



Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail : council@town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA

May 16, 2024

6:00 pm

Councilors:

Felicia Penn
President
Precinct 13

Craig Tamash
Vice President
Precinct 4

Gordon Starr
Precinct 1

Dr. Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew P. Levesque
Precinct 10

Kris Clark
Precinct 11

Paula Schnepf
Precinct 12

The May 16, 2024 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel live stream on the Town of Barnstable's website:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to: <https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/TownCouncil/Agenda-Comment.asp>

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/86066184427> Meeting ID: 860 6618 4427 US Toll-free • 1-888 475 4499

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS (Pre-Recorded)

7. ACT ON PUBLIC SESSION MINUTES: May 02, 2024

8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

Update from Wendy Northcross, Chair, Local Comprehensive Planning Committee

9. ORDERS OF THE DAY

A. Old Business

B. New Business

10. WORKSHOP DISCUSSION ON TOWN COUNCIL PRESIDING PHILOSOPHIES

Proposed Resolve: To approve the Town Council Presiding Philosophies as presented in draft form at this meeting (pp. 81-82)

Administrator:
Cynthia A. Lovell
Cynthia.lovell@town.barnstable.ma.us

11. ADJOURNMENT

SPECIAL TOWN COUNCIL MEETING: May 23, 2024

NEXT REGULAR MEETING: June 06, 2024

ITEM NO.	INDEX TITLE	PAGE
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A. OLD BUSINESS

2024-210	Appropriation Order in the amount of \$80,000 and authorization to expend a grant in the amount of \$120,000 from the Commonwealth of Massachusetts Department of Environmental Protection Clean Water State Revolving Fund for the Barnstable Stormwater Asset Management Plan (Public Hearing) (Roll Call Majority Vote).....	6-7
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Presentation from Mark Milne, Director of Finance, Fiscal Year 2025 Operating Budget

CONSENT AGENDA:

Proposed Vote: To refer Items 2024-185 through 2024-204, and Items 2024-206 through 2024-207, as written, to individual public hearings to be held on each item at the Town Council meeting on June 06, 2024.

B. NEW BUSINESS

2024-185	Appropriation Order in the amount of \$11,918,799 for the purpose of funding the town's Fiscal Year 2025 Airport Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	8
2024-186	Appropriation Order in the amount of \$89,375,780 for the purpose of funding the town's Fiscal Year 2025 Barnstable Public School Department Budget (Refer to Public Hearing 06/06/2024)...9	9
2024-187	Appropriation Order in the amount of \$18,709,328 for the purpose of funding the town's Fiscal Year 2025 Barnstable Police Department Budget (Refer to Public Hearing 06/06/2024)	10
2024-188	Appropriation Order in the amount of \$2,394,019 for the purpose of funding the town's Fiscal Year 2025 Planning and Development Department Budget (Refer to Public Hearing 06/06/2024)	11
2024-189	Appropriation Order in the amount of \$2,887,734 for the purpose of funding the town's Fiscal Year 2025 Community Services Department General Fund Budget (Refer to Public Hearing 06/06/2024).....	12
2024-190	Appropriation Order in the amount of \$3,892,161 for the purpose of funding the town's Fiscal Year 2025 Golf Course Enterprise Fund Budget (Refer to Public Hearing 06/06/2024)	13
2024-191	Appropriation Order in the amount of \$3,926,883 for the purpose of funding the town's Fiscal Year 2025 Hyannis Youth and Community Center Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	14
2024-192	Appropriation Order in the amount of \$1,638,527 for the purpose of funding the town's Fiscal Year 2025 Marine & Environmental Affairs Department General Fund Budget (Refer to Public Hearing 06/06/2024).....	15
2024-193	Appropriation Order in the amount of \$780,068 for the purpose of funding the town's Fiscal Year 2025 Marina Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	16
2024-194	Appropriation Order in the amount of \$1,087,579 for the purpose of funding the town's Fiscal Year 2025 Sandy Neck Park Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	17

2024-195	Appropriation Order in the amount of \$2,584,392 for the purpose of funding the town's Fiscal Year 2025 Inspectional Services Department Budget (Refer to Public Hearing 06/06/2024).....	18
2024-196	Appropriation Order in the amount of \$11,384,511 for the purpose of funding the town's Fiscal Year 2025 Department of Public Works General Fund Budget (Refer to Public Hearing 06/06/2024)	19
2024-197	Appropriation Order in the amount of \$4,033,424 for the purpose of funding the town's Fiscal Year 2025 Department of Public Works Solid Waste Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	20
2024-198	Appropriation Order in the amount of \$10,934,823 for the purpose of funding the town's Fiscal Year 2025 Department of Public Works Water Pollution Control Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	21
2024-199	Appropriation Order in the amount of \$9,109,331 for the purpose of funding the town's Fiscal Year 2025 Department of Public Works Water Supply Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	22
2024-200	Appropriation Order in the amount of \$264,092 for the purpose of funding the town's Fiscal Year 2025 Town Council Budget (Refer to Public Hearing 06/06/2024)	23
2024-201	Appropriation Order in the amount of \$1,575,299 for the purpose of funding the town's Fiscal Year 2025 Town Manager Budget (Refer to Public Hearing 06/06/2024).....	24
2024-202	Appropriation Order in the amount of \$881,383 for the purpose of funding the town's Fiscal Year 2025 Public, Education & Government (PEG) Access Channels Enterprise Fund Budget (Refer to Public Hearing 06/06/2024).....	25
2024-203	Appropriation Order in the amount of \$8,205,658 for the purpose of funding the town's Fiscal Year 2025 Administrative Services Department Budget (Refer to Public Hearing 06/06/2024)	26
2024-204	Appropriation Order in the amount of \$250,000 for the purpose of funding the Town Council's Fiscal Year 2025 Reserve Fund Budget (Refer to Public Hearing 06/06/2024)	27
2024-205	Appropriation Order in the amount of \$57,180,105 for the purpose of funding the town's Fiscal Year 2025 Other Requirements Budget (Refer to Public Hearing 06/06/2024)	28
2024-206	Appropriation Order in the amount of \$519,639 for Open Space and Recreation; \$519,639 for Historic Resources; \$519,639 for Community Housing; \$3,094,027 for a Budget Reserve, and that the sum of \$250,000 be appropriated from the Annual Revenues of the Community Preservation Fund for the administrative expenses of the Community Preservation Committee (Refer to Public Hearing 06/06/2024)	29
2024-207	Appropriation Order in the amount of \$363,800 for the purpose of paying the Fiscal Year 2025 Community Preservation Fund Debt Service Requirements (Refer to Public Hearing 06/06/2024)	30
2024-211	Appointments to a Board/Committee/Commission: Youth Commission: Emma Sawyer , as a student member to a term expiring 06/30/2025 (First Reading) (Refer to Second Reading 06/06/2024).....	31

2024-212	Reappointments to a Board/Committee/Commission: Airport Commission: Wendy Bierwirth . as a regular member to a term expiring 06/30/2027; Norman Weill, as a regular member to a term expiring 06/30/2027 (First Reading) (Refer to Second Reading 06/06/2024) 32
2024-213	Declaration of Common Usage of the Private Ways of School Street and Old Mill Road (May be acted upon) (Majority Vote)33-34
2024-214	Appointments to a Board/Committee/Commission: Ad Hoc Committee to Assess and Recommend Strategies for Housing Creation within the Town: Maryann Barboza (registered voter); Hilda Haye (Chair, Housing Committee); Rick Presbrey (registered voter); Laura Shufelt (registered voter) (First reading) (Refer to Second Reading 06/06/2024) 35
2024-215	Appointments to a Board/Committee/Commission: Ad Hoc Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements: Ken Alsman (registered voter); Christopher Kuhn (registered voter); Catherine Campos Ledec (registered voter); Bob Schulte (registered voter) (First reading) (Refer to Second Reading 06/06/2024) 36
2024-216	Authorization to contract for and expend a Fiscal Year 2024 Grant in the amount of \$7,500 from the Massachusetts Department of Environmental Protection for the purchase of one light duty electric pickup truck (May be acted upon) (Majority Vote)37-38
2024-217	Authorization to contract for and expend a Fiscal Year 2024 Grant in the amount of \$7,500 from the Massachusetts Department of Environmental Protection for the purchase of one light duty electric vehicle (May be acted upon) (Majority Vote)39-40
2024-218	Transfer Order in the Amount of \$65,900 from the Fiscal Year 2024 Community Services Department Personnel Budgets to the Fiscal Year 2024 Community Services Operating Expenditure Budgets for the Purpose of Funding Outside Professional Services, Equipment, Supplies and Materials (May be acted upon) (Majority Vote)41-42
2024-219	Authorizing the acquisition of an easement for sewer purposes at 1481 Iyannough Road in Hyannis (May be acted upon) (Majority Vote)43-45
2024-220	Amendment to the Administrative Code to designate the non-councilor members of the Ad Hoc Committees created under Town Council items 2024-166C and 2024-166D as Special Municipal Employees for purposes of the state Conflict of Interest Law (First reading) (Refer to second reading 06/06/2024)46-47
2024-221	Resolve approving the Bingo application of Cotuit Nursery School, Inc. (May be acted upon) (Majority Vote)48-50
2024-222	Approving a conservation restriction from the Barnstable Land Trust, Inc. to the Compact of Cape Cod Conservation Trusts, Inc. (May be acted upon) (Majority Vote)51-76
2024-223	Transfer Order in the amount of \$13,500 from Fiscal Year 2024 Planning and Development Department Operating Expense Budget to Fiscal Year 2024 Planning and Development Department Operating Capital Budget for the purpose of funding the acquisition of a new electric vehicle (May be acted upon) (Majority Vote)77-78
2024-225	Resolve approving a letter requesting that the Cape Cod Commission undertake a Regional Transportation Study (May be acted upon) (Majority Vote)79-80

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it votes, the Council may go into executive session. The Council may also act on items in an order other than as 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, it may be continued to a future meeting, and with proper notice.

A. OLD BUSINESS (Public Hearing) (Roll call Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-210
INTRO: 04/25/2024 05/16/2024**

2024-210 APPROPRIATION ORDER IN THE AMOUNT OF \$80,000 AND AUTHORIZATION TO CONTRACT FOR AND EXPEND A GRANT IN THE AMOUNT OF \$120,000 FROM THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURPOSE OF FUNDING THE BARNSTABLE STORMWATER ASSET MANAGEMENT PLAN

ORDERED: That the amount of **\$80,000** be appropriated from the General Fund Reserves, representing the local match requirement for a reimbursement grant from the Commonwealth of Massachusetts Department of Environmental Protection Clean Water State Revolving Fund in an amount of up to **\$120,000**, and that the Town Manager is authorized to contract for and expend this appropriation and grant for the purpose of funding the Barnstable Stormwater Asset Management Plan, including the payment of costs incidental or related thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>04/25/2024</u>	<u>Refer to Public Hearing 05/16/2024</u>

- _____
- ___ Read Item
 - ___ Motion to Open Public Hearing
 - ___ Rationale
 - ___ Public Hearing
 - ___ Close Public Hearing
 - ___ Council Discussion
 - ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-210
INTRO: 04/25/2024, 05/16/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: April 25, 2024
SUBJECT: Appropriation Order in the amount of **\$80,000** and authorization to expend a grant in the amount of **\$120,000** from the Commonwealth of Massachusetts Department of Environmental Protection Clean Water State Revolving Fund for the Barnstable Stormwater Asset Management Plan

BACKGROUND: This project will fund the evaluation of the Town of Barnstable's existing Town-owned stormwater culverts for the purposes of developing an Asset Management Plan. The Clean Water State Revolving Fund will provide a grant in the amount of up to \$120,000 or 60% of the total project cost. The additional \$80,000 appropriation request is for the purpose of funding the Town's required match for 40% of the anticipated total cost.

