



Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601

508.862.4738 • 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us



MEETING AGENDA TOWN HALL HEARING ROOM May 1, 2014 7:00 PM

Councillors:

Jessica Rapp Grassetti
President
Precinct 7

Ann B. Canedy
Vice President
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Frederick Chirigotis
Precinct 4

James H. Crocker
Precinct 5

William Crocker, Jr.
Precinct 6

Debra S. Dagwan
Precinct 8

James M. Tinsley
Precinct 9

Sara Cushing
Precinct 10

Philip N. Wallace
Precinct 11

John T. Norman
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator to the
Town Council:
Barbara A. Ford

Administrative
Assistant:
Cynthia A. Lovell

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. MOMENT OF SILENCE
4. PUBLIC COMMENT
5. COUNCIL RESPONSE TO PUBLIC COMMENT
6. ACT ON MINUTES (Includes Executive Session)
7. COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements
8. ORDERS OF THE DAY
 - A. Old Business
 - B. New Business
9. TOWN MANAGER COMMUNICATIONS
10. ADJOURNMENT

NEXT REGULAR MEETING: May 15, 2014

A. OLD BUSINESS

FY15 CAPITAL IMPROVEMENT ORDERS

BARNSTABLE AIRPORT ENTERPRISE FUND

2014-082	Appropriation and transfer order - \$50,000 Airport Enterprise Fund Capital Improvement Plan to fund Painting of Runways, Taxiways, and Roadways (Public hearing)(Roll call)	5
2014-083	Appropriation and transfer order - \$65,000 Airport Enterprise Fund Capital Improvement Plan for funding a New Dump Truck (Public hearing) (Roll call)	6
2014-084	Appropriation and transfer order - \$200,000 Airport Enterprise Fund Capital Improvement Plan for funding the Permitting and Design of the Reconstruction of Taxiway C (Public hearing) (Roll call)	7
2014-085	Appropriation and loan order -\$400,000 Airport Enterprise Fund Capital Improvement Plan for funding the Permitting and Design of the Reconstruction of Runway 15-33 (Public hearing) (Roll call 2/3)	8
2014-086	Appropriation and loan order - \$400,000 Airport Enterprise Fund Capital Improvement Plan for funding the Permitting and Design of the Reconstruction of Runway 6-24 (Public hearing) (Roll call 2/3)	9
2014-087	Appropriation and transfer order - \$100,000 Airport Enterprise Fund Capital Improvement Plan for funding the Design and Replacement of the East Ramp T-Hanger Roof (Public hearing) (Roll call)	10
2014-088	Appropriation and loan order - \$650,000 Airport Enterprise Fund Capital Improvement Plan for funding a New Front-end Loader (Public hearing) (Roll call 2/3)	11
2014-089	Appropriation and loan order - \$448,125 Airport Enterprise Fund Capital Improvement Plan for funding the Design and Construction of the Airport Access Road (Public hearing) (Roll call 2/3)	12
2014-090	Appropriation and transfer order - \$200,000 Airport Enterprise Fund Capital Improvement Plan for funding the Airport Terminal and Building (Public hearing) (Roll call)	13
2014-091	Appropriation and loan order - \$1,205,000 Airport Enterprise Fund Capital Improvement Plan for funding the Design and Construction of the Airport Fixed Base Operations Building (Public hearing) (Roll call, 2/3)	14

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2014-111	Appropriation and transfer order - \$50,000 Capital Trust Fund Capital Improvement Plan for funding the Veteran’s Park Strategic Plan and Campus Design (Public hearing) (Roll call)	15
2014-112	Appropriation and transfer order - \$85,000 Capital Trust Fund Capital Improvement Plan for funding the Veterans Beach Parking Lot Rehabilitation (Public hearing) (Roll call 2/3)	16

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PUBLIC WORKS DEPARTMENT

2014-114	Appropriation and transfer order - \$3,250,000 Capital Trust Fund Capital Improvement Plan for funding the Public Roads Maintenance Program (Public hearing) (Roll call 2/3)	17
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2014-116	Appropriation and loan order - \$350,310 Capital Trust Fund Capital Improvement Plan for funding the Comprehensive Dredge Permitting and Strategic Planning (Public hearing) (Roll call 2/3)	19
2014-117	Appropriation and loan order - \$215,000 Capital Trust Fund Capital Improvement Plan for funding the Design of the Blish Point Sand Management Improvements (Public hearing) (Roll call 2/3)	20
2014-118	Appropriation and loan order - \$185,000 Capital Trust Fund Capital Improvement Plan for funding the Improvements to the Centerville Recreation Building (Public hearing) (Roll call 2/3)	21
2014-119	Appropriation and transfer order - \$100,000 Capital Improvement Plan for funding the Security Evaluation of Town Facilities (Public hearing) (Roll call)	22
2014-120	Appropriation and transfer order - \$240,000 Capital Improvement Plan for funding the Improvements to the Paine Black House (Public hearing) (Roll call)	23
2014-121	Appropriation and transfer order- \$51,000 Capital Improvement Plan for funding the Burgess House improvements (Public hearing) (Roll call)	24

—END OF CAPITAL IMPROVEMENT ORDERS—

2014-124	Appropriation and transfer order of \$628,000 to fund Aviation Jet Fuel purchases at the Barnstable Municipal Airport (Public hearing) (Roll call)	25 – 26
2014-125	Appropriation and transfer order of \$21,797.13 from the Town’s Insurance Recovery Fund for lightning strike damage loss recovery (Public hearing) (Roll call)	27 – 28
2014-127	Support of legislation pending in the current session to expand the jurisdiction of the Commonwealth’s Housing Court Department (May be acted upon)	29 – 30
2014-128	Authorizing the Town Manager to execute a regulatory agreement between the Town of Barnstable and Harborview Hotel Investors, Inc. (Second reading)	31 – 39
2014-130	Transfer order of \$59,000 for the Department of Public Works FY14 Capital Outlay (May be acted upon) (Roll call)	40 – 41

B. NEW BUSINESS

2014-131	Acceptance of a \$6,000 gift from the Friends of the Council on Aging to the Senior Services Division to help fund the Adult Supportive Day program at the Senior Center (May be acted upon)	42 – 43
2014-132	Acceptance of a \$4,500 gift from the Executive Office of Elder Affairs to the Senior Services Division to help fund transportation services at the Senior Center (May be acted upon)	44 – 45
2014-133	Petitioning the General Court of the Commonwealth to enact special legislation for maintenance and improvements to private roads in the Town of Barnstable (May be acted upon)	46 – 47
2014-134	Petitioning the General Court of the Commonwealth to amend Chapter 174 of the Acts of 1992 to increase the allowance of outstanding indebtedness and including maintenance to private roads in the Town of Barnstable (May be acted upon)	48 - 49

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2014-135	Petitioning the General Court of the Commonwealth to amend Chapter 248 of the Acts of 2012 (Sewer Construction Fund) to include funding and maintenance of improvement of private ways and maintenance of private roads in the Town of Barnstable (May be acted upon)	50 – 51
2014-136	Requesting the Governor of the Commonwealth to release the transportation/Chapter 90 funds (May be acted upon)	52 – 53
2014-137	Transfer order of \$40,000 from the Public Works FY14 personnel budget to the DPW FY14 capital outlay budget to contract for the immediate repairs to the Bay Street boat ramp parking lot in Osterville (May be acted upon)	54 – 55
2014-138	An election not to exercise the Town's option to purchase under G.L. Chapter 61B pursuant to a notice of proposed change of use of a portion of property located at 340 Vineyard Road, Cotuit, MA (May be acted upon)	56 – 57
2014-139	Ratifying the appointment of Richard Scali as the Director of Regulatory Services (May be acted upon)	58

Approve Minutes – April 17, 2014

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

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.

Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-082

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-082 APPROPRIATION AND TRANSFER ORDER \$50,000 TO FUND PAINTING OF RUNWAYS, TAXIWAYS, AND ROADWAYS

ORDERED: That the sum of \$50,000 be appropriated for the purpose of funding the Painting of Runways, Taxiways and Roadways as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$50,000 be transferred from the Airport Enterprise Fund Reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-083

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-083 APPROPRIATION AND TRANSFER ORDER \$65,000 TO FUND A NEW DUMP TRUCK

ORDERED: That the sum of \$65,000 be appropriated for the purpose of funding a New Dump Truck as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$65,000 be transferred from the Airport Enterprise Fund Reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-084

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-084 APPROPRIATION AND TRANSFER ORDER \$200,000 TO FUND PERMITTING AND DESIGN OF RECONSTRUCTION OF TAXIWAY C

ORDERED: That the sum of \$200,000 be appropriated for the purpose of funding the Permitting and Design of the Reconstruction of Taxiway C as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$200,000 be transferred from the Airport Enterprise Fund Reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
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<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-085

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-085 APPROPRIATION AND LOAN ORDER \$400,000 TO FUND PERMITTING AND DESIGN OF THE RECONSTRUCTION OF RUNWAY 15-33

ORDERED: That the sum of \$400,000 be appropriated for the purpose of funding the Permitting and Design of the Reconstruction of Runway 15-33 as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$400,000, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-086

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-086 APPROPRIATION AND LOAN ORDER \$400,000 TO FUND THE PERMITTING AND DESIGN RECONSTRUCTION OF RUNWAY 6-24

ORDERED: That the sum of \$400,000 be appropriated for the purpose of funding the Permitting and Design of the Reconstruction of Runway 6-24 as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$400,000, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
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<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-087

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-087 APPROPRIATION AND TRANSFER ORDER \$100,000 TO FUND THE DESIGN AND REPLACEMENT OF THE EAST RAMP T HANGER ROOF

ORDERED: That the sum of \$100,000 be appropriated for the purpose of funding for the Design and Replacement of the East Ramp T-Hanger Roof as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$100,000 be transferred from the Airport Enterprise Fund Reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
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<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-088

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-088 APPROPRIATION AND LOAN ORDER \$650,000 TO FUND A NEW FRONT-END LOADER

ORDERED: That the sum of \$650,000 be appropriated for the purpose of funding a New Front-end Loader as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$650,000, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
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<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-089

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-089 APPROPRIATION AND LOAN ORDER \$448,125 TO FUND THE DESIGN AND CONSTRUCTION OF AIRPORT ACCESS ROAD

ORDERED: That the sum of \$448,125 be appropriated for the purpose of funding the Design and Construction of the Airport Access Road as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$448,125, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-090

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-090 APPROPRIATION AND TRANSFER ORDER \$200,000 TO FUND AIRPORT TERMINAL AND BUILDING IMPROVEMENTS

ORDERED: That the sum of \$200,000 be appropriated for the purpose of funding the Airport Terminal and Building Improvements as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$200,000 be transferred from the Airport Enterprise Fund Reserves, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
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<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-091

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-091 APPROPRIATION AND LOAN ORDER \$1,205,000 TO FUND DESIGN AND CONSTRUCTION OF AIRPORT FIXED BASE OPERATIONS BUILDING

ORDERED: That the sum of \$1,205,000 be appropriated for the purpose of funding the Design and Construction of the Airport Fixed Base Operations Building as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,205,000, and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
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<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-111

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-111 APPROPRIATION AND TRANSFER ORDER \$50,000 TO FUND THE VETERAN'S PARK STRATEGIC PLAN AND CAMPUS DESIGN

ORDERED: That the sum of \$50,000 be appropriated for the purpose of funding the Veteran's Park Strategic Plan and Campus Design as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$50,000 be transferred from General Fund Reserves, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-112

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-112 APPROPRIATION AND TRANSFER ORDER \$85,000 TO FUND THE VETERAN'S BEACH PARKING LOT REHABILITATION

ORDERED: That the sum of \$85,000 be appropriated for the purpose of funding the Veteran's Beach Parking Lot Rehabilitation as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$85,000 be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-114

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-114 APPROPRIATION AND TRANSFER ORDER \$3,250,000 TO FUND THE PUBLIC ROADS MAINTENANCE PROGRAM

ORDERED: That the sum of \$3,250,000 be appropriated for the purpose of funding the Public Roads Maintenance Program as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$3,250,000 be transferred from available funds within the Town's Capital Trust Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-115

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-115 APPROPRIATION AND LOAN ORDER \$285,000 TO FUND GUARDRAIL AND SIDEWALK IMPROVEMENTS

ORDERED: That the sum of \$285,000 be appropriated for the purpose of funding Guardrail and Sidewalk Improvements as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$285,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-116

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-116 APPROPRIATION AND LOAN ORDER \$350,310 TO FUND THE COMPREHENSIVE DREDGE PERMITTING AND STRATEGIC PLANNING

ORDERED: That the sum of \$350,310 be appropriated for the purpose of funding the Comprehensive Dredge Permitting and Strategic Planning as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and to meet this appropriation, that \$9,310 be transferred from the available balance in Council Order 2010-106, and that, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$341,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-117

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-117 APPROPRIATION AND LOAN ORDER \$215,000 TO FUND THE DESIGN OF THE BLSH POINT SAND MANAGEMENT IMPROVEMENTS

ORDERED: That the sum of \$215,000 be appropriated for the purpose of funding the Design of the Blish Point Sand Management Improvements as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$215,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-118

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-118 APPROPRIATION AND LOAN ORDER \$185,000 TO FUND THE IMPROVEMENTS TO THE CENTERVILLE RECREATION BUILDING

ORDERED: That the sum of \$185,000 be appropriated for the purpose of funding the Improvements to the Centerville Recreation Building as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$185,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-119

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-119 APPROPRIATION AND TRANSFER ORDER \$100,000 TO FUND THE SECURITY EVALUATION OF TOWN FACILITIES

ORDERED: That the sum of \$100,000 be appropriated for the purpose of funding the Security Evaluation of Town Facilities as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$100,000 be transferred from the General Fund Reserves, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-120

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-120 APPROPRIATION AND TRANSFER ORDER \$240,000 TO FUND THE IMPROVEMENTS TO THE PAINE BLACK HOUSE

ORDERED: That the sum of \$240,000 be appropriated for the purpose of funding the Improvements to the Paine Black House as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$30,970 be transferred from the available balance in Council Order 2011-072, and that \$57 be transferred from the available balance in Council Order 2010-114, and that \$103,973 be transferred from the General Fund Reserves, and that \$105,000 be transferred from the Historic Preservation portion of the Community Preservation Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-121

INTRO: 03/20/14, 04/03/14, 04/17/14, 05/01/14

2014-121 APPROPRIATION AND TRANSFER ORDER \$51,000 TO FUND THE BURGESS HOUSE IMPROVEMENTS

ORDERED: That the sum of \$51,000 be appropriated for the purpose of funding the Burgess House improvement as outlined in the FY 2015 - FY 2019 Capital Improvement Plan as recommended by the Town Manager; and that to meet this appropriation, that \$51,000 be transferred from the Historic Preservation portion of the Community Preservation Fund, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-124

INTRO: 04/03/14, 04/17/14, 05/01/14

2014-124 APPROPRIATION AND TRANSFER ORDER OF \$628,000.00 TO FUND AVIATION JETFUEL PURCHASES FOR THE REMAINDER OF FISCAL YEAR 2014

ORDERED: That the sum of Six Hundred Twenty-eight Thousand Dollars and No Cents (\$628,000.00) be appropriated for the purpose of funding aviation jet fuel purchases at the Barnstable Municipal Airport; and that \$628,000.00 be transferred from the Airport's surplus funds into the fiscal year 2014 operating budget Avjet Fuel for Resale (607700-621060) to fund Avjet purchases for the remainder of fiscal year 2014.

SPONSOR: Thomas K. Lynch Town Manager

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-124

INTRO: 04/03/14, 04/17/14, 05/01/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager
(2) Barnstable Municipal Airport Commission
DATE: March 18, 2014
SUBJECT: Appropriation Order to Fund Aviation Jet Fuel Purchases for the Remainder of FY 2014

BACKGROUND: The largest revenue stream for the Barnstable Municipal Airport is the sale of Jet Fuel. Over the most recent years, the cost of the fuel and the demand for consumption has fluctuated greatly; causing difficulty in projecting budget figures during the Town of Barnstable budgeting process, which occurs nearly a year in advance. Although a minimal cost increase was projected, Jet fuel consumption has increased 28% over fiscal year 2013 consumption to date.

ANALYSIS: The projected original budget for fiscal year 2014 Avjet for Resale was \$2,841,277.00. For the first six months of fiscal year 2014, through December 2013, the Airport purchased 597,638 gallons of Avjet for a total cost of \$2,109,854.00. Comparatively for the same period in fiscal year 2013, the Airport purchased only 467,223 gallons for a cost of \$1,718,349.00. Although the cost per gallon has remained comparatively the same, this reflects a 28% increase in the gallons purchased, and subsequently a 28% increase in the consumption.

