



Town of Barnstable

Town Council

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James M. Tinsley, Jr.
Harold E. Tobey

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA December 6, 2007 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Nomination of Town Council Officers**
 - **Discussion: 2008 Calendar**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING DECEMBER 20th

A. OLD BUSINESS

2008-016	Town-Wide Coastal Action Plan Appropriation & Loan Order (Public Hearing - may be acted upon) (Roll Call – 2/3)	3 - 4
2008-055	Appropriation/Transfer Order - March Presidential Primary (Public Hearing – may be acted upon) (Roll Call).....	5
2008-057	Amendment to zoning ordinance – SCCROD (Joint Public Hearing-with Planning Board - may be acted upon) (Roll Call – 2/3).....	6 - 13
2008-058	Appropriation/Transfer Order - Capital Trust Fund (Public Hearing-may be acted upon) (Roll Call).....	14 - 16

B. NEW BUSINESS

2008-060	Acceptance of Grant from the US Department of Justice (May be acted upon) .	17 - 18
2008-061	Acceptance of FY08 Community Policing Program Grant Award (May be acted upon).....	19 - 21
2008-062	Allocation of Tax Levy FY08-Tax Factor (Public Hearing – may be acted upon) (Roll Call).....	22 - 23
2008-063	Allocation of Tax Levy FY08-Residential Exemption (Public Hearing – may be acted upon) (Roll Call).....	24 - 25
2008-064	Allocation of Tax Levy FY08-Small Commercial Exemption (Public Hearing – may be acted upon) (Roll Call).....	26 - 27
2008-065	Acceptance of FY08 Barnstable County Land Management Grant (May be acted upon)	28 - 29
2008-066	Term of Contract Change – Golf Cart (May be acted upon)	30 – 32
2008-067	Acceptance of Lorusso Foundation Grant (May be acted upon)	33 - 34
2008-068	Creating a Recreational Shellfish Area and Shellfish Relay Overlay District (Refer to Joint Public Hearing with Planning Board the first meeting in January)	35 - 37
2008-069	Appointment to Board/Committee/Commission (First Reading)	38
2008-070	Transfer Order for Unexpended Bond Proceeds (May be acted upon.)	39 - 40

Minutes of Barnstable Town Council Meeting of November 15, 2007

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

A. OLD BUSINESS (Public Hearing - may be acted upon) (Roll Call-2/3)

BARNSTABLE TOWN COUNCIL

ITEM # 2008-016

INTRO: 08/16/07; 09/06/07; 10/18/07, 11/01/07; 12/06/07

2008-016 TOWN-WIDE COASTAL ACTION PLAN APPROPRIATION AND LOAN ORDER

ORDERED, That the sum of \$1,785,000 be appropriated for the purpose of funding improvements to the Town's coastal properties and that to meet that appropriation, the Town Treasurer is authorized to borrow \$1,785,000 and that the Town Manager is authorized to contract and expend said appropriation made available for that purpose and is authorized to accept any grants or gifts in relation thereto and furthermore that the town rescind \$1,785,000 of borrowing authorization under Council Order 1998-054 for the purpose of the Barnstable United Transportation and Parking System (BUTAPS).

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

TOWN-WIDE COASTAL ACTION PLAN APPROPRIATION AND LOAN ORDER

ITEM # 2008-016

INTRO: 08/16/07; 09/06/07; 10/18/07, 11/01/07; 12/06/07

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: August 8, 2007
SUBJECT: Appropriation and loan order in the amount of \$1,785,000 for the purpose of a town wide coastal access plan

BACKGROUND: People are inherently drawn to Barnstable because of the beautiful ocean, lakes, and ponds. The natural environment and water bodies in particular are an important economic driver and the town has a responsibility to our residents and visitors to maintain and enhance the town's coastal properties. Town-owned Ways to Water include Marinas, Beaches, Landings, Bulkheads, Docks, Parks, Boat Ramps, and other points of access deemed "Ways to Water" generically. Funds are needed for maintenance and capital improvements to improve our collective access to these waterways in a comprehensive manner. The creation of the Town of Barnstable's Coastal Access Plan is a collaborative effort between the Town Manager's office and various impacted town departments to enhance said access town wide.