ANALYSIS: The Town of Barnstable has many Town-owned culverts. However, a complete inventory of these culverts does not exist, and their respective condition is unknown. This project will identify and evaluate the culverts within the Town's stormwater drainage network to develop a risk-based culvert asset management plan and capital improvement planning methodology that will support decision makers. The project is anticipated to be completed over an 18-month period.

FINANCIAL IMPACT: This is a reimbursement grant for \$120,000. The Town must expend the funds upfront and subsequently submit for reimbursement. The Town's match funds for this project will be provided from the General Fund reserves which has an available balance of \$29,068,778.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this appropriation order and grant expenditure.

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

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-185
INTRO: 05/16/2024**

2024-185 APPROPRIATION ORDER IN THE AMOUNT OF \$11,918,799 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 AIRPORT ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$11,918,799** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Airport Enterprise Fund Budget, and to meet such appropriation that **\$11,918,799** be raised from current year revenues by the Airport Enterprise Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-186
INTRO: 05/16/2024**

**2024-186 APPROPRIATION ORDER IN THE AMOUNT OF \$89,375,780 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 BARNSTABLE
PUBLIC SCHOOL DEPARTMENT BUDGET**

ORDERED: That the sum of **\$89,375,780** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Barnstable Public School Department Budget, and to meet this appropriation that **\$86,954,260** be raised from current year revenues and **\$2,421,520** be provided from the General Fund reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-187
INTRO: 05/16/2024**

**2024-187 APPROPRIATION ORDER IN THE AMOUNT OF \$18,709,328 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 BARNSTABLE
POLICE DEPARTMENT BUDGET**

ORDERED: That the sum of **\$18,709,328** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Barnstable Police Department budget; and to meet such appropriation that **\$18,709,328** be raised from current year revenues, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

_____ _____
_____ _____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-188
INTRO: 05/16/2024**

2024-188 APPROPRIATION ORDER IN THE AMOUNT OF \$2,394,019 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 PLANNING AND DEVELOPMENT DEPARTMENT BUDGET

ORDERED: That the sum of **\$2,394,019** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Planning and Development Department Budget, and to meet this appropriation that **\$2,171,719** be raised from current year revenues, that **\$45,000** be provided from the Wetlands Protection Special Revenue Fund, and that **\$177,300** be provided from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-189
INTRO: 05/16/2024**

**2024-189 APPROPRIATION ORDER IN THE AMOUNT OF \$2,887,734 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 COMMUNITY
SERVICES DEPARTMENT GENERAL FUND BUDGET**

ORDERED: That the sum of **\$2,887,734** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Community Services Department General Fund Budget; and to meet such appropriation that **\$2,887,734** be raised from current year revenues, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close Public Hearing
- ____ Council Discussion
- ____ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-190
INTRO: 05/16/2024**

**2024-190 APPROPRIATION ORDER IN THE AMOUNT OF \$3,892,161 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 GOLF COURSE
ENTERPRISE FUND BUDGET**

ORDERED: That the sum of **\$3,892,161** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Golf Course Enterprise Fund Budget; and to meet such appropriation that **\$3,382,702** be raised from Enterprise Fund revenues, that **\$290,160** be provided from the set-aside for recreation and open space within the Community Preservation Fund, and that **\$219,299** be provided from the Golf Course Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-191
INTRO: 05/16/2024**

2024-191 APPROPRIATION ORDER IN THE AMOUNT OF \$3,926,883 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 HYANNIS YOUTH AND COMMUNITY CENTER ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$3,926,883** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Hyannis Youth and Community Center Enterprise Fund Budget; and to meet such appropriation that **\$580,044** be raised from Enterprise Fund revenues, that **\$1,406,994** be raised in the General Fund, that **\$1,460,675** be transferred from the Capital Trust Fund, and that **\$479,170** be provided from the Hyannis Youth and Community Center Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-192
INTRO: 05/16/2024**

2024-192 APPROPRIATION ORDER IN THE AMOUNT OF \$1,638,527 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 MARINE & ENVIRONMENTAL AFFAIRS DEPARTMENT GENERAL FUND BUDGET

ORDERED: That the sum of **\$1,638,527** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Marine & Environmental Affairs Department General Fund Budget, and to meet such appropriation, that **\$1,199,017** be raised from current year revenue and that **\$439,510** be provided from the Waterways Special Revenue Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-193
INTRO: 05/16/2024**

2024-193 APPROPRIATION ORDER IN THE AMOUNT OF \$780,068 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 MARINA ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$780,068** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Marina Enterprise Fund Budget; and to meet such appropriation that **\$687,088** be raised from Enterprise Fund revenues, that **\$37,800** be provided from the Capital Trust Fund, that **\$30,000** be raised in the General Fund, and that **\$25,180** be provided from the Marina Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-194
INTRO: 05/16/2024**

**2024-194 APPROPRIATION ORDER IN THE AMOUNT OF \$1,087,579 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 SANDY NECK
PARK ENTERPRISE FUND BUDGET**

ORDERED: That the sum of **\$1,087,579** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Sandy Neck Park Enterprise Fund Budget; and to meet such appropriation that **\$978,265** be raised from Enterprise Fund revenues, and that **\$109,314** be provided from the Sandy Neck Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-195
INTRO: 05/16/2024**

2024-195 APPROPRIATION ORDER IN THE AMOUNT OF \$2,584,392 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 INSPECTIONAL SERVICES DEPARTMENT BUDGET

ORDERED: That the sum of **\$2,584,392** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Inspectional Services Department Budget, and to meet such appropriation, that **\$2,584,392** be raised from current year revenue as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close Public Hearing
- ____ Council Discussion
- ____ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-196
INTRO: 05/16/2024**

2024-196 APPROPRIATION ORDER IN THE AMOUNT OF \$11,384,511 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 DEPARTMENT OF PUBLIC WORKS GENERAL FUND BUDGET

ORDERED: That the sum of **\$11,384,511** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Department of Public Works General Fund Budget, and to meet such appropriation, that **\$11,301,371** be raised from current year revenue, that **\$56,320** be provided from the Embarkation Fee Special Revenue Fund, and that **\$26,820** be provided from the Bismore Park Special Revenue Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-197
INTRO: 05/16/2024**

**2024-197 APPROPRIATION ORDER IN THE AMOUNT OF \$4,033,424 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 DEPARTMENT
OF PUBLIC WORKS SOLID WASTE ENTERPRISE FUND BUDGET**

ORDERED: That the sum of **\$4,033,424** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Department of Public Works Solid Waste Enterprise Fund Budget, and to meet such appropriation that **\$4,033,424** be raised from the Enterprise Fund Revenues, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close Public Hearing
- ____ Council Discussion
- ____ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-198
INTRO: 05/16/2024**

2024-198 APPROPRIATION ORDER IN THE AMOUNT OF \$10,934,823 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 DEPARTMENT OF PUBLIC WORKS WATER POLLUTION CONTROL ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$10,934,823** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Department of Public Works Water Pollution Control Enterprise Fund Budget, and to meet such appropriation that **\$5,468,434** be raised from the Enterprise Fund revenues, that **\$1,216,389** be provided from the Sewer Construction and Private Road Maintenance and Improvement Special Revenue Fund, and that **\$4,250,000** be provided from the Capital Trust Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-199
INTRO: 05/16/2024**

2024-199 APPROPRIATION ORDER IN THE AMOUNT OF \$9,109,331 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 DEPARTMENT OF PUBLIC WORKS WATER SUPPLY ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$9,109,331** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Department of Public Works Water Supply Enterprise Fund Budget, and to meet such appropriation that **\$8,072,256** be raised from the Enterprise Fund Revenues, that **\$1,000,000** be provided from the Water Stabilization Fund, and that **\$37,075** be provided from the Capital Trust Fund, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-200
INTRO: 05/16/2024**

**2024-200 APPROPRIATION ORDER IN THE AMOUNT OF \$264,092 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 TOWN COUNCIL
BUDGET**

ORDERED: That the sum of **\$264,092** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Town Council Budget and to meet such appropriation, that **\$264,092** be raised from current year revenue, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close Public Hearing
- ____ Council Discussion
- ____ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-201
INTRO: 05/16/2024**

**2024-201 APPROPRIATION ORDER IN THE AMOUNT OF \$1,575,299 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 TOWN
MANAGER BUDGET**

ORDERED: That the sum of **\$1,575,299** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Town Manager Budget and to meet such appropriation, that **\$1,575,299** be raised from current year revenue, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-202
INTRO: 05/16/2024**

2024-202 APPROPRIATION ORDER IN THE AMOUNT OF \$881,383 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025 PUBLIC, EDUCATION & GOVERNMENT (PEG) ACCESS CHANNELS ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$881,383** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Public, Education & Government (PEG) Access Channels Enterprise Fund Budget, and to meet such appropriation, that **\$881,383** be raised from the PEG Enterprise Fund revenues, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-203
INTRO: 05/16/2024**

**2024-203 APPROPRIATION ORDER IN THE AMOUNT OF \$8,205,658 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2025
ADMINISTRATIVE SERVICES DEPARTMENT BUDGET**

ORDERED: That the sum of **\$8,205,658** be appropriated for the purpose of funding the Town's Fiscal Year 2025 Administrative Services Department Budget, and to meet such appropriation, that **\$8,205,658** be raised from current year revenue, as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-204
INTRO: 05/16/2024**

**2024-204 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE
PURPOSE OF FUNDING THE TOWN COUNCIL’S FISCAL YEAR 2025
RESERVE FUND**

ORDERED: That the sum of **\$250,000** be appropriated for the purpose of funding the Town Council’s Fiscal Year 2025 Reserve Fund, and to meet such appropriation, that **\$250,000** be provided from the General Fund Reserves.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

_____ _____
_____ _____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-205
INTRO: 05/16/2024**

**2024-205 APPROPRIATION ORDER IN THE AMOUNT OF \$57,180,105 FOR THE
PURPOSE OF FUNDING THE TOWN’S FISCAL YEAR 2025 OTHER
REQUIREMENTS BUDGET**

ORDERED: That the sum of **\$57,180,105** be appropriated for the purpose of funding the Town’s Fiscal Year 2025 Other Requirements Budget, and to meet such appropriation, that **\$53,345,337** be raised from current year revenue, that **\$190,000** be provided from the Pension Reserve Trust Fund, that **\$43,680** be provided from the Embarkation Fee Special Revenue Fund, that **\$39,520** be provided from the Bismore Park Special Revenue Fund, and that **\$3,561,568** be provided from the General Fund reserves, all for the purpose of funding the Town’s Fiscal Year 2025 General Fund Other Requirements budget as presented to the Town Council by the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close Public Hearing
- ____ Council Discussion
- ____ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-206
INTRO: 05/16/2024**

2024-206 APPROPRIATION ORDER IN THE AMOUNT OF \$519,639 FOR OPEN SPACE AND RECREATION; \$519,639 FOR HISTORIC RESOURCES; \$519,639 FOR COMMUNITY HOUSING; \$3,094,027 FOR A BUDGET RESERVE, AND THAT THE SUM OF \$250,000 BE APPROPRIATED FROM THE ANNUAL REVENUES OF THE COMMUNITY PRESERVATION FUND FOR THE ADMINISTRATIVE EXPENSES OF THE COMMUNITY PRESERVATION COMMITTEE