For the remainder of fiscal year 2013, 288,622 gallons were purchased. Anticipating a conservative increase in consumption of 28%, 369,436 gallons would need to be purchased for the remainder of fiscal year 2014. At an average cost of \$3.68/gallon, the total anticipated cost would be \$1,359,525.00 for the second half of fiscal year 2014. Currently through mid-March, \$298,249.00 has been spent with a remaining encumbrance of \$433,174.00. In order to fund Avjet purchases and subsequently generate corresponding revenue, the Airport is requesting \$628,000.00 be transferred from the Airport's surplus funds into the fiscal year 2014 operating budget Avjet Fuel for Resale (607700-621060) to fund Avjet purchases for the remainder of fiscal year 2014.

FISCAL IMPACT: This appropriation of funds should be sufficient to acquire anticipated aviation jet fuel purchases without negatively impacting airport operations. There are adequate enterprise reserve funds available. The cost of jet fuel will also be reflected by an increase in our projected FY2015 operating budget jet fuel line item.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this appropriation order.

BOARD AND COMMISSION ACTION: This request was approved by the Barnstable Municipal Airport Commission as an FY2014 Supplemental Appropriation.

STAFF ASSISTANCE: Suzanne Kennedy, Executive Assistant to the Airport Manager

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-125

INTRO: 04/03/14, 04/17/14, 05/01/14

2014-125 APPROPRIATION AND TRANSFER ORDER OF \$21,797.13 FROM THE TOWN'S INSURANCE RECOVERY FUND FOR LIGHTNING STRIKE DAMAGE LOSS RECOVERY

ORDERED: That the sum of Twenty-one Thousand Seven Hundred Ninety-seven Dollars and thirteen Cents (\$21,797.13) be appropriated from the Town's Insurance Recovery Fund for the purposes of reimbursing the Barnstable Municipal Airport's Operating Budget for the funds expended to replace and repair damages due to the November 1, 2013 lightning strike. Specifically, One Thousand Five Hundred Eighty-two Dollars and seven cents (\$1,582.07) to Building and Grounds Maintenance Services (607700-613010) and Twenty Thousand Two Hundred Fifteen Dollars and six cent (\$20,215.06) to Airfield Maintenance Services (607700-613130)

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>03/20/14</u>	<u>Refer to public hearing 04/03/14</u>
<u>04/03/14</u>	<u>Public hearing opened and continued to 04/17/14</u>
<u>04/17/14</u>	<u>Public hearing opened and continued to 05/01/14</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-125
INTRO: 04/03/14, 04/17/14, 05/01/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager
(2) Barnstable Municipal Airport Commission
DATE: March 17, 2014
SUBJECT: Appropriation Order for Lightning Strike Damage Insurance Loss Recovery at the Barnstable Municipal Airport

BACKGROUND: On September 1, 2013 at approximately 2:30 am, the Airport incurred a direct lightning strike to the airfield.

Given the nature and location of the strike, electrical damage occurred to the PAPI (Precision Approach path Indicator), vehicle security gates, security lighting, Airfield Ramp Lights, the Terminal, and Tower buildings. As the Airport needs to adhere to Federal Security standards, the repairs and replacement of equipment needed to be completed immediately. Twenty-six Thousand Nine Hundred Seventy-nine Dollars and thirteen cents (\$26,979.13) was expended out of the FY2014 Airport Operating Budget funds to pay for emergency repairs to vehicle security gates F & E, seven security lighting poles, the Tower DVD, the PAPI lights, and the terminal.

ANALYSIS: When the Town of Barnstable suffers a covered property loss and the insurance settlement exceeds Twenty Thousand Dollars (\$20,000.00) the Town Council needs to appropriate that loss recovery, per the Massachusetts General Law Chapter 44 section 53 and compliance with our Insurance and Risk Management Procedures. The Town policy has a Five Thousand Dollar (\$5,000.00) deductible, which the Airport will absorb out of the FY2014 Operating Budget. A check was received by the Town of Barnstable Purchasing Department in the amount of \$21,979.13 and was paid over to a holding account until the funds could be appropriated by the Town Council.

FISCAL IMPACT: This appropriation of funds to reimburse the FY2014 Airport Operating Budget is necessary for the continuing maintenance of the Airport. Due to increased costs and excessive storm related issues, the budget is already taxed to capacity. The impact of not appropriating these funds could effect the necessary operations at the Airport to prepare for the upcoming spring and summer season.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this appropriation order.

STAFF ASSISTANCE: Suzanne Kennedy, Executive Assistant to the Airport Manager

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2014-127
INTRO: 04/17/14, 05/01/14**

**2014-127 RESOLVE IN SUPPORT OF LEGISLATION IN THE CURRENT SESSION TO
EXPAND THE JURISDICTION OF THE HOUSING COURT DEPARTMENT**

RESOLVED: that the Town Council of the Town of Barnstable directs the Town manager to express the Town's full support for the enactment of the subject legislation before the completion of the current legislative session, and to take all steps necessary to engage our legislative delegation, an others, to achieve this outcome in 2014.

SPONSOR: Councillor Paul Hebert

DATE	ACTION TAKEN
<u>04/17/14</u>	<u>Moved to 2nd reading 05/01/14</u>
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-127
INTRO: 04/17/14, 05/01/14

SUMMARY

TO: Town Council
FROM: Councillor Paul Hebert
DATE: April 8, 2014
SUBJECT: Support of pending legislation in the current session that would expand the housing court department jurisdiction, statewide

RATIONALE:

1. There is currently pending before the General Court a bill entitled, "An Act relative to the geographical jurisdiction of the Housing Court Department", which would expand the Court's jurisdiction to the entire Commonwealth, creating a statewide Court with injunctive and equity powers that would greatly add to effective resolution of disputes.
2. The jurisdiction of the Housing Court Department of the Massachusetts Trial Court now covers about 80% of the Commonwealth geographically and about 69% of the Commonwealth's citizens, but does not currently cover Barnstable, Dukes, or Nantucket Counties.
3. The Housing Court has developed a high level of specialized expertise in successfully handling the multitude of housing issues that come to the Court.
4. The Housing Court enjoys an excellent reputation in handling housing-related matters expeditiously and at significant cost savings to all parties coming before it.
5. The Housing Court is set up to quickly and efficiently respond to emergencies as well as building, fire, zoning, and sanitary code violations, and
6. The Housing Court has proven to be a wonderful asset to both Landlords and Tenants, Municipalities and others in achieving just and fair resolutions of disputes for all parties quickly and cost-effectively.
7. The First Barnstable District Court, which currently has jurisdiction over all Barnstable matters, is one of the busiest District Courts in the Commonwealth and its overwhelming case load often contributes to significant delays and added costs to parties seeking a quick resolution of their differences.
8. The state's district courts do not have the power to issue injunctions nor general equity powers to compel action at the direction of the court, tools that would be invaluable in enforcement of parties' rights determined by Court order.
9. The bill has received widespread support from housing advocates, municipalities, housing authorities, code enforcement authorities, and state and local bar associations, among others. Additionally, there is an urgent need to expand the Housing Court jurisdiction to the entire Commonwealth and that doing so will promote and protect the wide variety of housing interests, whose access to the court system is currently limited by competing caseloads, thereby delaying justice for all parties.
10. The current bill would, if enacted, greatly expand timely access to justice in a highly specialized Court with trained housing specialist and highly experienced jurists

B. NEW BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

**ITEM # 2014-128
INTRO: 04/17/14, 05/01/14**

2014-128 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND HARBORVIEW HOTEL INVESTORS, LLC

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Harborview Hotel Investor’s, LLC, Developer, for the property at 213 Ocean Street including parking areas, Hyannis, MA, consisting of 3.8 acres, shown on Barnstable Assessor’s Map 326 as Parcel 035, title to which is recorded in Barnstable County Registry of Deeds Book 15837 Page 190; and is the named buyer in a Purchase and Sale agreement dated October 31, 2013, for the property at 24 Nantucket Street, Hyannis, MA, consisting of .18 acres, which is shown Barnstable Assessors' Map 326 as Parcel 33. Collectively, the two parcels are referred to herein as the Property; For purposes of this Regulatory Agreement, the “Property” does not include the existing hotel and its operations currently located at 213 Ocean Street but does include all site parking; the Developer desires to develop the Property pursuant to this Regulatory Agreement.