ANALYSIS: This appropriation will improve access for residents and visitors to bodies of water throughout the town, thereby contributing to economic development efforts by improving public recreation space and opportunities.

FISCAL IMPACT: The Town's Capital Trust Fund includes provisions for annual debt service payments on the remaining \$1,785,000 BUTAPS authorization. This request will transfer these provisions to the CAP instead. Since this provision already exists in the CTF, there is no impact to the overall available funds for future projects within the CTF.

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

A. OLD BUSINESS (Public hearing – may be acted upon) (Roll Call)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-055
INTRO: 11/15/07, 12/06/07

2008-055 APPROPRIATION/TRANSFER ORDER – MARCH PRESIDENTIAL PRIMARY

ORDERED, that the sum of Thirty thousand (\$30,000.00) Dollars to be appropriated for the purposes of conducting the March Presidential Primary in 2008, and to meet this appropriation funds shall be transferred from available funds.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

A. OLD BUSINESS (Joint Public Hearing with the Planning Board - may be acted upon) (Roll Call-2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-057
INTRO: 11/15/07, 12/06/07

2008-057 AMENDMENT TO ZONING ORDINANCE – SENIOR CONTINUING CARE RETIREMENT COMMUNITY OVERLAY DISTRICT

ORDERED:

SECTION 1

That Chapter 240, Article III of the Zoning Ordinance, Section 240-29, Senior Continuing Care Residential Community Overlay District, is amended to read as follows:

240-29 Senior Continuing Care Retirement Community Overlay District - SCCRCOD

240-29.1: Purpose: The purpose of this section is to encourage the development of residential communities designed to offer shelter, convenience, services, and personal medical care, including nursing facility services, to senior persons while providing adequate and economical provision of streets, utilities, and public spaces and preserving the natural and scenic qualities of the open areas. These facilities shall offer a continuum of care, ranging from independent living to assisted living and nursing home care that reflects the changing needs of their residents. In addition, it is the purpose of this section to allow for the creation of Inclusionary off-site units that are consistent with the provisions of Chapter 9 of the Barnstable Code, with the exception of any provision that requires that units shall be provided on-site.

240.29.2: Definitions: The following definitions shall apply to this Section 29.2.

Applicant: The person or persons, including a corporation or other legal entity, who applies for approval of a Senior Continuing Care Retirement Community Overlay District (SCCRCOD) hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed SCCRCOD, or have authority from the owner(s) to act for the owner (s) or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Assisted Living Units: Residential living units in which supportive services are offered for individuals who need assistance in activities of daily living.

Building Height: Building height shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridgeline.

Building Story: The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Continuing Care Retirement Community: A facility which may include a wide range of housing types including studio, one, two, and three, bedroom apartments, townhouses, duplexes, clusters or

single family homes and which offers a continuum of services ranging from in-home services to on-site nursing home care. The facility shall include independent living units, assisted living units, and skilled nursing home facilities. The facility may include accessory uses for the benefit of the residents which accessory uses are subordinate and incidental to the Continuing Care Retirement Community as determined by the Town of Barnstable Planning Board. Other than nursing home beds, the facility shall meet the Town's Inclusionary Ordinance, Chapter 9 of the Barnstable Code, requiring that 10% of the units be affordable as "affordable" is currently defined under Chapter 9, however, such affordable units may be provided off-site consistent with the provisions of this section.

Grade Plane: A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. The reference plane shall be established by using the lowest points of grade within the area between the building and a point six feet from the building.

Senior Person: Person aged 55 or older or in the case of a couple, one spouse must be over the age of 55. It may include a developmentally disabled adult person under the age of 55.