ORDERED: That, pursuant to the provisions of General Laws Chapter 44B, Section 6, for the Fiscal Year beginning July 1, 2024, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: **\$519,639** for Open Space and Recreation; **\$519,639** for Historic Resources; **\$519,639** for Community Housing; **\$3,094,027** for a Budget Reserve, and that the sum of **\$250,000** be appropriated from the annual revenues of the Community Preservation Fund for the administrative expenses of the Community Preservation Committee, to be expended under the direction of the Town Manager or the Community Preservation Committee with the prior approval of the Town Manager.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (Refer to Public Hearing 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-207
INTRO: 05/16/2024**

**2024-207 APPROPRIATION ORDER IN THE AMOUNT OF \$363,800 FOR THE
PURPOSE OF PAYING THE FISCAL YEAR 2025 COMMUNITY
PRESERVATION FUND DEBT SERVICE REQUIREMENTS**

ORDERED: That the sum of **\$363,800** be appropriated for the purpose of paying the Fiscal Year 2025 Community Preservation Fund debt service requirements, and to meet such appropriation, that **\$293,450** be provided from current year revenues of the Community Preservation Fund and that **\$70,350** be provided from the reserves for the Historic Preservation Program within the Community Preservation Fund.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (First Reading) (Refer to Second Reading 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-211
INTRO: 05/16/2024**

2024-211 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Youth Commission:** Emma Sawyer, as a student member to a term expiring 06/30/2025

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

B. NEW BUSINESS (First Reading) (Refer to Second Reading 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-212
INTRO: 05/16/2024**

2024-212 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission:** Wendy Bierwirth as a regular member to a term expiring 06/30/2027; Norman Weill, as a regular member to a term expiring 06/30/2027

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM # 2024-213
INTRO: 05/16/2024**

2024-213 DECLARATION OF COMMON USAGE OF THE PRIVATE WAYS OF SCHOOL STREET AND OLD MILL ROAD

RESOLVED: That the Town Council does hereby declare that School Street and Old Mill Road in the village of Marstons Mills to be private ways of common usage by the general public, in accordance with the definition of “common usage” set forth in Chapter 339 of the Acts of 2014.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM # 2024-213
INTRO: 05/16/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney; Daniel W. Santos, P.E., Director of Public Works
DATE: May 16, 2024
SUBJECT: Declaration of Common Usage of the Private Ways of School Street and Old Mill Road

BACKGROUND: Chapter 339 of the Acts of 2014 authorizes the Town of Barnstable to make expenditures to maintain and improve one or more private ways within the town to ensure the safety of the general public, upon a vote by the Town Council declaring such roads to be private ways of common usage by the general public and upon an appropriation therefor. “Common usage” is defined in the special act as “a road or any portion thereof that has been commonly used by the general public for a period of at least 20 consecutive years for travel directly from 1 public road or area to another public road or area.”

As authorized by Chapter 355 of the Acts of 2014, the Town established a Sewer Construction and Private Way Maintenance Fund from which monies may be appropriated for sewer construction and maintenance and improvements of private ways. At the Town Council meeting on April 25, 2024, the Town Council voted to approve Item No. 2024-115 to appropriate monies from such fund for repairs to the private ways of School Street and Old Mill Road. This proposed resolve provides the required declaration by the Town Council to use the appropriated monies for this purpose.

FISCAL IMPACT: Approval of this item will allow the Town to fund the improvements needed to the roadways from the Special Revenue Fund dedicated for sewer construction and improvements to private ways created under the special act in 2014.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, requests favorable action by the Town Council.

B. NEW BUSINESS (First Reading) (Refer to Second Reading 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-214
INTRO: 05/16/2024**

2024-214 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION:

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Committee to assess and recommend strategies for housing creation within the Town:** Rick Presbrey, registered voter; Hilda Haye, (Chair, Housing Committee); Maryann Barboza, registered voter; Laura Shufelt, registered voter

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

B. NEW BUSINESS (First Reading) (Refer to Second Reading 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-215
INTRO: 05/16/2024**

2024-215 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION:

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Committee to review and assess zoning and review the Town's use of Regulatory Agreements:** Ken Alsman, registered voter; Christopher Kuhn, registered voter; Catherine Campos Ledec, registered voter; Bob Schulte, registered voter

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-216
INTRO: 05/16/24**

2024-216 AUTHORIZATION TO CONTRACT FOR AND EXPEND A FISCAL YEAR 2024 GRANT IN THE AMOUNT OF \$7,500 FROM THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURCHASE OF ONE LIGHT DUTY ELECTRIC PICKUP TRUCK

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2024 grant from the Massachusetts Department of Environmental Protection in the amount of **\$7,500** for the purchase of one Ford Lightning or equivalent light duty electric vehicle/pickup truck.

SPONSORS: Councilor Gordon Starr, Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM #2024-216
INTRO: 5/16/2024

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: David Anthony, Director of Asset Management; Sean Hogan Environmental and Sustainability Manager
DATE: May 16, 2024
SUBJECT: Authorization to contract for and expend a Fiscal Year 2024 Grant in the amount of **\$7,500** from the Massachusetts Department of Environmental Protection for the purchase of one light duty electric pickup truck

BACKGROUND: Through the work of Sean Hogan, Environmental and Sustainability Manager for the Town of Barnstable, the Massachusetts Department of Environmental Protection (MassDEP) the Town of Barnstable has been awarded a grant of \$7,500 towards the purchase of one Ford Lightning or equivalent light duty electric vehicle/pickup truck.

The Massachusetts Electric Vehicle Incentive Program (MassEVIP) Fleets program is funded through the Climate Protection and Mitigation Expendable Trust (CMT). The CMT was established in 2018 in concert with MassDEP regulation 310 CMR 7.74 (Reducing CO₂ Emissions from Electricity Generating Facilities) and 310 CMR 7.75 (Clean Energy Standard). Funds are generated for the CMT through the auction of CO₂ allowances under 310 CMR 7.74 and the submittal of alternative compliance payments (ACP) under 310 CMR 7.75. MassDEP administers the auction and collects the ACP payments. CMT funds support programs or projects that reduce greenhouse gas emissions to mitigate the impacts of climate change, to support adaptation to the impacts of climate change, and for the administration of the program. This Agreement is for the purpose of reducing NO_x and greenhouse gas emissions in Massachusetts, and to electrify the Massachusetts transportation network.

Meeting state climate goals will require aggressive electrification of the transport sector with a goal of 900,000 EVs on the road by 2030 in the state of MA. To meet this goal municipalities must begin transitioning their fleets to electric vehicles. The purchase of this electric vehicle will continue the ongoing effort in the conversion of our light duty vehicles in our fleet to electric vehicles where practicable.

FISCAL IMPACT: Electric Vehicles are lauded for their lower maintenance costs. Funding for the purchase of this vehicle in addition to this \$7,500 would come partially from a previously approved grant award from EECBG, and the Fiscal Year 2024 Planning and Development budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: David Anthony, Director of Asset Management, Town of Barnstable, Sean Hogan Environmental and Sustainability Manager, Town of Barnstable.

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-217
INTRO: 05/16/2024**

2024-217 AUTHORIZATION TO CONTRACT FOR AND EXPEND A FISCAL YEAR 2024 GRANT IN THE AMOUNT OF \$7,500 FROM THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURCHASE OF ONE LIGHT DUTY ELECTRIC VEHICLE

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2024 grant from the Massachusetts Department of Environmental Protection in the amount of **\$7,500** for the purchase of one Chevy Bolt or equivalent light duty vehicle.

SPONSORS:Councilor Gordon Starr, Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-217
INTRO: 5/16/2024

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: David Anthony, Director of Asset Management; Sean Hogan Environmental and Sustainability Manager
DATE: May 16, 2024
SUBJECT: Authorization to contract for and expend a Fiscal Year 2024 Grant in the amount of **\$7,500** from the Massachusetts Department of Environmental Protection for the purchase of one light duty electric vehicle

BACKGROUND: Through the work of Sean Hogan, Environmental and Sustainability Manager for the Town of Barnstable, the Massachusetts Department of Environmental Protection (MassDEP) the Town of Barnstable has been awarded a grant of \$7,500 towards the purchase of one Chevy Bolt or equivalent electric light duty vehicle.

The Massachusetts Electric Vehicle Incentive Program (MassEVIP) Fleets program is funded through the Climate Protection and Mitigation Expendable Trust (CMT). The CMT was established in 2018 in concert with MassDEP regulation 310 CMR 7.74 (Reducing CO₂ Emissions from Electricity Generating Facilities) and 310 CMR 7.75 (Clean Energy Standard). Funds are generated for the CMT through the auction of CO₂ allowances under 310 CMR 7.74 and the submittal of alternative compliance payments (ACP) under 310 CMR 7.75. MassDEP administers the auction and collects the ACP payments. CMT funds support programs or projects that reduce greenhouse gas emissions to mitigate the impacts of climate change, to support adaptation to the impacts of climate change, and for the administration of the program. This Agreement is for the purpose of reducing NO_x and greenhouse gas emissions in Massachusetts, and to electrify the Massachusetts transportation network.

Meeting state climate goals will require aggressive electrification of the transport sector with a goal of 900,000 EVs on the road by 2030 in the state of MA. To meet this goal municipalities must begin transitioning their fleets to electric vehicles. The purchase of this EV will continue the effort in the conversion of our light duty vehicles in our fleet to electric vehicles where practicable.

FISCAL IMPACT: EVs are lauded for their lower maintenance costs. The purchase of this vehicle will allow us to test this for ourselves. The balance of the funding will come from a previously approved grant award from EECBG funding.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends acceptance of this grant.

STAFF ASSISTANCE: David Anthony, Director of Asset Management, Town of Barnstable, Sean Hogan Environmental and Sustainability Manager, Town of Barnstable.

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-218
INTRO: 05/16/2024**

2024-218 TRANSFER ORDER IN THE AMOUNT OF \$65,900 FROM FY 2024 PERSONNEL BUDGETS TO FISCAL YEAR 2024 OPERATING EXPENSE BUDGETS IN THE COMMUNITY SERVICES DEPARTMENT FOR THE PURPOSE OF FUNDING OUTSIDE PROFESSIONAL SERVICES, EQUIPMENT, SUPPLIES AND MATERIALS

ORDERED: That the Town Council hereby authorizes a Fiscal Year 2024 budget transfer for the Community Services Department in the total amount of **\$65,900** from the Fiscal Year 2024 Community Services Department Personnel Budgets in the amounts set forth below to the Fiscal Year 2024 Community Services Department Operating Expense Budgets for the purpose of funding outside professional services, equipment, supplies, and materials.

	Community Services General Fund	HYCC Enterprise Fund
Transfer From Fiscal Year 2024 Personnel Budget:	\$35,900	\$30,000
Transfer to:		
Community Services General Fund Operating Expenses	\$35,900	
Community Services HYCC Enterprise Fund Operating Expenses		\$30,000
Totals	\$35,900	\$30,000

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-218
INTRO: 05/16/2024

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Christopher Gonnella, Director of Community Services Department
DATE: May 16, 2024
SUBJECT: Transfer Order in the Amount of **\$65,900** from the Fiscal Year 2024 Community Services Department Personnel Budgets to the Fiscal Year 2024 Community Services Operating Expenditure Budgets for the Purpose of Funding Outside Professional Services, Equipment, Supplies and Materials

BACKGROUND: The Community Services Department General Fund and HYCC Enterprise Fund are projected to have salary budget savings due to numerous vacancies throughout Fiscal Year 2024. The General Fund operations are projected to generate approximately \$100,000 in savings and the HYCC Enterprise Fund over \$50,000. As a result, this presents an opportunity to utilize a portion of these funds to procure outside professional assistance, equipment, supplies, and materials that were not included in the original Fiscal Year 2024 budget.