REGULATORY AGREEMENT
HARBORVIEW HOTEL INVESTORS, LLC and NOMINEE
213 OCEAN STREET, HYANNIS, MA 02601

This regulatory agreement (“Agreement”) is entered into by and between the Developers, Harborview Hotel Investors, LLC or Nominee, (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ____ day of _____, 2014, pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapter 168 of the Barnstable Code;

WITNESS:

WHEREAS, this Agreement shall establish the following: permitted uses, density, and traffic within the Development, the duration of the Agreement, and any other terms or conditions mutually agreed upon between the Developer and the Town; and

WHEREAS, the Developer owns the property at 213 Ocean Street including parking areas, Hyannis, MA, consisting of 3.8 acres, shown on Barnstable Assessor’s Map 326 as Parcel 035, title to which is recorded in Barnstable County Registry of Deeds Book 15837 Page 190; and is the named buyer in a Purchase and Sale agreement dated October 31, 2013, for the property at 24 Nantucket Street, Hyannis, MA, consisting of .18 acres, which is shown Barnstable Assessors' Map 326 as Parcel 33. Collectively, the two parcels are referred to herein as the Property; For purposes of this Regulatory Agreement, the “Property” does not

include the existing hotel and its operations currently located at 213 Ocean Street but does include all site parking; the Developer desires to develop the Property pursuant to this Regulatory Agreement; and

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

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

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

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

WHEREAS, the Property is currently developed with 69.7% impervious lot coverage; the Development will redevelop a portion of the Property currently used for parking; proposed impervious lot coverage is 78.9%. These figures also include the building footprints to account for the Nantucket Street lot; and

WHEREAS, through the Regulatory Agreement process, including review of application materials, supplemental information submitted; discussions with the Town Manager and public testimony, impacts have been identified. These are: impacts to an already overloaded parking system in and adjacent to the Hyannis Harbor area; increased use of inadequate water delivery infrastructure on Ocean Street; and increased use of Bay Street by hotel clients; and

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

WHEREAS the Developer will require zoning relief from certain provisions of Chapter 240 to allow individual kitchen facilities in hotel rooms, minimum parking, building story requirements, front, rear and side yard setbacks and maximum lot coverage all as further defined in condition number 1(b) below; and

WHEREAS, the Developer will require relief from Chapter 112, Article III regarding a certificate of appropriateness; and

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

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

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

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

1. The Developer proposes to redevelop the Property as follows:
 - a. The Developer seeks a Regulatory Agreement to develop the property for the construction and operation of a new, freestanding, four (4) story hotel operating year-round for transient guests with up to sixty-eight (68) total guest rooms, each containing its own kitchen facility and approximately 350 square feet in size. The new hotel building is 33,795 square feet in total. In addition to the 68 rooms, the Hotel will also contain a fitness center and lobby for use by Hotel guests only. The Developer is Harborview Hotel Investors, LLC or NOMINEE. The property is addressed as 213 Ocean Street, Hyannis, MA, located in the Harbor District (HD) and is shown on Assessor's Map 326 as Parcels 035 and 24 Nantucket Street, Hyannis, MA located in the Harbor District (HD) and is shown on Assessor's Map 326 Parcel 033. Parking location for the new proposed hotel building will be located at the parking lot of the existing hotel building (which is not subject to the Regulatory Agreement) located at 213 Ocean Street and 24 Nantucket Street. The total area of the property(s) subject to the Application is approximately 3.98 acres.
 - b. The Regulatory Agreement seeks waivers from the Barnstable Zoning Ordinances, and other ordinances of the Code of the Town of Barnstable, specifically in reference to the following sections:
 - i. Section 240-24.1.7 (A) Harbor District, (1) Permitted Uses, (j) Hotel
 - o Developer seeks waiver to allow hotel rooms with individual kitchen facilities.
 - ii. Section 240-24.1.7 (C) Dimensional, bulk and other requirements
 - o Developer seeks waivers with regard to maximum building height (proposed 4 stories (44 ft) where only 2.5 stories are permitted) , front, rear, and side-yard setbacks (waiver of 10 foot minimum); and maximum lot coverage (waiver of 70% requirement).
 - iii. Section 240-52. Design and Screening standards. A.; Section 240-53. Landscape requirements for parking lots. B. (1) (2) (3); Section 240-56 Schedule of Off-Street Parking Requirements.
 - o Developer seeks relief from applicable parking requirements as follows:
 - o Developer seeks waivers with regards to parking lot landscaping of 10% and the waiver of the number of required trees. Parking lot landscaping (10% of the entire site or 6,082 sq. ft.); Proposed is 4,898 sq. ft. Parking lot trees required (Parking lot of 177 spaces) 36 trees; Proposed 7.
 - o Developer seeks waiver of parking-lot line to lot line (waiver of 6-foot minimum, where existing hotel has 0 lot line setback at some locations)

- Parking required is 1.2 spaces per unit (245) plus (1) for each employee in largest shift (12), or 258. Developer provides 177 spaces, 204 with approved valet (1.0 space per unit).
 - Developer seeks waiver of parking space minimum dimension requirement allowing for smaller size spaces in certain areas on the site.
- iv. Dumpster requirements:
- Developer seeks waiver from § 353-4 of the Code of the Town of Barnstable, Board of Health Regulations “Storage of Garbage and Refuse” Minimum setback for the location of the proposed dumpster.
- v. Chapter 112, Article III Hyannis Main Street Waterfront Historic District Ordinance:
- Developer seeks waiver of requirement for a Certificate of Appropriateness from the HMSWHDC guidelines. No additional free-standing signage is proposed.
- vi. Section 240-68. Signs in the MB-A1, MB-A2, MB-B and HD Districts. C.
- Developer seeks waiver to exceed the maximum square footage of 50 sq ft allowed in the district. Developer is seeking relief under the total allowable square footage in the HD District of 50 sq feet. Developer anticipates proposing a 35 sq ft (7’ Long by 5’ high) wall sign for the North side of the building and a 16.5 square ft (11’ Long by 1’-6” high) wall sign on the East side of the building.
2. The construction and operation of the proposed year-round hotel will result in the following economic benefits:
- New year-round and seasonal employment, both full time and part time. It is estimated all positions that are currently seasonal (Mid April – October) will become year round – 28 total new full time positions. (General Manager, Front Office Manager, Executive Housekeeper, Sales Manager, Director of Engineering, Shift Engineers (3), Accounting Manager, Life Guard (2), Security (1.4), Night Auditor (1.4), Front Desk Clerks (4), Housekeepers (6), Housemen (2), Laundry Attendant (2).)In addition, it is estimated an additional 15 new seasonal positions will be created with the addition of the 68 rooms; (2 new front desk clerks, Housekeepers (6), Housemen (2), Engineer (2), Sales Manager, Parking Attendant (2);
 - Increase in Town property tax revenue. The additional tax revenue to the Town will be \$35,880.30 (based on Estimated Building Costs \$4,500,000.00 x Town tax rate of \$8.22 per 1000 + Community Preservation Tax 3% of the Town Tax), plus a Hyannis Fire Department tax rate of \$15,930.00 (\$3.54 per 1000), for a total estimated annual tax of \$51,810.00.
 - Increase in Town hotel room tax revenue. The estimated hotel tax revenue generated from this project will be \$120,000.00 (based on an estimated revenue of \$2,000,000.00 at 6%); and
 - Increase in year round commercial activity in the Harbor area.

3. In accordance with Section 168-6, the Developer, prior to being issued a building permit shall be required to pay mitigation sums to the Town of Barnstable to be used by the Town in its discretion for infrastructure improvements including the extension of the water main on Ocean Street.

The Developer shall be required to pay \$150,000 as follows;
\$30,000 upon issuance of occupancy permit; and
\$30,000 each year thereafter for the next four (4) years

Developer shall make payment to the Treasurer of the Town of Barnstable as directed by the Town Manager's office.