Special Permit Granting Authority: For the purposes of this section, the Barnstable Planning Board shall be the Special Permit Granting Authority.

Nursing Home or Skilled Nursing Facility: Any dwelling or building with sleeping rooms for people who are housed or lodged with meals and nursing care for hire, as licensed by the Massachusetts Department of Public Health under MGL c 111 § 71-73 as amended.

Visitability: Shall mean that a dwelling unit has: a) no steps between the exterior walking surface and interior first floor level; b) one external door at least three (3) feet wide; c) all first floor passage doors at least 2 feet 8 inches wide; and d) at least one toilet room on first floor. This requirement shall not apply to off-site inclusionary units.

240-29.3: Senior Continuing Care Retirement Community Overlay District: The SCCRCOD is an overlay district that allows a continuing care retirement community as a use by special permit and which overlay district may be superimposed on any parcel(s):

a. for Senior Continuing Care Retirement Communities – on five (5) acres or more of contiguous upland in any zoning district deemed appropriate as determined by the Town of Barnstable Planning Board, consistent with this section. Where the SCCRCOD authorizes uses not otherwise allowed in the underlying district, the provisions of the SCCRCOD shall control.

b. for off-site inclusionary units – on 2.75 acres or more of contiguous upland in any zoning district deemed appropriate as determined by the Town of Barnstable Planning Board, consistent with this section. Off-site, inclusionary units directly related to the development of a Senior Continuing Care Retirement Community shall consist of multifamily building(s) on lots with a minimum of 2.75 acres of contiguous upland lot area, connected to the municipal sewage treatment plant, and proposed as a redevelopment or replacement of an existing building in existence as December 6, 2007, which building or buildings have been used and licensed as a nursing home or skilled nursing facility within ten (10) years of the date of application for any special permit. Inclusionary units are not required to meet the definition of a continuing care retirement community.

Where the SCCRCOD authorizes uses not otherwise allowed in the underlying district, the provisions of the SCCRCOD shall control.

240.29, 4: Location: The SCCRCOD is to be shown on the Official Zoning Map of the Town of Barnstable.

240.29.5: Concept Plan: Prior to the rezoning of any property proposed for development as a Senior Continuing Care Retirement Community, and, upon application, the development of off-site inclusionary units directly related to a Senior Continuing Care Retirement Community for inclusion in the SCCRCOD and as part of a petition for such rezoning, one or more schematic plan(s), called for purposes of this Section, a "Concept Plan", shall be filed by the applicant with the Planning Board for review at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Board. The Concept Plan shall be consistent with the provisions of this SCCRCOD ordinance. In deliberation on approval of a Concept Plan, the Planning Board shall give consideration to the Town of Barnstable Local Comprehensive Plan. The purpose of the Concept Plan is to ensure that the overall development scheme is consistent with Town policies and plans; adequately protects natural resources; provides safe traffic circulation consistent with the adjacent roadway network that also ensures adequate access to the development; and to ensure that the development is arranged to provide maximum protection of its residents from nuisance and hazard.

240.29.5.1: The Concept Plan shall include:

- a. A schematic site development plan showing in general, the location and square footage of all proposed buildings, general site grading, parking, landscaping, roads, walkways and access ways, open space, wetlands, lighting and signage;
- b. A general breakdown of building types: single family, two family, multi family and accessory structures, including total number of bedrooms for the entire development;
- c. A schematic subdivision plan(s), if applicable;
- d. Specific floor plans, building plans or other detailed construction documents are **not** required at the Concept Plan stage; however, floor plans or other documents may be required regarding off-site inclusionary units in order to allow the Barnstable Planning Board to determine whether such units are provided on or off site.