ANALYSIS: The transfer requested will provide funding for the following initiatives:

4 Mobi Mats – Sea St. Beach Accessibility	\$9,000
2 Conex Storage Containers	\$10,000
1 Copier (replacement)	\$8,000
1 Touch View Monitor w/stand	\$4,100
Centerville Recreation Building Furniture Replacement	<u>\$4,800</u>
Total General Fund Operations	<u>\$35,900</u>
Upgrades to scoreboard equipment	\$9,000
Audio upgrades and sound panel replacement	\$9,000
Resurfacing & maintenance of pool tables and game room equipment	\$3,000
Create a workstation and secured storage area for gymnasium	<u>\$9,000</u>
Total HYCC Enterprise Fund Operations	<u>\$30,000</u>
Grand Total	<u>\$65,900</u>

FISCAL IMPACT: Any unspent salary funds at the end of the fiscal year will become part of the fund reserve in the fund that generates the salary savings. These funds have already been appropriated as part of the Fiscal Year 2024 operating budget and the vacancy savings present an opportunity to address several opportunities that would otherwise have to be addressed in a future budget request.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approving the requested transfer.

STAFF ASSISTANCE: Christopher Gonnella, Director of Community Services Department, Krissanne Caron, Assistant Director of Community Services Department, Brenda Evans, Budget & Financial Manager Community Services Department, Mark Boardley, HYCC Manager, John Gleason, Director of Recreation

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-219
INTRO: 05/16/2024**

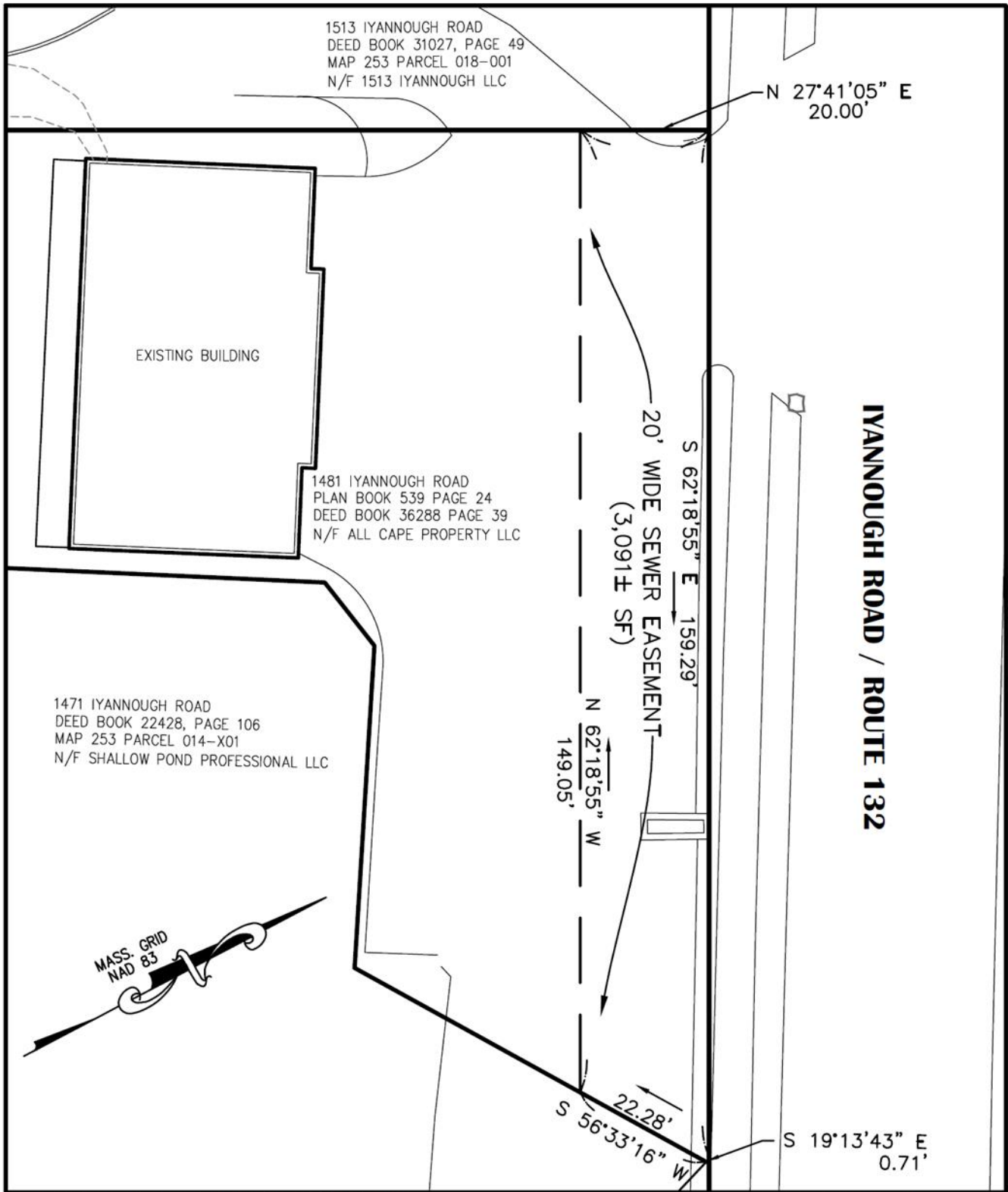
2024-219 AUTHORIZING THE ACQUISITION OF AN EASEMENT FOR SEWER PURPOSES AT 1481 IYANNOUGH ROAD IN HYANNIS

RESOLVED: That the Town Council hereby authorizes the Town Manager, on behalf of the Town, as part of a negotiated transaction to take or acquire for sewer purposes at no cost to the Town an approximately 20-foot wide perpetual easement upon the property known as 1481 Iyannough Road in Hyannis, shown as Assessor Parcels 253-014-X03 and 253-014-X04, and described in a deed recorded at the Barnstable County Registry of Deeds in Book 36288, Page 39, and accept the ownership of a portion of the sewer infrastructure, including within the easement area, to be constructed by the owner of the property at 1481 Iyannough Road. The easement area is shown on a plan captioned “Sewer Easement Exhibit Plan, 1481 Iyannough Road, Hyannis, MA 02601, Project #2023-105”, dated 05-03-2024, and prepared by Baxter Nye Engineering & Surveying and is attached hereto. The Director of Public Works or the Town Attorney may authorize minor modifications to the plan. The Town Manager is authorized to negotiate, accept, sign, deliver and record documents necessary to effectuate this resolve and complete this transaction.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote



BAXTER NYE ENGINEERING & SURVEYING

Registered Professional Engineers and Land Surveyors
1597 Falmouth Road - Unit 1, Centerville, MA 02632
Phone - (508) 771-7502 Fax - (508) 771-7622
e-mail: info@baxter-nye.com

Scale: 1" = 20' Date: 2024-05-03 BY: ZDP

Sewer Easement Exhibit Plan

**1481 Iyannough Road
Hyannis, MA 02601
Project #2023-105**

BARNSTABLE TOWN COUNCIL

ITEM# 2024-219
INTRO: 05/16/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Thomas J. LaRosa, First Assistant Town Attorney
DATE: May 16, 2024
SUBJECT: Authorizing the acquisition of an easement for sewer purposes at 1481 Iyannough Road in Hyannis

BACKGROUND: Town sewer is not currently available to serve the property at 1481 Iyannough Road in Hyannis. The property owner, All Cape Property, LLC, by its manager Jacob Dewey, approached the Department of Public Works (DPW) about the feasibility of extending the sewer system and connecting the property sooner because the property's on-site septic system is failing. This property is included in the Town's Comprehensive Wastewater Management Plan, but construction will not occur within a time frame that would meet the property's needs.

The Town's sewer system presently terminates on the other side of Iyannough Road (Route 132) roughly opposite the property on Old Strawberry Hill Road. The DPW reviewed the feasibility and has worked with the owner's representative and engineer to develop a design for a municipal sewer extension, which will allow for the property to connect to the municipal sewer system.

ANALYSIS: The Town and the property owner have reached a draft agreement under which the property owner would design and install, at no expense to the Town, a sewer extension from the existing municipal sewer system on Old Strawberry Hill Road, underneath Iyannough Road (using directional drilling under the road instead of opening and trenching across the road) to the property. Under the agreement, subject to Town Council approval, the property owner would grant at no cost a 20-foot-wide easement to the Town over the portion of the property abutting Iyannough Road.

The sewer infrastructure, which will become part of the Town sewer system, will terminate within the easement. The easement will benefit the Town by allowing the Town to continue to extend the municipal sewer system from the easement area along Iyannough Road to other properties. The property owner, at their sole cost and expense, will design the proposed sewer extension and connection to DPW standards. The design plans and specifications will be reviewed and approved by the Town Engineer prior to approval to commence construction. The property owner shall allow the Town Engineer or representatives from the DPW to enter the property as needed to review the work and conduct any necessary inspections.

Upon completion of construction and acceptance of the work by the Town Engineer, the Town would assume ownership of the sewer extension as part of the municipal sewer system. Under the planned agreement, the property owner will warranty the work for one year from acceptance by the Town Engineer. Finally, as part of the work, the property owner would connect their private property to the new Town sewer extension within the easement area, but the property owner will continue to own and maintain that private sewer connection.

FINANCIAL IMPACT: The sewer infrastructure will be installed at no cost to the Town.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this resolve.

STAFF ASSISTANCE: Thomas J. LaRosa, First Assistant Town Attorney; Griffin Beaudoin, Town Engineer

B. NEW BUSINESS (First Reading) (Refer to Second Reading 06/06/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-220
INTRO: 05/16/2024**

2024-220 AMENDMENT TO THE ADMINISTRATIVE CODE TO DESIGNATE THE NON-COUNCILOR MEMBERS OF THE AD HOC COMMITTEES CREATED UNDER TOWN COUNCIL ITEMS 2024-166C and 2024-166D AS SPECIAL MUNICIPAL EMPLOYEES FOR PURPOSES OF THE STATE CONFLICT OF INTEREST LAW

ORDERED: That the Town Council does hereby designate the non-Councilor members of the Ad Hoc Committee to Review and Assess Zoning and Review the Town’s Use of Regulatory Agreements and the non-Councilor members of the Ad Hoc Committee to Assess and Recommend Strategies for Housing Creation within the Town as special municipal employees for the purposes of G.L. c. 268A, the state conflict of interest law, and that the Code of the Town of Barnstable Section 241 Attachment 1 of the Administrative Code is hereby amended by adding said Ad Hoc Committees (non-Councilor members only) to the list of multiple member bodies so designated.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-220
INTRO: 05/16/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: May 16, 2024
SUBJECT: Amendment to the Administrative Code to designate the non-Councilor members of the Ad Hoc Committees created under Town Council Items 2024-166C and 2024-166D as Special Municipal Employees for purposes of the state Conflict of Interest Law

BACKGROUND: M.G.L. Chapter 268A, the state conflict of interest law, covers all municipal officials and employees, whether elected or appointed, paid or unpaid, full-time or part-time. However, in recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for “special” municipal employees than for other employees.