4. Parking – As set forth on plans prepared by Baxter & Nye Engineering, entitled Hyannis Harbor Hotel Addition, Revised through 11/8/2013. As per plans submitted, the new plan with the Nantucket Lot shows 177 spaces (.86) per guest room, with the new valet 204 spaces (1) per guest room. The Ordinance requires 1.2 spaces per room plus 1 for every two employees on the maximum shift. As a result, Developer seeks relief for parking as set forth above.
5. Landscape - As set forth on plans prepared by Baxter & Nye Engineering, entitled Hyannis Harbor Hotel Addition, Revised through 12/3/2013. The landscaping for 24 Nantucket Street will also be irrigated.
6. Bonds: Prior to the issuance of a foundation building permit Developer will provide a performance bond in an amount to be approved by the Planning Board or its designee, said bond to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said performance bond (including interest) may be released by the Planning Board to the Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of the Developer;
7. Curb cuts - As set forth on plans prepared by Baxter & Nye Engineering, entitled Hyannis Harbor Hotel Addition, Revised through 11/8/2013
8. Lighting – Currently being prepared by architect. It will meet Town standards. A copy of the lighting plan shall be filed with Growth Management staff for review and comment prior to the issuance of a building permit.
9. Signage - Developer is seeking relief under the total allowable square footage in the HD District of 50 sq feet. Developer is proposing a 35 sq ft (7' Long by 5' high) wall sign for the North side of the building and a 16.5 square ft (11' Long by 1'-6" high) wall sign on the East side of the building.
10. Stormwater management – As set forth on plans prepared by Baxter & Nye Engineering, entitled Hyannis Harbor Hotel Addition, Revised through 8/9/2013. This does not include the parking area for the Nantucket Lot, which was included at the last Planning Board hearing. A copy of the drainage plan for the Nantucket log shall be filed with the Growth Management staff for review and comments prior to the issuance of a building permit.

11. Crosswalk shall be provided - As set forth on plans prepared by Baxter & Nye Engineering, entitled Hyannis Harbor Hotel Addition, Revised through 11/8/2013
12. Dumpster shall be located as set forth on plans prepared by Baxter & Nye Engineering, entitled Hyannis Harbor Hotel Addition, Revised through 11/8/2013 on the northern property line abutting Bay Lane.
13. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy;
14. Community Character – Proposed elevations were reviewed by the Planning Board. Developer has met with the Historic District Commission, who has given a positive recommendation with respect to the current design of the hotel as shown in the elevations prepared by Pro Con, Inc., dated May 24, 2013.
15. Construction shall take place only between the hours of 7 AM to 5 PM Monday through Saturday.
16. Use – The new freestanding, four (4)-story hotel building on the Property shall be used as a hotel for transient guests operating year round. The hotel units shall not be used as dwelling units. None of the hotel units shall be marketed, transferred, or sold as Timeshare Units as defined in G.L. c. 183B as the same may be amended.
17. Project construction shall commence no later than three (3) years from the finalization and approval of the Regulatory Agreement by the Town Council. Construction shall be completed within two (2) years of construction commencement date. These time periods may be extended upon request of the Developer and approval by the Planning Board.
18. To the extent that referenced plans do not depict all of the findings and conditions set forth in this Agreement, revised plans and shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses shall be obtained;
19. The development rights granted under this agreement shall run with the land. However, the Developer agrees that 30 days prior to any change of ownership of the Property that written notice shall be sent to the Planning Board, Town Council, and Town Manager and further agrees, that all terms and conditions of this regulatory agreement and any amendments thereto, shall be binding on any successive owner of the Property.
20. Pursuant to §168-9, the term of the Agreement shall be (10) years from the effective date of the Agreement. Notwithstanding the ten (10) year duration, once the development rights are exercised within the time periods provided in Paragraph 17, including any extension thereof by the Planning Board, all of the terms and conditions of the Regulatory Agreement shall remain in effect until the development rights are no longer exercised.

21. The Town hereby grants waivers from the following zoning requirements:

- i. Section 240-24.1.7 (A) Harbor District, (1) Permitted Uses, (j) Hotel
 - o Developer seeks waiver to allow hotel rooms with individual kitchen facilities.
- ii. Section 240-24.1.7 (C) Dimensional, bulk and other requirements
 - o Developer seeks waivers with regard to maximum building height (proposed 4 stories (44 feet) where only 2.5 stories are permitted), front, rear, and side-yard setbacks (waiver of 10 foot minimum); and maximum lot coverage (waiver of 70% requirement).
- iii. Section 240-52. Design and Screening standards. A.; Section 240-53. Landscape requirements for parking lots. B. (1) (2) (3); Section 240-56 Schedule of Off-Street Parking Requirements.

Parking requirements

- o Developer seeks relief from applicable parking requirements as follows:
 - o Developer seeks waivers with regards to parking lot landscaping of 10% and the waiver of the number of required trees. Parking lot landscaping (10% of the entire site or 6,082); Proposed is 4,898. Parking lot trees required (Parking lot of 177 spaces) 36 trees; Proposed 7.
 - o Developer seeks waiver of parking-lot line to lot line (waiver of 6-foot minimum)
 - o Parking required is 1.2 spaces per unit (245) plus (1) for each employee in largest shift (12), or 258. Developer provides 177 spaces, 204 with approved valet (1.0 space per unit).
 - o Developer seeks waiver of parking space minimum dimension requirement allowing for smaller size spaces in certain areas on the site.
- iv. Dumpster requirements:
 - o Developer seeks waiver from § 353-4 of the Code of the Town of Barnstable, Board of Health Regulations “Storage of Garbage and Refuse” Minimum setback for dumpster(s) locations to lot line
 - v. Chapter 112, Article III Hyannis Main Street Waterfront Historic District Ordinance:
 - o Developer seeks waiver of requirement for a Certificate of Appropriateness from the HMSWHDC guidelines.
 - vi. Section 240-68. Signs in the MB-A1, MB-A2, MB-B, and HD Districts. C.
 - o Developer seeks waiver to exceed the maximum square footage of 50 sq ft allowed in the district. Developer is seeking relief under the total allowable square footage in the HD District of 50 sq feet. Developer anticipates proposing a 35 sq ft (7’ Long by 5’ high) wall sign for the North side of the building and a 16.5 square ft (11’ Long by 1’-6” high) wall sign on the East side of the building.

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

Dated this _____ day of _____, 2014.

Town of Barnstable
By: Thomas K. Lynch
Town Manager

Developer
By:

SPONSOR: Councillor Jennifer Cullum

DATE	ACTION TAKEN
<u>04/17/14</u>	<u>Moved to 2nd reading 05/01/14</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-128

INTRO: 04/17/14, 05/01/14

SUMMARY

TO: Town Council
DATE: April 8, 2014
SUBJECT: Regulatory agreement between the Town of Barnstable and Harborview Hotel Investors, LLC

BACKGROUND: Following is a proposed Regulatory Agreement (“Agreement”) entered into between the Town of Barnstable and Harborview Hotel Investors, LLC (“Applicant”), allowing for the construction of a new 4 story hotel on the Applicant’s property located at 213 Ocean Street, with additional parking to be located at 24 Nantucket Street. 213 Ocean Street is currently improved with an existing seasonal hotel also owned by the Applicant and not subject to this Agreement. 24 Nantucket Street is currently improved with a building, which will be razed, as the site will be utilized for overflow parking for the hotel operations.

The proposed Agreement would authorize the Applicant to develop the property for the construction and operation of a new, freestanding, four (4) story year-round hotel with up to sixty-eight (68) total guest rooms, each containing its own kitchen facility and approximately 350 square feet in size. The new hotel building is 33,795 square feet in total. In addition to the 68 rooms, the Hotel will also contain a fitness center and lobby. The Applicant is Harborview Hotel Investors, LLC or NOMINEE. The property is addressed as 213 Ocean Street, Hyannis, MA, located in the Harbor District (HD) and is shown on Assessor’s Map 326 as Parcels 035 and 24 Nantucket Street, Hyannis, MA located in the Harbor District (HD) and is shown on Assessor’s Map 326 Parcel 033. Parking location for the new proposed hotel will be located at the parking lot of the existing hotel (which is not subject to the Regulatory Agreement) located at 213 Ocean Street and 24 Nantucket Street. The total area of the property(s) subject to the Application is approximately 3.98 acres.

Regulatory Agreement Process

The proposed Agreement was discussed by the Planning Board, including public hearings, opened on April 8, 2013, continued June 10, 2013, July 22, 2013, August 12, 2013, August 26, 2013, September 23, 2013, October 28, 2013, November 11, 2013, November 25, 2013, December 9, 2013, January 13, 2014 and January 27, 2014. The Planning Board by a unanimous vote on January 27, /2014, recommended this proposed Agreement to Town Council for further action.

Because the Applicant requests zoning relief, a two-thirds vote of the Town Council is needed to approve the proposed Regulatory Agreement.