240.29.5.2: The Barnstable Planning Board will notify the public of the time and date of the public meeting on the Concept Plan. Thereafter, the Barnstable Planning Board shall determine that (i) the Concept Plan has been approved; or (ii) the Concept Plan has been approved subject to modifications; or (iii) the Concept Plan has been disapproved. The Barnstable Planning Board shall provide to the applicant in writing the reasons for any denial of approval of the Concept Plan. The determination of the Barnstable Planning Board of the approvability of the Concept Plan shall be the basis for a recommendation to the Town Council for the rezoning petition.

240.29.6: Map Amendment: In order for approval of a SCCRCOD the applicant, after first having received a decision from the Planning Board on the approvability of its Concept Plan, must file a petition for the amendment of the Town of Barnstable Zoning Map for inclusion of the subject parcel(s) within the SCCRCOD.

240.29.7: Application for Special Permit. After successful rezoning of a SCCRCOD, an application for a special permit shall be submitted to the Planning Board within six months from the effective date of such rezoning. In the event the SCCROD rezoning approves both a Senior Continuing Care Retirement Community and an off-site inclusionary multifamily development, the applicant shall submit a separate special permit request for each development proposal. The Planning Board may grant extensions for the time of filing for a special permit as may be deemed appropriate due to the size and scope of the proposed development. The application for special permit shall be submitted on forms furnished by the Planning Board, accompanied by the following:

- a. A site plan in accordance with the Town of Barnstable site plan review regulations §§240-98 through 240-105 indicating the planned location of buildings and their use, off-street

- parking areas, driveways, easements, walks, the location, type and height of walls, and the extent of landscaping or other treatment for the protection of adjacent properties;
- b. Building plans and elevations for all buildings and structures as may be required to fully describe the project.
 - c. A tabulation of the areas of the proposed site elements, (including footprints and gross floor area), including total number of buildings, number of bedrooms, accessory structures; parking structures and surface parking areas (square footage and number of parking spaces) and stormwater management areas.
 - d. Information pertaining to the proposed entity that is to manage the SCCRCOD and the type of operating agreement contemplated.
 - e. If a subdivision is proposed, then all documents as required for the subdivision shall be reviewed during the Special Permit process.
 - f. A narrative detailing the services to be provided to the residents and the staff to be employed to provide those services.
 - g. Description of all proposed accessory structures and uses.
 - h. Building phasing schedule, if applicable.
 - i. Description of any green building construction techniques being used including a description of how maximum water and energy efficiencies will be achieved.
 - j. A landscape plan signed and stamped by a Massachusetts certified landscape architect.
 - k. Proposed signage, consistent with the requirements of the underlying zoning district.
 - l. Plans detailing provision for wastewater disposal.
 - m. Description of any infrastructure improvements that may be necessary to provide for the project.
 - n. Additional information as may be required by the Planning Board as reasonably necessary to making the determinations required by this section.

240.29.8: Joint Cape Cod Commission Review

- a. Upon a determination by the Building Commissioner that an application for site plan review for a development requiring a special permit under the SCCRCOD constitutes a Development of Regional impact (DRI) under Section 12(h) of the Cape Cod Commission Act, 1990 Mass. Acts, Ch. 716, a referral shall be made to the Cape Cod Commission, accompanied by a request that a joint review process of the proposed development be established between the Cape Cod Commission and the Planning Board.
- b. The joint review process shall include joint hearings between the Planning Board and the Cape Cod Commission, as feasible.

240.29.9: Standards: In order to be eligible for consideration for a special permit, the proposal must contain parcels included in the SCCRCOD and shall meet all of the following standards:

- a. **Compliance with Applicable Regulations and Standards:** In the case of a subdivision, all plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.
- b. **Bulk Regulations:** For all lots within the SCCRCOD the minimum lot area shall be 217,800 sq. ft. of contiguous upland, however, for off-site inclusionary developments the minimum lot area shall be 2.75 acres of contiguous upland. For all lots and buildings within the SCCRCOD, the density, minimum lot frontage, property line and road layout setbacks, minimum building height and number of stories and minimum building separation requirements of the underlying zoning district shall apply unless the Planning Board finds that a waiver of any of those requirements is beneficial to create a SCCRCOD which

better preserves open space without creating adverse environmental or aesthetic impacts or facilitates the delivery of services to senior persons or provides benefits which outweigh any detriments or provides sufficient mitigation to offset impacts.