Those who serve on unpaid part-time boards or commissions are considered a regular municipal employee unless the position has been expressly designated as having “special municipal employee” status by vote of the Town Council. It is the municipal position that is designated as having “special” status, not the person or persons holding the position. Two sections of the conflict of interest law apply less restrictively to special employees: Sections 17 and 20. All other sections of the conflict law that govern regular municipal employees apply to “special municipal employees” in exactly the same way.

Section 17 – Acting on Behalf of Others

Section 17 generally prohibits municipal employees from representing a private party or anyone else before municipal boards or departments. It also prohibits municipal employees from acting as agent or attorney for, or receiving compensation from, any private party in connection with any matter of direct and substantial interest to the Town.

However, if a municipal position has been designated as “special,” a person holding that position may be paid by others and may act as agent or attorney for others with respect to matters before municipal boards other than his own, as long as he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Section 20 – Restrictions on Having an Interest in Contracts with the Town

Section 20 generally prohibits municipal employees from having a direct or indirect financial interest in a contract with the Town, including having a second municipal job. This section has a number of exemptions, and there are two additional exemptions for special municipal employees.

ANALYSIS: Town of Barnstable Board, Committee, and Commission members have been classified by the Town Council as special municipal employees. By designating the members of the recently created ad hoc committees as special municipal employees, the Town would be consistent in how it classifies its volunteer board members for purposes of the conflict-of-interest law. Furthermore, designating the unpaid members of Town boards as “specials” encourages those who wish to serve on such boards by not placing undue restrictions on their ability to earn a living.

FISCAL IMPACT: There is no fiscal impact.

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-221
INTRO: 05/16/2024**

2024-221 RESOLVE APPROVING THE BEANO APPLICATION OF COTUIT NURSERY SCHOOL, INC.

RESOLVED: That, in accordance with Massachusetts General Laws Chapter 10, Section 38, the Town Council does hereby approve the application of Cotuit Nursery School, Inc. to the Massachusetts State Lottery Commission to operate a one-day beano game, as presented at this meeting.

SPONSOR: Councilor Seth W. Burdick, Precinct 7

DATE	ACTION
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

Massachusetts State Lottery Commission



CHARITABLE GAMING DIVISION
P.O. BOX 859012
BRAINTREE, MASSACHUSETTS 02185-9012
TEL. 781-849-5555

DEBORAH B. GOLDBERG
Treasurer and Receiver General

APPLICATION FOR LICENSE TO CONDUCT A ONE DAY GAME COMMONLY CALLED "BEANO"

PLEASE TYPE OR PRINT IN BLACK INK

IMPORTANT: PLEASE FILL OUT FORM COMPLETELY AND ACCURATELY. FAILURE TO DO SO WILL DELAY PROCESSING OF YOUR LICENSE APPLICATION

NAME OF ORGANIZATION:
Cotuit Nursery School
STREET ADDRESS:
40 school street
CITY/TOWN:
Cotuit
OCCASION ADDRESS:
40 School Street
CITY/TOWN/ZIP:
Cotuit
MAILING AND SHIPPING ADDRESS:
40 school Street
CITY/TOWN/ZIP:
Cotuit

DATE ORG. CHARTERED:
September 1978
ORGANIZATION F.I.D.:
04-6086829
OCCASION DAY:
July 18, 2024
ORG. TELEPHONE:
(508) 428-1470
BEANO HALL PHONE:
(508) 428-6163

Check one:
6:00 P.M. TO 12:00 MID.
1:00 P.M. TO 6:00 P.M.
LICENSE FEE - \$50.00

NAME OF HEAD OF ORGANIZATION:
Cindy Faszewski
MAILING ADDRESS:
[REDACTED]
CITY/TOWN/ZIP:
[REDACTED]
NAME OF MEMBER IN CHARGE:
Stephanie Cayer
MEMBER IN CHARGE OF BEANO ADDRESS:
[REDACTED]
CITY/TOWN/ZIP:
[REDACTED]
NAME OF BOOKKEEPER:
Cindy Faszewski
MAILING ADDRESS:
[REDACTED]
CITY/TOWN/ZIP:
[REDACTED]

HOME PHONE:
[REDACTED]
BUSINESS PHONE:
(508) 428-1470
EMAIL ADDRESS:
[REDACTED]
HOME PHONE:
[REDACTED]
BUSINESS PHONE:
n/a
EMAIL ADDRESS:
[REDACTED]
HOME PHONE:
[REDACTED]
BUSINESS PHONE:
(508) 428-1470
EMAIL ADDRESS:
[REDACTED]

FOR MASSACHUSETTS STATE LOTTERY COMMISSION USE ONLY

INVEST.

COUNTY	CITY/TOWN	TYPE	LICENSE NUMBER

EFFECTIVE DATE

BARNSTABLE TOWN COUNCIL

ITEM# 2024-221
INTRO: 05/16/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: May 16, 2024
SUBJECT: Resolve approving the Bingo application of Cotuit Nursery School, Inc.

BACKGROUND: Massachusetts General Laws Chapter 10, Section 38 provides that certain types of organizations which have been in existence for at least five years may apply to and be granted a license by the State Lottery Commission to conduct the game commonly called “Beano”, and also known as bingo, in connection with which prizes are offered to be won by chance. Before the organization may be granted such a license, the organization must obtain approval of the application by a majority of the Town Council; provided that the Town has voted to allow the granting of licenses for the operation, holding or conducting of said game within the town. The Town Council previously voted to allow the granting of such licenses at its meeting of April 27, 2023, in Item 2023-154. Cotuit Nursery School, Inc. has submitted the attached application for approval by the Town Council to operate a one-day beano game on July 18, 2024.

FISCAL IMPACT: N/A

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this item.

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM # 2024-222
INTRO: 05/16/2024**

2024-222 APPROVING A CONSERVATION RESTRICTION FROM THE BARNSTABLE LAND TRUST, INC. TO THE COMPACT OF CAPE COD CONSERVATION TRUSTS, INC.

RESOLVED: That, pursuant to G.L. c. 184, section 32, the Town Council hereby approves the Conservation Restriction attached hereto to be granted by the Barnstable Land Trust, Inc. to The Compact of Cape Cod Conservation Trusts, Inc. upon approximately 4.5 acres of land to be owned by the Barnstable Land Trust, Inc., located at 178 Wheeler Road and a portion of 150 Wheeler Road, in Marstons Mills (Map 082, Parcel 011 and Map 103, Parcel 109/002), being the land shown as “Lot 1” and “Lot 2” on a plan of land recorded at the Barnstable County Registry of Deeds in Plan Book 704, Page 15. The Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs may make minor edits to the Conservation Restriction. The Town Council President is authorized to sign the Conservation Restriction on the Town Council’s behalf.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

GRANTOR: Barnstable Land Trust, Inc.

GRANTEE: The Compact of Cape Cod Conservation Trusts, Inc.

ADDRESS OF PREMISES: Lots 1 and 2, 150 and 178 Wheeler Road, Barnstable, Massachusetts

FOR GRANTOR'S TITLE SEE: Barnstable County Registry of Deeds at Book _____, Page _____, and Book _____, Page _____.

FOR GRANTOR'S PLAN SEE: Barnstable County Registry of Deeds at Plan Book 704, Page 15.

GRANT OF CONSERVATION RESTRICTION

I. STATEMENT OF GRANT

BARNSTABLE LAND TRUST, INC., a Massachusetts charitable corporation with an office at 1540 Main Street, Barnstable, Barnstable County, Massachusetts 02668, being the sole owner of the Premises as defined herein, for its successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grants, with QUITCLAIM COVENANTS, to **THE COMPACT OF CAPE COD CONSERVATION TRUSTS, INC.**, a Massachusetts charitable corporation with an office address at 36 Red Top Road, Brewster, MA 02631 and a mailing address of P.O. Box 443, Barnstable, MA 02630, its permitted successors and assigns (“Grantee”), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts containing two parcels of land totaling 4.5 acres (“Premises”), which Premises is more particularly described in Exhibit A and shown in the attached reduced copy of a survey plan in Exhibit B, both of which are incorporated herein and attached hereto.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction (“Purposes”) are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition and available for passive outdoor recreational use, and to prevent any use or change that would materially impair the Conservation Values (as defined below).

Conservation Partnership. The fee interest in the Premises was acquired utilizing, in part, assistance from the Conservation Partnership program which requires, pursuant to Section 2A of Chapter 286 of the Acts of 2014 and Section 2A of Chapter 102 of the Acts of 2021, the conveyance of this Conservation Restriction.

The Conservation Values protected by this Conservation Restriction include the following:

- Open Space. The Premises contributes to the protection of the scenic and natural character of The Town of Barnstable and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises is part of a larger 9.5-acre project to conserve the “Wheeler Holly Preserve” in perpetuity. An additional 5 acres of the Wheeler Holly Preserve will be protected in perpetuity as part of the larger 9.5 acre project, with a conservation restriction to be held by the Town of Barnstable and Grantee. The Premises, as part of the Wheeler Holly Preserve abuts the 22+-acre Fuller Farm Conservation Area also owned by Barnstable Land Trust, Inc “BLT” and is in close proximity to the 23-acre William and Hilma Danforth

Recreation Area owned by the Town of Barnstable and protected in perpetuity under the Cape Cod Open Space Land Acquisition Program (Land Bank).

- Soils and Soil Health. The Premises includes 2.7 acres± of Farmland Soils of Statewide Importance and Prime Farmland Soils, and the entire Premises is designated Prime Forest Land as identified by the USDA Natural Resources Conservation Service at MassGIS MassMapper. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- Wildlife Habitat. The Premises includes 1.3± acres designated by the MA Division of Fisheries and Wildlife acting by and through its Natural Heritage and Endangered Species Program (NHESP) as “Priority Habitats of Rare and Endangered Species”, including two mussel species of special concern and one vascular plant species of special concern, the protection of which aligns with NHESP’s wildlife and habitat protection objectives.
- Public Access. Public access to the Premises will be allowed for passive outdoor recreation, education, and nature study. Protection of the Premises will permanently conserve a proposed public walking trail that will connect to the existing 1-mile trail loop at the abutting Fuller Farm Conservation Area.
- Biodiversity. The Premises includes areas designated as Core Habitat and Critical Natural Landscape, as defined by the Massachusetts Natural Heritage and Endangered Species Program, including 3± acres designated as Aquatic Core Habitat, 1.3± acres designated as Rare Species Core Habitat, and 1.5± acres designated as Aquatic Core Buffer. BioMap, last updated in 2022, was designed to guide strategic biodiversity conservation in Massachusetts by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. BioMap is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan.
- Water Quality. Groundwater beneath the Premises and all of the surface water on the slopes of the Premises flow south to Middle Pond and impact the water quality of the pond. Middle Pond is listed in Massachusetts as a Great Pond with a Town beach at its southern end and is a spawning area for rare mussels and anadromous fish, so its quality is important for habitat and public health. This area of Barnstable will likely remain on septic systems for the rest of this century, owing to relatively lower population density, so protecting the Premises from additional septic system inputs is important for the water quality of the pond.
- Wetlands. Middle Ponds shoreline and the shrub swamp wetlands on the Premises provide valuable habitat for a diverse array of wildlife species as well as the many other public benefits of wetlands protection recognized by the Commonwealth of Massachusetts (Section 40 of Chapter 131 of the Massachusetts General Laws).

- Climate Change Resiliency. The Premises is identified as an area of average Terrestrial Resilience according to The Nature Conservancy’s (TNC) Resilient Land Mapping Tool, including average Landscape Diversity. TNC’s Resilient Land Mapping Tool was developed in order to map ‘climate-resilient’ sites that are ‘more likely to sustain native plants, animals, and natural processes into the future.’ The protection of these climate resilient sites is an important step in both reducing human and ecosystem vulnerability to climate change and adapting to changing conditions.

- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan* (RPP), amended in 1996, 2002, 2009, 2012, and 2018, which provided, *inter alia* (references are to the 2018 RPP, amended in 2021 to accommodate climate change goals and objectives):
 - “To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers.” (Wetland Resources Goal, p. 55).
 - “To protect, preserve, or restore wildlife and plant habitat to maintain the region’s natural diversity” (Wildlife and Plant Habitat Goal, p. 55).
 - In reference to this Wildlife and Plant Habitat Goal, the RPP states, “For many years habitat loss due to development has been the primary threat to the region’s habitats” (p. 32); and
 - “To conserve, preserve, or enhance a network of open space that contributes to the region’s natural community resources and systems” (Open Space Goal, p. 55). In reference to this Open Space Goal, the RPP states, “the open space of the Cape is critical to the health of the region’s natural systems, economy, and population. Open space provides habitat for the region’s diverse species and protection of the region’s drinking water supply” (p. 30).

Granting this Conservation Restriction will advance each of these goals outlined in the RPP. The Wetlands Goal will be addressed in protecting the quality of Middle Pond pondshore wetland resources and their upland buffer zone. The Wildlife and Plant Habitat Goal will be served because the Premises contains a host of important plant and wildlife species and falls within an NHESP BioMap Core Habitat and Critical Natural Landscape area. The Open Space Goal will be advanced because the Premises abuts several acres of existing conservation land.

- Consistency with Clearly Delineated Town of Barnstable Conservation Policy. Protection of the Premises will further the Town of Barnstable’s documented goals regarding conservation land. The Town outlined its conservation goals in its *Open Space and Recreational Plan* (1984, amended 1987, 1998, 2005, 2010, 2018), identifying goals, policies, and actions to guide conservation efforts, among them the goal of preserving “quality open spaces throughout the Town which protect and enhance its visual heritage.” Additional objectives include (*references are to the 2018 Plan*):
 - 1) "Preservation of open space for protection of drinking water resources, and for protection of other natural, historic and scenic resources is a community-wide priority; and;

2) Protection of open space should continue to be an integral component of the Town's efforts." (p. 6)

To achieve this vision, the Plan sets several goals for the town including:

- 1) "To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities, and community character, and;
- 2) Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, [and] preserve historic, scenic and cultural resources..." (pp. 10-11).

Additionally, the Barnstable Town Council's Strategic Plan for fiscal year 2021-2022 identified a goal to preserve and protect significant natural and historic resources for visual quality, outdoor recreation, wildlife habitat, and cultural history.

Moreover, in 1981, the Town of Barnstable adopted a Conservation Restriction Program consisting of policies and guidelines, in particular an *Open Space Policy*, approved by the Board of Selectmen, Assessors, and Conservation Commission, which encourages the use of conservation restrictions in perpetuity to protect natural resources in accordance with the purposes of the *Open Space and Recreation Plan*, and which further specified that purposes of a conservation restriction could include the following:

- preserve scenic view;
- prevent disturbance of wetlands;
- preserve a shoreline;
- prevent the cutting of trees or forests;
- preserve open space;
- preserve important natural habitats of fish, wildlife or plants; and,
- limit or prevent construction on land of natural resource value.

The Town of Barnstable promotes the Cape Cod Pathways program intended to create a series of looped and through-routes in the town and beyond for public walking and scenic enjoyment. The Premises connects to existing public walking trails at the abutting Fuller Farm conservation land.

- Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively "conservation values") of great importance to the Grantees and the people of Barnstable and the Commonwealth of Massachusetts, including the advancement of the following goals of the State's 2017 Statewide Comprehensive Outdoor Recreation Plan (SCORP):
 - 2.1) Support the acquisition of land and development of new open spaces that can provide a trail network;
 - 2.2) Fill in the gaps in existing trail networks;
- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises

meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: reserve the land for education regarding the natural world; protect wildlife habitats; and it would contribute to the preservation of open space because it is proximate to several other parcels already conserved.

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, wind turbine, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantee;
7. Non-Native Species. Introduction of species of animals or plants, that are not native to Barnstable County, as defined by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, by Bruce A. Sorrie and Paul Somers, published by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program (1999) or as amended or contained in a similar professionally acceptable publication available in the future;

8. Hunting. Using the Premises for hunting;
9. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
10. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantee's intention to maintain the entire Premises under unified ownership;
11. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
12. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
13. Residential or Industrial Uses. Using the Premises for residential or industrial purposes;
14. Inconsistent Uses. Using the Premises for commercial purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A., the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report, including the right to maintain existing native and non-native holly trees as documented in the Baseline Report (see Paragraph XV.);
2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that no stockpiling occur within 100 feet of Middle Pond and any wetlands;

4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
5. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;
6. Trails. Maintaining and constructing trails as follows:
 - a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening trail corridors up to eight (8) feet in width overall, with a treadway up to five (5) feet in width.
 - b. New Trails. With prior written approval of the Grantee, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the width limitations above.
 - c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
7. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
8. Motorized Vehicles. The use and parking of motorized vehicles within the areas shown as “gravel driveway” and “gravel area” on the plan in Exhibit B, for the purposes of the access to the residential dwelling referenced in Paragraph III.C and for vegetation management activities. Using motorized mobility vehicles by persons with mobility impairments and as otherwise permitted herein.
9. Outdoor Passive Recreational and Educational Activities. Hiking, horseback riding, cross-country skiing, snowshoeing, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities;
10. Sheds and temporary structures. Using, maintaining, repairing, removing, and replacing: (i) the existing shed structure, as documented in the Baseline Report, with the same footprint at grade of 100 square feet and a maximum height of any part of the shed of 10 feet; and (ii) the

existing kayak/canoe storage structure, as documented in the Baseline Report, with the same footprint at grade of 50 square feet and a maximum height of any part of the storage structure of 5 feet; provided that there shall be a total of no more than two (2) such sheds and temporary structures on the Premises at any one time.

11. Other. Such other non-prohibited activities or uses of the Premises may be permitted with the prior approval of the Grantee provided that the Grantee has made a finding, such finding to be documented in writing and kept on file at the offices of the Grantee, that such activities are consistent with the Permitted Acts and Uses, do not impair, or result in a loss of the Conservation Values or Purposes of this Conservation Restriction, and, where feasible, result in a net gain in Conservation Value of the Premises.

C. Special Use Area.

The Grantor reserves the right to conduct or permit the following activities and uses only within the area shown as “Residential Area” on the Sketch Plan in Exhibit B-1, which is included herein and attached hereto, in addition to the Permitted Acts and Uses described in Paragraph III.B, and otherwise subject to this Conservation Restriction:

1. Using, maintaining, repairing, and replacing the existing single-family dwelling, as documented in the Baseline Report, with the same footprint at grade of 960 square feet, with the right to expand the footprint at grade by no more than ten percent (10%), and a maximum height of any part of the dwelling of 20 feet, provided that there shall be no more than one (1) single-family dwelling at any one time within the Special Use Area
2. Constructing, using, maintaining, repairing, improving, or replacing, the existing driveway, yard, gardens, parking area, well, and septic system (“Improvements”) but not to locate such Improvements outside of the Residential Area unless a qualified professional certifies in writing that there is no feasible location for any such improvement within the Special Use Area, such a finding not to consider financial feasibility, and the Grantee approves of any such Improvements to be located outside of the Special Use Area, and further provided that any of these Improvements serves only the permitted single family dwelling located within the Special Use Area.

D. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

E. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B. shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Permitted Act or Use requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

F. Notice and Approval

1. Notifying Grantee. Whenever notice to or approval by Grantee is required, Grantor shall notify or request approval from Grantee, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals; and
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.
3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

IV. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantee, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief

requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantee will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.

2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantee shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantee may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.

C. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

V. PUBLIC ACCESS

Subject to the provisions of this Conservation Restriction, the Grantor hereby grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph III.B.9 provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the Purposes and Conservation Values, except that no public access shall be granted within the area shown as "Residential Area" on the Sketch Plan in Exhibit B-1, which is included herein and attached hereto, unless by the express invitation of the Grantor. Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph III.B.9. The Grantee may require the Grantor to post the Premises against any use by the public that results in material impairment of the Conservation Values. This grant of public access to the Premises is solely for the purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantee hereto express their intent to benefit from exculpation from liability to the extent provided in such section.

VI. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official ("Secretary"), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor's and Grantee's Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C., subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantee's Receipt of Property Right

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, for the purpose of enforcing this Conservation Restriction, but does not entitle Grantee, upon extinguishment, release, or termination, to any proceeds received by the Grantor from the subsequent sale, exchange or involuntary conversion of the Premises. Any proceeds that result from any such extinguishment, release, or termination will be distributed only after complying with the terms of any gift, grant, or other funding requirements

D.Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph VI.B. and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

VII. DURATION and ASSIGNABILITY

A.Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B.Execution of Instruments

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C.Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold

interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. Any transfers shall receive prior approval by Grantee to assure that the Premises is transferred to a qualified conservation organization. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantee may record, in the applicable registry of deeds, or register in the applicable land court registry district, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

A. Limitations on Amendment

Grantor and Grantee may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantee as a "qualified organization" or "eligible donee" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31,

- 32, and 33 of Chapter 184 of the Massachusetts General Laws;
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantee, of the economic impact of the proposed amendment;
 6. alter or remove the provisions described in Paragraph VI (Termination/Release/Extinguishment);
 7. cause the provisions of this Paragraph XI to be less restrictive; or
 8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor, approved by the Town of Barnstable and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XIII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Barnstable Land Trust
 1540 Main Street
 West Barnstable, MA 02668

To Grantee: The Compact of Cape Cod Conservation Trusts, Inc.
 P.O. Box 443
 Barnstable, MA 02630

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the

Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Grantor and Grantee with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report (“Baseline Report”) titled “Baseline Report for Wheeler Holly Preserve Conservation Restriction”, dated 2/2018, prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVI. MISCELLANEOUS

A. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B.Subordination

The Grantor shall record at the applicable registry of deeds or shall register in the applicable land court registry district simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

C.Executory Limitation

If Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then Grantee's rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

D.Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

E.The following signature pages are included in this Grant:

Grantor – Barnstable Land Trust, Inc.
Grantee Acceptance – The Compact of Cape Cod Conservation Trusts, Inc.
Approval - Town of Barnstable Town Manager
Approval – Town of Barnstable Town Council
Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

F. The following exhibits are attached and incorporated herein:

Exhibit A: Legal Description of Premises
Exhibit B: Reduced Copy of Recorded Plan of Premises
Exhibit B-1: Sketch Plan of Special Use Residential Area
Exhibit C: Town Council Resolve for approval of the Conservation Restriction

WITNESS my hand and seal this ____ day of _____, 2024 as authorized by vote of the Barnstable Land Trust, Inc., at a meeting duly held on _____, 2024, authorizing grant of the foregoing Conservation Restriction to The Compact of Cape Cod Conservation Trusts, Inc.

Barnstable Land Trust, Inc.

Leigh Townes, President,
Barnstable Land Trust, Inc.

Jill McCleary, Treasurer
Barnstable Land Trust, Inc.

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. _____ 2024

Then personally appeared the above-named Leigh Townes, President, Barnstable Land Trust, Inc. and Jill McCleary, Treasurer, Barnstable Land Trust, Inc., the corporation named in the foregoing instrument, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the persons whose names are signed on the document, and each acknowledged she is duly authorized to act on behalf of said corporation, and each further acknowledged the foregoing instrument to be the free act and deed of said corporation, before me.