FISCAL IMPACT: The fiscal impact for the Town will be positive. The proposed Hotel will have an estimated tax benefit to the town of \$171,810, in both property tax and room tax revenues. The project will further have a positive fiscal impact by generating 28 full time employees and 15 seasonal employees in the town, as a result of the project.

B. NEW BUSINESS (May be acted upon) (Roll call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2014-130
INTRO: 04/17/14, 05/01/14**

**2014-130 TRANSFER ORDER OF \$59,000 FOR THE DEPARTMENT OF PUBLIC WORKS
FY14 CAPITAL OUTLAY**

ORDERED: That the sum of \$59,000 be transferred from the FY14 Public Works Department personnel budget to the FY14 Public Works Department capital outlay budget for construction work undertaken to rebuild the Santuit Pond Dam, to correct safety deficiencies at the Centerville Playground and for software upgrades to the Structures & Grounds Division work order system.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>04/17/14</u>	<u>Moved to 2nd reading 05/01/14</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-130
INTRO: 04/17/14, 05/01/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: April 8, 2014
SUBJECT: Transfer Order of \$59,000 from the FY14 Public Works Department Personnel Budget to the Public Works Department Capital Outlay Budget

BACKGROUND: The Town of Barnstable in conjunction with the Town of Mashpee own and manage the 293-acre Santuit Preserve, located off Santuit-Newtown Road. The Town of Barnstable agreed to share a 25% match for construction costs of the reconstruction of the dam and fish ladder on Santuit Pond. Seventy-Five percent of the costs of the project derived from a grant from the Cape Water Resources Restoration Project. The town's contribution to this project was \$41,500.

In June of 2013, the Town Recreation Department hired a playground safety consultant to review conditions at the Centerville Playground, adjacent to the Centerville Recreation Building on Main Street. The consultant identified and prioritized numerous safety deficiencies. Shortly after receiving the report, the DPW corrected many of the most critical violations. This request will fund the work to correct the remaining priority items costing \$11,000.

The Structures & Grounds Division, in 2003, purchased the TMA Work Order Management System. This system tracks work orders, including labor and material costs, provides a facilities asset database, and building key module. For vendor support of the product there is an annual fee for licensing, software upgrades, and system maintenance. As the result of budget cuts in 2009, the annual fee for software upgrade and other services were eliminated from the budget. The software is currently unlicensed and we are unable to get vendor servicing for maintenance or system problems. There have been numerous versions and upgrades to the software package since 2009, which will improve the usefulness and effectiveness of the program to the Division. The software upgrade will cost \$6,500.

ANALYSIS: As the result of numerous factors, including positions not currently filled and vacancies, DPW is projecting to have savings in personnel costs in FY14 exceeding \$200,000

FISCAL IMPACT: The total FY14 operating budget appropriation of \$8,114,348 for the Public Works Department is not changing. This requested transfer from the personnel category to the capital outlay category will allow the department to address critical infrastructure needs without affecting the overall FY14 appropriation.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the transfer order.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2014-131
INTRO: 05/01/14**

2014-131 ACCEPTANCE OF A \$6,000 GIFT FROM THE FRIENDS OF THE BARNSTABLE COUNCIL ON AGING TO THE BARNSTABLE SENIOR SERVICES DIVISION TO HELP FUND THE ADULT SUPPORTIVE DAY PROGRAM AT THE BARNSTABLE SENIOR CENTER

RESOLVED: that the Town of Barnstable hereby accept a gift in the amount of \$6,000 to support the funding of the Barnstable Senior Center's Adult Supportive Day Program and that the Town Manager is authorized to expend the gift monies for the purpose specified.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-131
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Town Council Roads Sub-committee
DATE: April 8, 2014
SUBJECT: A \$6,000 gift from the Friends of the Council on Aging to the Senior Services Division to help fund the Adult Supportive Day (ASD) Program.

RATIONALE: The Hyannis Rotary Club has gifted the Friends of the Barnstable Council on Aging (Friends) \$6,000 to help fund the Barnstable Senior Services Division's Adult Supportive Day (ASD) Program. The mission of the Friends is to raise funds on behalf of the Barnstable Senior Center to support our programs and services. The funds will support the preparation of meals for lunch of our ASD program. Trained staff at the Senior Center prepares the lunches. These meals are delicious and well balanced, and, since this is a full day program, providing this daily meal to our ASD clients is a necessary operational cost for the program. In the past, ASD outsourced meal preparations. The outsourced meal cost was \$4.00 per meal. In 2013, an effort to reduce program costs, we brought meal preparation in house, making use of trained staff already in place. The in house average cost per meal is \$3.00.

Proudly celebrating its fifteenth year, the Barnstable Adult Supportive Day Program is a full day program which assists families in caring for elders who cannot or do not wish to stay home alone during the day, offering supportive care in an engaging environment that allows seniors with physical and cognitive limitations to remain active and independent in their own community. In FY14, we served the needs of 63 families in our community. ASD has an average attendance rate of 18 clients per day.

The seniors who utilize our ASD program are amongst our most vulnerable population. Our typical client may have aged in place and have some physical limitations, memory impairment and be socially isolated. These seniors have significant challenges and impediments facing them to stay home along during the day. Those with memory impairment and physical limitations rely solely on caregivers, most of whom are family members. For those seniors who are socially isolated, attending the program is critical to their current and future health. Social isolation is a major and prevalent health problem among elders, and it is believed that this may lead to numerous negative health outcomes. For those seniors with physical limitations and mobility issues, the ability to be actively engaged in movement is fundamental to their health and well-being. Their involvement in supervised, ability appropriate movement and being engaged socially and physically in the program is very beneficial to their long-term health outcomes. The incidence rate of falls is lower for seniors who remain physically active.

Although ASD is housed at the Senior Center, the operational costs for the program come from the tuition paid by clients and their families. We have strived to keep the costs affordable for families while still maintaining a top quality program, which adheres to all guidelines as mandated by the MA Executive Office of Elder Affairs. For the first time in five years, we recently raised fees 15% to cover rising operational costs. Rates are determined by income guidelines and were approved by the Town of Barnstable. The fees range from \$35-48 per day. The majority of clients pay \$40 per day. Clients may choose the number of days they attend. The average number of days in attendance is three days per week.

We are extremely grateful to the Hyannis Rotary Club and the Friends of the Barnstable Council on Aging for their continued support of the Barnstable Senior Center.

FISCAL IMPACT: None

STAFF ASSISTANCE: Madeline Noonan, Senior Services Director
Donna-Marie Burns, Assistant Senior Services Director

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM # 2014-132
INTRO: 05/01/14**

2014-132 ACCEPTANCE OF A \$4,500 SERVICE INCENTIVE GRANT FROM THE EXECUTIVE OFFICE OF ELDER AFFAIRS TO THE SENIOR SERVICES DIVISION TO SUPPORT TRANSPORTATION PROGRAM AT THE BARNSTABLE SENIOR CENTER

RESOLVED: That the Town of Barnstable hereby accepts a Service Incentive Grant of \$4,500 from the Executive Office of Elder Affairs to support the transportation program of the Barnstable Senior Center and that the Town Manager is authorized to expend the grant monies for the purpose specified.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-132
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Lynne M. Poyant, Director of Community Services
DATE: April 22, 2014
SUBJECT: Acceptance of a \$4,500 Service Incentive Grant from the Executive Office of Elder Affairs

RATIONALE: This year the Executive Office of Elder Affairs (EOEA) has offered a Service Incentive Grant to municipalities in Massachusetts. This grant is in addition to the formula grant that is based on the senior census of that town offered by EOEA.

This grant will be used to help support the transportation offerings at the Barnstable Senior Center, specifically the transportation provided to Adult Supportive Day Program clients. For many seniors who no longer drive, this program allows them to continue to live independently in their homes and is their primary link to outside services. Acceptance of this grant will allow the Barnstable Senior Center to continue to provide this invaluable community service to elders.

We are extremely grateful to the Executive Office of Elder Affairs and the Commonwealth of Massachusetts for their continued support of the needs of the elderly residents in our community.

STAFF ASSISTANCE: Madeline Noonan, Director of Senior Services
Donna-Marie Burns, Assistant Senior Services Director

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2014-133
INTRO: 05/01/14**

2014-133 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION FOR MAINTENANCE AND IMPROVEMENTS OF PRIVATE ROADS IN THE TOWN OF BARNSTABLE

ORDERED, that the Town Manager submit a petition to the General Court of the Commonwealth to enact special legislation for maintenance and improvements of private roads in the Town of Barnstable as follows:

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by authority of the same, as follows.