c. **Parking:** parking shall be provided as follows:

SCCRCOD Uses	Minimum	Guest Space
Independent Living Dwelling Unit	.75 per dwelling unit	.5 per dwelling unit
Assisted Living Dwelling Unit	.5 per dwelling unit	.5 per dwelling unit
Skilled Care Facility	.5 per bed	.5 per bed
Employee – Dwelling Unit Administration	.75 per 5 dwelling units	N/A
Employee – Skilled Care Facility	.5 per bed	N/A

d. **Waiver of Parking Requirements:**

The Planning Board may waive the number of parking spaces required for the above listed uses upon a finding that the applicant has provided a parking demand analysis that adequately demonstrates alternate parking requirements for the proposed use or combination of uses.

e. **Parking and Loading Design Standards.**

1. Any above grade parking or loading facility should be screened from public view to the extent necessary to eliminate unsightliness. Screening may consist of landscape materials, topographic feature, residential buildings or any combination of these. In the alternative the parking facility may treat exterior walls with architectural features typical of the development it serves. Above ground, multi-level parking garages are discouraged.
2. Outdoor storage shall not be permitted.
3. These requirements are in addition to the parking and parking lot landscaping requirements of the underlying zoning district.

f. **Visitability** The applicant shall provide that all of the dwelling units within a Senior Continuing Care Retirement Community, shall be visitable as determined by the SPGA.

g. **Municipal Sewer.** All multifamily buildings providing off-site inclusionary units shall be connected to the municipal sewage treatment plant.

h. **Design Standards:**

1. All buildings in the layout and design, including landscaping, the placement of pedestrian sidewalks and parking, shall be an integral part of the development and have convenient access to and from adjacent uses.
2. Primary landscape treatment shall consist of a combination of indigenous grasses, trees and shrubs commonly found on Cape Cod and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Planting areas should be designed to serve as stormwater treatment areas often known as rain gardens.
3. Existing significant trees and natural vegetation shall be retained to the maximum extent possible. A minimum of one tree with a three-inch minimum caliper is required to be planted within the front setback for every 30 feet of frontage of property

4. All landscaped areas shall be continuously maintained, irrigated, and organically fertilized.
5. All stormwater shall be treated as appropriate and discharged on site and shall incorporate low impact techniques for stormwater discharge.
6. Minimum recommended light levels established by the Cape Cod Commission Technical Bulletin 95-001, DRI Standards and Submittal Requirements for Exterior Lighting Design shall apply. Site lighting, security lighting and architectural/landscape lighting shall provide illumination levels appropriate for the designed activity without exceeding minimum requirements
7. There shall be an adequate safe and convenient arrangement of pedestrian circulation facilities, sidewalks, roadways, driveways, off-street parking and loading space. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
8. For off-site inclusionary units, redevelopment shall reduce impervious surfaces to the maximum extent possible, shall incorporate rain gardens and other best management practices for stormwater disposal, shall take vehicular access off of alternative roadways to major roadways such as Rt. 28 and Rt. 132, and shall, wherever possible, include vehicular interconnections with abutting properties to ease traffic congestion on major roadways.

i. Impact Analysis: The applicant shall provide additional data and analysis requested by the Planning Board to enable the Board to assess the fiscal, community and environmental impacts of the proposed development. At its discretion, the Planning Board may impose reasonable fees upon the applicant for the hiring of outside consultants and the provisions of G.L. c. 44 §53G shall apply thereto.