Notary Public
My commission expires:

ACCEPTANCE OF GRANT

The foregoing Conservation Restriction from Barnstable Land Trust, Inc. was accepted by The Compact of Cape Cod Conservation Trusts, Inc., this ____ day of _____, 2024.

By: _____
Leonard W. Johnson

Its: President, duly authorized

By: _____
Henry Lind

Its: Treasurer, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this day of , 2024, before me, the undersigned notary public, personally appeared Leonard W. Johnson, President of The Compact of Cape Cod Conservation Trusts, Inc., and Henry Lind, Treasurer of The Compact of Cape Cod Conservation Trusts, Inc., and proved to me through satisfactory evidence of identification which was personal knowledge to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF TOWN MANAGER

I, Mark S. Ells, as Town Manager of the Town of Barnstable, Massachusetts, hereby approve in the public interest the foregoing Conservation Restriction from Barnstable Land Trust, Inc. to The Compact of Cape Cod Conservation Trusts, Inc. pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF BARNSTABLE

TOWN MANAGER: _____

Mark S. Ells

Barnstable, ss

On the day of , 2024, before me, the undersigned notary public, personally appeared Mark S. Ells, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was , and who being by me duly sworn did say that he is the Town Manager of the Town of Barnstable; that he is duly authorized to act on behalf the Town of Barnstable and he acknowledged the foregoing instrument to be his free act and deed.

Notary Public
My Commission Expires

**APPROVAL OF THE TOWN OF BARNSTABLE
TOWN COUNCIL**

At a public meeting duly held on _____2024, the Town Council of the Town of Barnstable, Massachusetts, voted to approve the foregoing Conservation Restriction from the Barnstable Land Trust, Inc., to The Compact of Cape Cod Conservation Trusts, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and hereby certifies approval of the foregoing Conservation Restriction. An attested copy of the vote of the Town Council is attached hereto and included herein as Exhibit C.

TOWN COUNCIL PRESIDENT:

Felicia R. Penn

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On the day of , 2024, before me, the undersigned notary public, personally appeared Felicia R Penn, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was , and who being by me duly sworn did say that she is the President of the Town Council of the Town of Barnstable; that she is duly authorized to act on behalf the Town Council; and she acknowledged the foregoing instrument to be the free act and deed of Town of Barnstable Town Council.

Notary Public
My Commission Expires:

APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS OF THE COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from Barnstable Land Trust, Inc. to The Compact of Cape Cod Conservation Trusts, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2024
Rebecca L. Tepper

Secretary of Energy and Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this day of _____, 2024, before me, the undersigned notary public, personally appeared Rebecca L. Tepper, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Description of Premises

The land in the Town of Barnstable, Barnstable County, Massachusetts shown as “Lot 1” and “Lot 2” on a plan entitled “*Plan of Land of 150 and 178 Wheeler Road, Marstons Mills, MA, prepared for Barnstable Land Trust*”, dated January 17, 2024, by Down Cape Engineering, Inc, civil engineers and land surveyors, 939 Main Street (Rte. 6A), Yarmouthport, MA 02675 and recorded at the Barnstable County Registry of Deeds at Plan Book 704, Page 15.

Containing 4.5 acres, more or less, per survey plan.

For Grantor's Title see Barnstable County Registry of Deeds at Book , Page .

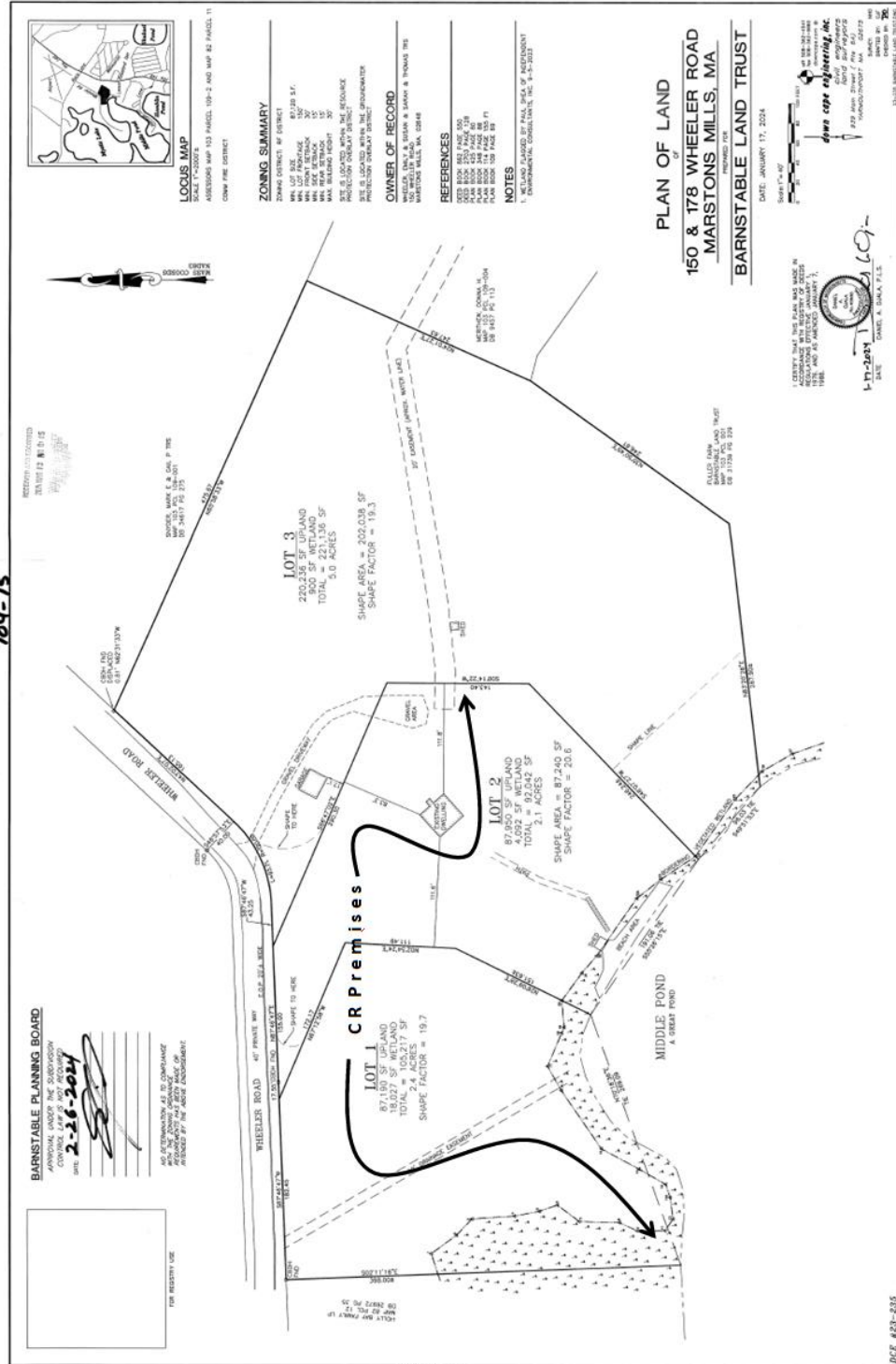
Town of Barnstable Assessor Map 82, Lot 011 and Map 103, Block 109, Lot 002 (portion).

Street Address: Lot 1 and Lot 2, 150 and 178 Wheeler Road, Barnstable, MA 02648

EXHIBIT B

Reduced Copy of Plan of Premises

For official full size plan see Barnstable Registry of Deeds Plan Book 704 Page 15



704-15

704-15

EXHIBIT B-1

Sketch Plan of Special Use Residential Area

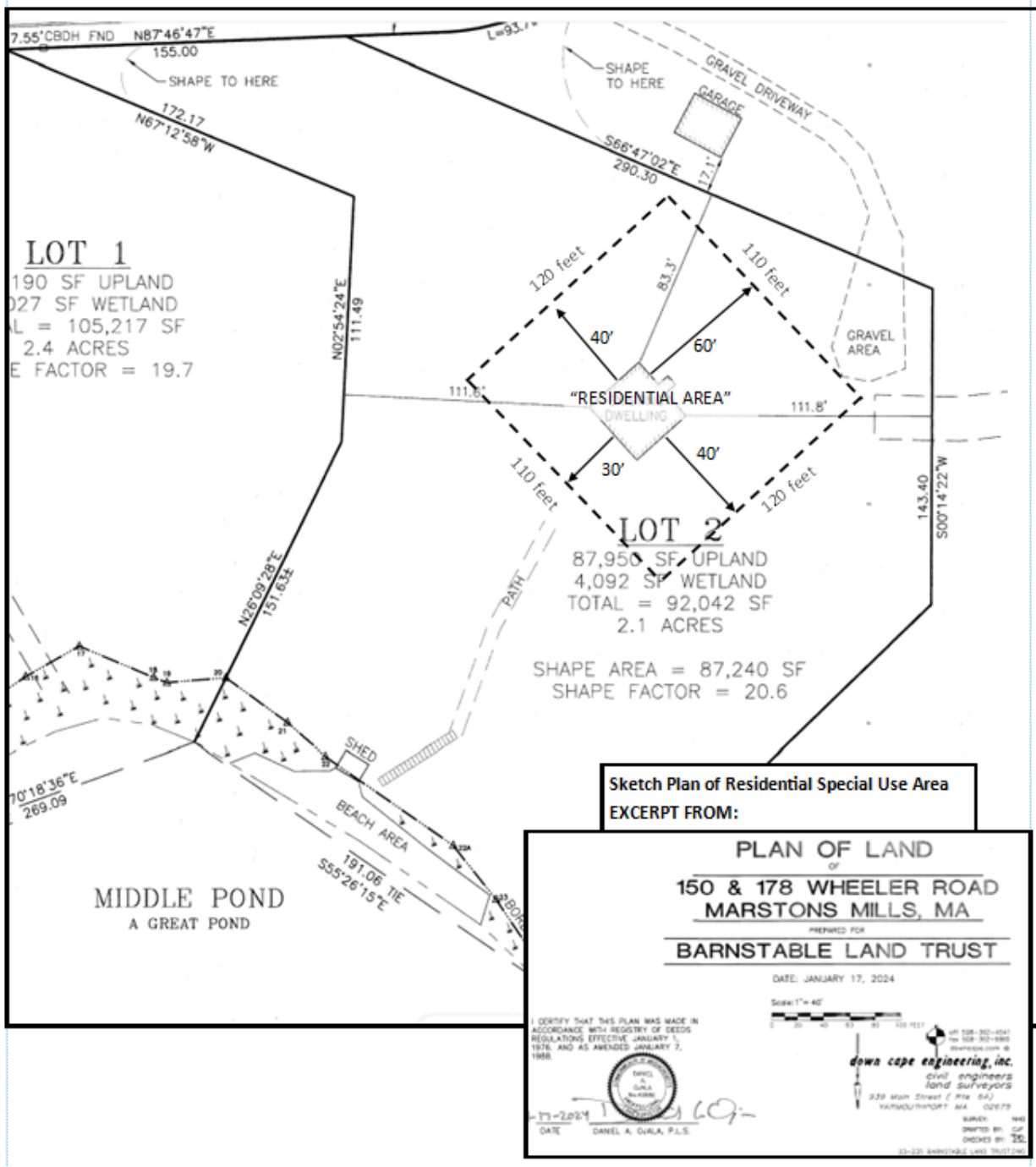


EXHIBIT C

Town Council Order

BARNSTABLE TOWN COUNCIL

ITEM# 2024-222
INTRO: 05/16/2024

SUMMARY

TO: Town Council
FROM: Kathleen Connolly, Assistant Town Attorney
DATE: May 16, 2024
SUBJECT: Conservation Restriction (CR) from Barnstable Land Trust, Inc. to The Compact of Cape Cod Conservation Trusts, Inc.