SECTION 1. Notwithstanding the provisions of section six “N” of chapter forty of the General Laws or any other general law or special law to the contrary, the Town of Barnstable may from time to time enter and make expenditures for the purpose of undertaking maintenance and improvements within the layout, or any portion thereof, of one or more private ways within the Town following a declaration of common usage of such private way by the general public by vote of the Town Council and an appropriation, with or without a transfer, in accordance with the provisions of the Charter of the Town of Barnstable. No such declaration, appropriation, expenditure, maintenance and improvements pursuant to the provisions of this act shall constitute layout, acceptance and establishment of such private way as a town way nor constitute repairs for purposes of section twenty-five of chapter eighty-four, provided such rights on behalf of the public as are necessary for the safety of the public using such road and to ensure the investment of public funds in such private roads are obtained by the Town, whether by grant or other acquisition. Betterments may be assessed for improvements undertaken pursuant to the provisions of this act. Town management shall determine the extent of any such maintenance and improvements.

SECTION 2. For purposes of this act, the following words shall have the following meanings.

“Improvement” for the purposes of this act shall mean construction, alteration, or reconstruction of one or more permanent fixtures upon, over, or under the layout of a private way of the type, which the Town may undertake with respect to town ways.

"Maintenance" for the purposes of this section shall mean incidental repairs upon, over, or under the layout of a private way of the type, which the Town may undertake with respect to town ways.

“Common usage” shall mean that the road or any portion thereof has been commonly used by the general public for a period of at least twenty consecutive years for travel directly from one public road or area to another public road or area.

SECTION 3. This act shall take effect upon its passage.

SPONSOR: Town Council Roads Subcommittee Councillors Will Crocker, Jr., Chairman; Ann Canedy; James Crocker, Jr.; Sara Cushing; and Philip Wallace

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-133
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Town Council Roads Sub-committee
DATE: April 24, 2014
SUBJECT: A petition for special legislation authorizing improvements and maintenance on private roads

BACKGROUND: There are approximately 1,113 private roads in the Town of Barnstable. Because public funds cannot be used on private roads, the Town has not included these roads in its Roads Improvement Plans in recent years. Many of these roads, while "on paper" are private, are heavily used by the public. Some are so-called "hybrid" or "mixed" roads in that they are part public and part private. Several are major feeder roads and/or regional connector roads.

Representative Cleon Turner has proposed legislation to address some of the funding issues related to a finite number of roads that fit particular defined criteria. Under his legislation, the Town would be able to expend public funds on private roads or portions of private roads, which have been commonly used by the general public for travel directly from one public road or area to another public road or area.

Absent this legislation and/or private petitioning activity under the Temporary Repairs to Private Roads Program (TRPRP) there is little that the Town can do to effectuate repairs on the private section(s) of these critical roads. In the case of some major roads with all or a portion thereof deemed "private", the abutters cannot or will not participate in the Temporary Repairs to Private Roads Program. Charging 100% betterment as required under TRPRP to those abutters would be fundamentally unfair and disproportionate in view of the comparative actual use by those abutters as opposed to use by the general public.

FISCAL IMPACT: Funds would be derived from funds accumulated under Chapter 248 (see Agenda 2014-136) if amended and/or Chapter 90 and/or Capital Improvement budget. Because the amounts of available funds are limited and use of these funds for private roads would compete with use for public roads, it is important to understand that the intent of this legislation is to *limit* its use. The Department of Public Works would determine the roads that would qualify for use of these funds based on articulated criteria, for example: 1) part private/part public; 2) heavy vehicle count; 3) low pavement condition index; 4) public safety hazard; 5) regional, local, or de facto connector road, 4) or other qualifiers.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2014-134
INTRO: 05/01/14**

2014-134 PETITIONING THE GENERAL COURT OF THE COMMONWEALTH TO AMEND CHAPTER 174 OF THE ACTS OF 1994 (PRIVATE ROADS) FOR REPAIR AND IMPROVEMENTS TO PRIVATE ROADS IN THE TOWN OF BARNSTABLE

ORDERED, that the Town Manager submit a petition to the General Court of the Commonwealth to amend Chapter 174 of the Acts of 1994 by striking the words "not to exceed in the aggregate, ten million dollars" and substituting the words "so long as the outstanding indebtedness under this act shall not exceed, at the close of any fiscal year, the sum of fifteen million dollars" and by striking the words "making repairs to private ways" and substituting the words "repairing and improving private ways". Effective date would be upon passage of the Amendment.

SPONSOR: Town Council Roads Subcommittee: Councillors Will Crocker, Jr., Chairman; Ann Canedy; James Crocker, Jr.; Sara Cushing; and Philip Wallace

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-134
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Town Council Roads Subcommittee
DATE: April 25, 2014
SUBJECT: Petition for special legislation to amend Chapter 174 of the Acts of 1994 (Private Roads) for improvements and maintenance of private roads

RATIONALE: The Roads Subcommittee has been working since January 2014 to identify and expand current and potential sources of revenue for the maintenance and repair of Town of Barnstable roads.

The Town of Barnstable has approximately 1,788 roads. Of that number, approximately 62% (or 1,113 roads) are privately owned. Many of these roads were constructed during the 1970's and 1980's building boom and were not and do not comply with current subdivision standards. In addition, most if not all covenants intended at one time to benefit the Town, have been released or have expired.

Consequently, many of our private roads continue to deteriorate with age and use. Due to a prohibition against using public dollars for private ways, the abutters to these private roads are increasingly looking to the Town for help in repairing and funding maintenance of these roads.

The only options heretofore available for private road abutters have been to self-fund repairs to their roads or to avail themselves of the Temporary Repairs to Private Roads Program (TRPRP) (Barnstable Code Section 206-8-10). Under TRPRP, very simply put, the Town repairs the private road and charges back betterments to the abutter for the cost of the repairs. In order to fund this Program, several years ago, the Town petitioned the General Court of the Commonwealth for Special Legislation to allow bond availability in the amount of \$10 million dollars.

This Program has been very successful and currently there are several roads in line for inclusion. The funds left in the TRPRP are dwindling. Therefore, the Roads Committee recommends that the Council authorize the Town Manager to petition the Legislature to increase to \$15 million dollars by amending Chapter 174 of the Acts of 1994.

Further, the Roads Committee requests that Chapter 174 be further amended to include "improving" private ways to include but not be limited to drainage improvements.

FISCAL IMPACT: If the Amendment is passed, the Town will be able to accept additional private roads into the program. Under this program, 100% of the costs are charged back to the private road abutter as betterment.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2014-135

INTRO: 05/01/14

2014-135 PETITIONING THE GENERAL COURT TO AMEND CHAPTER 248 OF THE ACTS OF 2012 (SEWER CONSTRUCTION FUND) TO INCLUDE FUNDING MAINTENANCE AND IMPROVEMENTS OF PRIVATE WAYS

ORDERED, that the Town Manager submit a petition to the General Court of the Commonwealth to amend Chapter 248 of the Acts of 2012 by striking the words "Sewer Construction Fund" and substituting the words "Sewer Construction and Private Way Maintenance and Improvement Fund"; and by adding the words "and maintenance and improvements of private ways" after "sewer construction" at the end of the first paragraph of Section 1; to take effect upon passage of the amendment.

SPONSOR: Town Council Roads Subcommittee: Councillors Will Crocker, Jr., Chairman; Ann Canedy; James Crocker, Jr.; Sara Cushing; and Philip Wallace

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-135
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Town Council Roads Subcommittee
DATE: April 24, 2014
SUBJECT: Petition for special legislation amending Chapter 248 of the Acts of 2012 (Sewer Construction Fund)

BACKGROUND: The Town Council Roads Subcommittee has been meeting since January 2014 in an effort to identify and expand current and potential sources of revenue for maintenance and repair of Town of Barnstable roads.

62% of the Town's roads are "private." The public heavily uses many of those private roads. Because of their designation as "private", public funds have not been used to proactively maintain these roads. Because of their heavy public use, many of these roads have also deteriorated to a point where they have become public safety hazards.

The Sewer Construction Fund was established by Special legislation at the direction of the Town Council several years ago. The money in this fund comes from the collection of a portion of the meals and hotel taxes. There have been no recent sewer projects and thus, there is currently a healthy balance in this Fund.

