/2014

Patricia Austin, 72 Grove St., Hyannis as a member, to a term expiring 6/30/2014

**DISABILITY COMMISSION**

Jim Berks, 402 Prince Hinckley Road, Centerville as a member to a term expiring 6/30/2014

**GOLF COMMITTEE**

Daniel Ginther, 289 Lakeside Drive West, Centerville, as a member to a term expiring 6/30/2014

Terry Duenas, 690 Cedar Street, W. Barnstable, as a member to a term expiring 6/30/2014

**LICENSING AUTHORITY**

Richard Boy, 50 Sterling Road, Hyannis, as an alternate member to a term expiring 6/30/2014  
Martin Hoxie, 367 Nottingham Drive, Centerville, as a member to a term expiring 6/30/2014

**PLANNING BOARD**

Raymond Lang, 4 Jason's Way, Osterville, as a member to a term expiring 6/30/2014  
Matthew Teague, 126 Braggs Lane, Barnstable, as a member to a term expiring 6/30/2014

**PUBLIC WORKS COMMISSION**

Paul Canniff, 106 Hayes Road, Centerville, as a member to a term expiring 6/30/2014

**REGISTRAR OF VOTERS**

David Jones, 4 Blackberry Lane, Hyannis, as an appointed member to a term expiring 6/30/2014

**RENEWABLE ENERGY COMMISSION**

Douglas Hempel, 170 Cape's Trail, West Barnstable, as a member to a term expiring 6/30/2014  
Wallace Johnson, 26 Jilliann's Way, Marstons Mills, as a member to a term expiring 6/30/2014  
Jan Rapp, 64 Old Shore Road, Cotuit, as a member to a term expiring 6/30/2014

**SANDY NECK BOARD**

Peter Sampou, 111 Cedar St., West Barnstable, as a conservation commission representative member to a term expiring 6/30/2014  
Nason King, 523 Whistleberry Drive, Marstons Mills, as a member-at-large to a term expiring 6/30/2014

**SCHOLARSHIP COMMITTEE**

Nancy Jane Vecchione, 49 Main Street, Osterville, as a member to a term expiring 6/30/2014  
John Marsden, 144 Huckins Neck Road, Centerville, as a member to a term expiring 6/30/2012

**SHELLFISH COMMITTEE**

Matthew Ostrowski, 91 Old Troll Road, West Barnstable, to a term expiring 6/30/2014  
Andre Sampou, 375 Cedar St., West Barnstable, as a member to a term expiring 6/30/2014

**TRUST FUND ADVISORY COMMITTEE**

Frances Parks, 167 Eaglestone Way, Cotuit, as a member to a term expiring 6/30/2014  
Jayne Scanlon, 760 South Main St, Centerville, as a member to a term expiring 6/30/2014

**WATER POLLUTION CONTROL BOARD**

Albert Baker, 30 Wakeby Road, Marstons Mills, as a member to a term expiring 6/30/2014

**ZONING BOARD OF APPEALS**

Craig Larson, 142 Bog Road, Marstons Mills, as a member to a term expiring 6/30/2014  
Alex Rodolakis, 83 Blantyre Avenue, Centerville, as a member to a term expiring 6/30/2014

**SPONSOR:** Appointments Committee

**DATE**

**ACTION TAKEN**

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



**B. NEW BUSINESS (First Reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2012-015**

**INTRO: 08/04/11**

**2012-015 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town appoint the following individuals to a multiple-member board/committee/commission:

**BOARD OF ASSESSORS**

Andrew Machado, 30 Rosemary Lane, Centerville, as a member to a term expiring 06/30/2013

**CABLE TV ADVISORY BOARD**

Suzanne Reid, 165 Ocean View Ave., Cotuit, as a member, to a term expiring 6/30/2012

Jeneil Lee, 234 Mitchell Way, Hyannis, as a member, to a term expiring 6/30/2013

**COUNCIL ON AGING**

Lester Frank, 52 King Arthur Drive, Hyannis, as an associate member, to a term expiring 6/30/2014

Eleanor Letterie, 14 Janes Way, Osterville, as an alternate member, to a term expiring 6/30/2013

**DISABILITY COMMISSION**

M. Patricia Andres, 240 Oak Street, W. Barnstable, as a member, to a term expiring 6/30/2014

**HYANNIS MAIN ST. WATERFRONT HISTORIC DISTRICT COM**

Brenda Mazzeo, 145 East Bay Road, Osterville, as an alternate member, to a term expiring 6/30/2013

**RECREATION COMMISSION**

Richard Sawyer, 75 Cap'n Crosby Road, Centerville, as a member, to a term expiring 6/30/2013

**WATER POLLUTION CONTROL BOARD**

Wolfgang Fattler, 629 Cedar Street, W. Barnstable, as a member, to a term expiring 06/30/2012

**SPONSOR:** Appointments Committee

**DATE**                      **ACTION TAKEN**

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