This Item would authorize the Town Council to approve a Conservation Restriction (CR) to be granted by the Barnstable Land Trust, Inc. (“BLT”) to The Compact of Cape Cod Conservation Trusts, Inc., over approximately 4.5 acres of land located at 178-Wheeler Road and a portion of 150 Wheeler Road, in Marstons Mills. The land is shown as “Lot 1” and “Lot 2” on a plan of land titled “Plan of Land of 150 and 178 Wheeler Road, Marstons Mills, MA, Prepared for Barnstable Land Trust”, dated January 17, 2024, Scale 1”=40’, prepared by Daniel A Ojala, P.L.S. Down Cape Engineering, Inc., recorded at the Barnstable County Registry of Deeds in Plan Book 704, Page 15.

This land is to be purchased by BLT from the Wheeler Realty Trust with a closing scheduled in June 2024. The fee interest in Lot 1 will be acquired utilizing, in part, assistance from the Executive Office of Energy and Environmental Affairs (“EEA”) Conservation Partnership Grant Program which requires, pursuant to Section 2A of Chapter 286 of the Acts of 2014 and Section 2A of Chapter 102 of the Acts of 2021, the conveyance of this Conservation Restriction. BLT has also included Lot 2 in the CR for the purposes of preserving the property in perpetuity, predominantly in its natural, scenic, and open condition. A Special Use Area on Lot 2 is reserved for residential use, with the intention of using the existing dwelling for staff and other housing.

The Town seeks this authorization to approve the CR to be granted by the Barnstable Land Trust, Inc to The Compact of Cape Cod Conservation Trusts, Inc. to meet the requirements of the EEA Conservation Partnership Grant Program and to meet BLT’s purpose of preserving the property in perpetuity, predominantly in its natural, scenic, and open condition. This Item would provide the Town Council’s approval of the CR, as required under section 32 of Chapter 184 of the General Laws, and would authorize the Town Council President, on behalf of the Town Council, to execute a Certificate, which would be part of the CR to evidence the Town Council’s approval. Separately, the CR will require the approval of the Secretary of Energy and Environmental Affairs, and the Barnstable Land Trust, Inc. is working with the Secretary’s staff on finalizing the CR.

APPROVALS: The Open Space Committee voted to recommend the Conservation Restriction to the Town Council on May 13, 2024. The Conservation Commission voted its support on April 30, 2024.

FISCAL IMPACT: No fiscal impact.

STAFF SUPPORT: Kathleen Connolly, Assistant Town Attorney

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-223
INTRO: 05/16/2024**

2024-223 TRANSFER ORDER IN THE AMOUNT OF \$13,500 FROM FISCAL YEAR 2024 PLANNING AND DEVELOPMENT DEPARTMENT OPERATING EXPENSE BUDGET TO FISCAL YEAR 2024 PLANNING AND DEVELOPMENT DEPARTMENT OPERATING CAPITAL BUDGET FOR THE PURPOSE OF FUNDING THE ACQUISITION OF A NEW ELECTRIC VEHICLE

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$13,500** from the Fiscal Year 2024 Planning and Development Department Operating Expense Budget to the Fiscal Year 2024 Planning and Development Operating Capital Budget for the purpose of funding the acquisition of a new electric vehicle.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2024-223
INTRO: 05/16/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH:
DATE: May 16, 2024
SUBJECT: Transfer Order in the amount of **\$13,500** from Fiscal Year 2024 Planning and Development Department Operating Expense Budget to Fiscal Year 2024 Planning and Development Department Operating Capital Budget for the purpose of funding the acquisition of a new electric vehicle

BACKGROUND: The Town has been awarded several grants recently for the acquisition of electric charging stations and electric vehicles. The Planning & Development Department desires to replace one of their currently gas-powered leased vehicles with a new electric vehicle, a Ford Lighting Pickup. The lease expires in 2024 and the new electric vehicle will be used for the Parking Program and the Town's tree planting program which was funded with a Greening the Gateway Cities Program grant.

ANALYSIS: The cost of the new vehicle is \$50,815. An Energy Efficiency and Conservation Block Grant for \$29,879 has already been approved by the Town Council and will be used towards the purchase. In addition, a MassEVIP Grant for \$7,500 is on the Town Council's May 16, 2024, agenda for acceptance and will be used towards the purchase. The balance of \$13,436 will be provided from the Planning & Development's Fiscal Year 2024 operating budget.

FISCAL IMPACT: The Planning and Development Department has identified \$13,500 in available funding under their operating expense budget. The available funds would normally close to the General Fund surplus at the end of the fiscal year. This agenda item is to request a transfer to Planning and Development's Operating Capital budget in order to provide the remaining funds needed to acquire the new electric vehicle.

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

STAFF ASSISTANCE: Elizabeth Jenkins, AICP, Director of Planning & Development

B. NEW BUSINESS (May be voted on) (Majority vote)
BARNSTABLE TOWN COUNCIL

ITEM#2024-225
INTRO: 05/16/2024

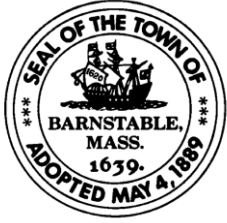
2024-225 RESOLVE APPROVING A LETTER REQUESTING THAT THE CAPE COD COMMISSION UNDERTAKE A REGIONAL TRANSPORTATION STUDY

RESOLVED: That the Town Council does hereby approve sending a letter to the Cape Cod Commission requesting that the Commission undertake a regional transportation study, in the form as presented at this meeting.

SPONSOR: Felicia R. Penn, President, Town Council, Precinct 13

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote



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

Councilors:

Felicia Penn
President
Precinct 13

Craig Tamash
Vice President
Precinct 4

Gordon Starr
Precinct 1

Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew Levesque
Precinct 10

Kristine Clark
Precinct 11

Paula Schnepf
Precinct 12

Administrator:
Cynthia A. Lovell
Cynthia.Lovell@town.barnstable.ma.us

May 16, 2024

Kristy Senatori, Executive Director
Cape Cod Commission
3225 Main Street
Barnstable, MA 02630

Dear Director Senatori:

On behalf of the Barnstable Town Council, I write to encourage the Cape Cod Commission to undertake a regional transportation study. Transportation is an issue that crosses municipal boundaries and political jurisdictions and must be considered in the state, national, and international context. To effectively and efficiently plan for and balance future regional transportation needs, we must collectively evaluate our opportunities and barriers to travel, identify ways to improve public safety, and plan for long-term resiliency.

As the geographic and economic center of the Cape Cod region, Barnstable hosts a regional airport, ferry terminals, and the Cape Cod Regional Transit Authority's main transportation center, which hosts the popular CapeFlyer rail service. While these facilities contribute significantly to our economy, we also must consider their local impacts. We are increasingly serving diverse needs and must continue to be responsive to the evolving ways people travel, the desire expressed by many of our citizens for more multi-modal connectivity and changing needs seasonally and over time. We ask the Cape Cod Commission, as our regional planning agency and metropolitan planning organization, to take the lead on convening local, state, and federal partners to work together to discuss our current conditions and evaluate the opportunities available to our region.

The Cape's transportation focus cannot just be on the anticipated replacement of the canal bridges. We must think about the multiple ways people travel to the Cape, and how residents, visitors, and the seasonal and year-round workforce reach their destinations on this side of the bridge. Barnstable calls on the Cape Cod Commission to undertake a regional transportation study, and we offer our cooperation and assistance in that effort.

Sincerely,

Felicia R. Penn
Town Council President
Town of Barnstable

Town Council Presiding Philosophies: Detailed

The Town Council seeks to set policy that is grounded in **balance and equity** while proactively facilitating the future well-being of our community. The characterizations outlined here are meant to bring clarity to and set the stage for a community that serves everyone in a fair and equitable manner with a focus on quality of life for our citizens and visitors. This document sets a new direction.

- The Town, through its planning efforts, guides land use goals and strategies. These planned goals and strategies inform zoning. Zoning designates what gets built where. If the town finds that a current plan or certain zoning does not reflect the community's values, or if it is not producing the desired outcomes, the town shall amend either the plan or the zoning, or both, to reflect the community's goals more accurately and effectively. The Town should make every effort to implement its plans.
- Balanced approaches to community outreach shall be practiced, and will be inclusive of the entire community at every stage of discussion. When staff solicits input from stakeholders, these stakeholders must consist of and represent a cross section of the town and/or village. Access to staff will be provided without favoritism in a fair and inclusive basis.
- Our villages are regulated by local zoning that sustains each village's unique qualities and character. Zoning is implemented to preserve the current and future health, safety, and welfare of our villages. Zoning shall specify redevelopment and new development that is built to scale within each village and reflects that village's history and character.
- The town will be proactive in developing town-owned properties and acquiring blighted/abandoned properties for redevelopment for small-scale affordable housing projects, open space and/or passive recreational needs. Town policy regarding land acquisition and disposition (including the use of eminent domain, if and when expedient) will be considered to realize these objectives.
- The town will develop progressive and proactive tools that will convey land use plans and concepts to residents and potential developers in a visual, accessible, and creative manner.
- The town will seek input from residents, businesses and investors on an equal basis to inform the Town as the Town establishes policies, regulations, and programs to encourage vibrant Main Streets/village centers in every village. Town staff will develop and present to the Town Council a 3-D plan (virtual or

- Town staff will work with residents and elected officials to find comprehensive ways to communicate pending planning and zoning matters when they are introduced for discussion and during the review process.
 - The Town will create numerous opportunities to listen to public input and discussion.
 - All zoning amendments, per local and state regulations, will follow this process:
 - First Reading at Town Council
 - Recommendation from Planning Board at a Public Hearing
 - Two-Thirds vote of Town Council (or majority for Housing Choice amendments) after a Public Hearing
 - In addition to this requisite process, public outreach on proposed zoning amendments will be supplemented with the following:
 - Informational website and standard communications effort (e-news, social, etc.)
 - Dedicated Public Meeting(s) prior to formal introduction (in-person and/or Zoom)
 - Zoning Mailing List distribution for public meetings and public hearings
 - Presentation by staff introducing amendment at First Reading
 - Mailed notice to owners/abutters directly affected (not for town-wide changes)
 - The Town will consistently review these outreach strategies and adjust/add/amend as needed.

For Downtown Hyannis:

- In all cases, remember that Downtown Hyannis is one of seven villages in the Town of Barnstable. All new development and re-development must respect the village's historic structures, architectural details and village character.
 - The Town will commit to realistic parking requirements for new or redeveloped mixed use buildings on Main St., Hyannis, acknowledging that the village of Hyannis plays host to people who live, shop, attend school, visit, and temporarily park here while using Hyannis as a springboard to the islands. Any new use or redeveloped property shall not place a parking burden on public parking or surrounding neighborhoods.
 - Since Form Based Code is focused on the appearance, size, and structure of new buildings, parking must be correlated to the square footage of the building, and not the internal use of the the building. (i.e. 1 space per xyz sq ft)
 - The Town will commit to planting trees along the Gateways to DT Hyannis, and will not waive zoning requirements with respect to the planting of trees.