The Town Council Roads Subcommittee requests that the Town Council direct the Town Manager to submit a Petition to expand the use of the Sewer Construction Fund to include private way maintenance and improvements. Should this Amendment pass, this fund could apply to the Temporary Repairs to Private Roads Program or for the repair of specific designated private roads applicable under the Home Rule Petition (Agenda #2014-133.) Any use of these funds would be subject to Town Council approval.

FISCAL IMPACT: Failure to aggressively and creatively expand funds to be used on private and public roads will lead to a continued deterioration of the Town's infrastructure at a risk to public safety.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2014-136
INTRO: 05/01/14**

2014-136 REQUESTING THE GOVERNOR OF THE COMMONWEALTH TO RELEASE THE TRANSPORTATION BOND/CHAPTER 90 FUNDS

RESOLVED, that the Town Council submit to the Governor of the Commonwealth of Massachusetts the following:

WHEREAS, by the 2013 passage of the Transportation Bond Authorizing Bill by the State Legislature and its subsequent enactment into law, an aggregate sum of three hundred million dollars (\$300,000,000) was to be released to cities and towns in FY2014; and

WHEREAS, to date, the Governor has only released \$200 million, said sum representing level funding from FY2012 and FY2013; and

WHEREAS, the Legislature of the Commonwealth passed and the Governor signed into law, significant tax increases with the intent to meet transportation needs (Chapter 18 of the Acts of 2013); and

WHEREAS, the new tax dollars secured in the transportation finance package was projected to be one half billion dollars, a sum which would support the \$11 million a year debt service expense necessary to increase the transportation systems fund program from \$200 (level funding) to \$300 million, as was the intent of the Legislature; and

WHEREAS, the share withheld from the Town of Barnstable FY2014 could exceed 1 million dollars; and

WHEREAS, on April 18, 2014, the Governor signed a Transportation bond bill that includes \$300 million for FY2015; and

WHEREAS, according to Town of Barnstable FY2015 Capital Improvement Budget Plan, a backlog of \$28,224,500 of needed road related road repairs and 245 locations where drainage improvements are required to protect public safety and prevent potential property damage, have been identified for the Town of Barnstable.

RESOLVED, that the Town Council of the Town of Barnstable respectfully requests Governor Deval Patrick to immediately release the \$100 million owed to cities and towns for FY2014 and further to agree to the timely release of all \$300 million in transportation funds as signed into law April 18, 2014 for FY2015

SPONSOR: Town Council Roads Subcommittee: Councillors Will Crocker, Jr., Chairman; Ann Canedy; James H. Crocker, Jr.; Sara Cushing; and Philip Wallace

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-136
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Town Council Roads Subcommittee
DATE: April 24, 2014
SUBJECT: A resolve requesting the Governor to Release Transportation Bond/Chapter 90 Funds

BACKGROUND: The Roads Committee has been meeting since January 2014 in an effort to identify and expand current and potential sources of revenue for maintenance and repair of Town of Barnstable roads.

According to the FY2015 Capital Improvement Budget and Plan, through use of the Department of Public Work's Pavement Management Program, a backlog of \$28,224,500 of needed road related repairs has been identified. This equates to over 100 miles of Town roads in need of more than routine maintenance or repair. In addition, DPW has identified a backlog of approximately 254 locations where drainage improvements are required to protect public safety and to prevent potential property damage. (See Capital Improvement and Budget Book, page 17.)

During the FY2014 budget negotiation process, the State Legislature unanimously passed vital infrastructure funds to cities and towns in the amount of \$300 million for FY2014. Despite the fact that the Governor signed the legislation, enacting it into law, the Governor has to date only released \$200 million. He has further stated his intent not to release the remaining \$100 million due in FY2014.

Further, the Governor signed a transportation bond bill on April 18, 2014, that includes \$300 million for FY2015 for Chapter 90 local roads programs. Again, the Governor has signaled his intent not to release \$100 million of these authorized funds.

While the Legislature continues to support a \$300 million funding level, decisions about how much funding is actually released remain the Governor's prerogative. To date, he has chosen not to release these funds. The Town of Barnstable could realize \$1 million of these funds, if released.

The Massachusetts Municipal Association has made winning release of the withheld funds a "top priority" and has asked cities and towns to support their efforts.

FISCAL IMPACT: Failure to adequately and proactively maintain Town roads and drainage infrastructure is costly. With an over \$28 million dollar backlog in road projects, the DPW would obviously benefit from release of these funds.

B. NEW BUSINESS (May be acted upon) (Roll call)

BARNSTABLE TOWN COUNCIL

**ITEM # 2014-137
INTRO: 05/01/14**

**2014-137 TRANSFER ORDER OF \$40,000 FROM FY14 DPW PERSONNEL BUDGET TO THE
FY14 DPW CAPITAL OUTLAY BUDGET TO CONTRACT FOR IMMEDIATE
REPAIRS TO THE BAY STREET OSTERVILLE BOAT RAMP PARKING LOT**

ORDERED: That the sum of \$40,000 be transferred from the FY14 Public Works Department personnel budget to the FY14 Public Works Department capital outlay budget to contract for immediate repairs to the Bay Street Osterville boat ramp parking lot.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-137
INTRO: 05/01/14

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
DATE: April 16, 2014
SUBJECT: Transfer \$40,000 to contract for immediate repairs to the Bay Street Osterville boat ramp parking lot.

BACKGROUND: The condition of the parking lot adjacent to the boat ramp is in failed condition and continues to worsen. It is necessary to install a rip-rap wall in order to shore up the lot and avoid continuing erosion of the bank and damage to the pavement. The project has been designed and permitted through the Conservation Commission.

ANALYSIS: As the result of numerous factors, including positions not currently filled, vacancies, and workers compensation cases, the DPW is projecting to have savings in personnel costs in FY14.

FISCAL IMPACT: The total FY14 operating budget appropriation of \$8,114,348 for the Public Works Department is not changing. This requested transfer from the personnel category to the capital outlay category will allow the department to address critical infrastructure needs without affecting the overall FY14 appropriation.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the transfer order.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (May be acted upon) (Roll call)

BARNSTABLE TOWN COUNCIL

**ITEM # 2014-138
INTRO: 05/01/14**

2014-138 ELECTION NOT TO EXERCISE THE TOWN'S OPTION TO PURCHASE UNDER G.L. C. 61B PURSUANT TO A NOTICE OF A PROPOSED CHANGE OF USE OF A PORTION OF PROPERTY LOCATED AT 340 VINEYARD ROAD, COTUIT, MA

RESOLVED: that the Town Council, under the provisions of G.L. c. 61B, §9, hereby elects not to exercise its option to purchase two areas of land comprised of 12,668 sf. located at 340 Vineyard Road, Cotuit, MA, which areas are shown as "Area 3A" and "Area 3B" on a plan prepared by Baxter & Nye Engineering dated 1/31/14 and directs the Town Manager to send written notice of the vote to the landowner.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2014-138
INTRO: 05/01/14

SUMMARY

TO: Town Council
VIA: Jeffrey Rudziak, Director, Assessing
DATE: May 1, 2014

ANALYSIS: 340 Vineyard Road consists of 7.69 acres in Cotuit with a 1,428 square foot Cape Cod style home built on it in 1969. A total of 6.41 acres of the land has received Chapter 61B certification as recreational land for many years.

The owner is planning to remove 12,668 square feet of land from the FY2014 Chapter certification for the construction of a boat barn and addition of a wood deck to the house. The locations of these sections of land to be removed from Chapter for this purpose lie entirely interior to the property and adjacent to the house site, making it impractical for the Town to exercise their right under Chapter statutes to acquire the land. No Town purpose can be served by pursuing an acquisition of this land. A further note is that they did not submit a Chapter 61B application for FY2015 and will be out of Chapter valuation entirely with the next tax bill in FY15.

While some square footage of land is being taken out of current Chapter 61B certification, there is no actual change from residential use of the property. As a result, no rollback tax will be issued at this time. However, Mr. Wulsin understands that if any change in use occurs on this property within the next ten years following their voluntary removal from Chapter certification in FY2014, a rollback tax for the remainder of those years will be due on any of the property so changed and will be payable by the owner of record at that time.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEMS# 2014-139
INTRO: 05/01/14**

2014-139 RATIFYING THE APPOINTMENT OF RICHARD SCALI AS THE DIRECTOR OF REGULATORY SERVICES

RESOLVED, that the Town Council does hereby confirm the appointment of Richard Scali as the Director of Regulatory Services.

SPONSOR: Town Manager Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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