240.29.10: Decision: The Planning Board may grant a special permit for a SCCRCOD and related off-site inclusionary multifamily development , provided that to be eligible to apply for a special permit for the offsite inclusionary multi-family units a special permit shall have been granted for the related Senior Continuing Care Retirement Community, which special permit is final. Before granting a special permit, the Planning Board shall make the following findings:

- a. The SCCRCOD complies with all applicable Subdivision Rules and Regulations, except as they may be waived by the Board;
- b. The SCCRCOD does not cause substantial detriment to the neighborhood;
- c. The SCCRCOD is consistent with the Town of Barnstable Local Comprehensive Plan;
- d. The SCCRCOD provides an effective and unified treatment of the development on the project site making appropriate provision for environmental protection, the preservation of scenic features, sensitive habitat and other amenities of the site and the surrounding areas;
- e. The SCCRCOD is planned and developed to harmonize with any existing or proposed development in the surrounding area.
- f. The applicant has provided mitigation that sufficiently addresses the impacts of the SCCRCOD.
- g. The SCCRCOD provides services which are tailored to the needs of senior persons and may include meals, housekeeping, transportation, health care services and personal care assistance and the benefits of the development for the residents and the community outweigh the detriments.
- h. The SCCRCOD complies with the standards established in Section 240.29.9 except as they may be waived by the Board based upon a finding that the waivers granted do not jeopardize health and safety and do not diminish environmental and aesthetic protections.

- i. The offsite multifamily affordable housing development meets the requirements of this chapter, and that all affordable units shall be provided prior to the issuance of any occupancy permits for the Senior Continuing Care Retirement Community development.

240.29.11 Transferability: Any special permit for the SCCRCOD shall be transferable upon the prior written approval of the Planning Board.

SPONSORS: Councilors Ann B. Canedy, Harold E. Tobey, James H. Crocker, Jr., and
Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

AMENDMENT TO ZONING ORDINANCE SENIOR CONTINUING CARE RETIREMENT COMMUNITY OVERLAY DISTRICT

**ITEM# 2008-057
INTRO: 11/15/07, 12/06/07**

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Patty Daley, Interim Director Growth Management
DATE: November 9, 2007
SUBJECT: SCCROD Amendment

BACKGROUND

The Growth Management Department has been requested to present language to allow off-site inclusionary affordable housing units provided in conjunction with senior continuing care facilities. Chapter 9 of the Barnstable Code, Inclusionary, currently requires that all inclusionary affordable units be provided on-site. Due to the menu of services provided in a continuing care facility for a fee, it may not be economically feasible to provide all affordable units on-site in an equitable manner. The proposed amendment would allow the developer of a senior continuing care facility to provide affordable units off-site. Such off-site units would be limited to multi-family building(s) that were previously permitted and used as a nursing home or skilled nursing care facility and that are connected to municipal sewer.

STAFF ASSISTANCE

Patty Daley

A. OLD BUSINESS (Public Hearing - may be acted upon) (Roll Call)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-058
INTRO: 11/15/07, 12/06/07

2008-058 APPROPRIATION AND TRANSFER ORDER FOR THE CAPITAL TRUST FUND

ORDERED, that the Town Council hereby appropriate and transfer from available funds the sum of \$4,500,000 from the General Fund to the Capital Trust Fund.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

CAPITAL TRUST FUND APPROPRIATION

ITEM# 2008-058
INTRO: 11/15/07, 12/06/07

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: October 29, 2007
SUBJECT: Appropriation and Transfer Order for Capital Trust Fund

BACKGROUND

The Town of Barnstable's capital needs are many. The FY 2008 capital plan included a capital needs list of almost \$250 million in General Fund capital over the next several years, not including a comprehensive school elementary facilities upgrade plan. Of this amount, \$38.4 million was identified as projects most in need over the next 5 years. The Town committed to funding \$12.6 million of this amount in FY 2008. Additional funding sources need to be identified going forward to continue to address the projects on these lists. Excess General Fund reserves have been dedicated to the Capital Trust Fund previously and this request seeks to do the same.

The Capital Trust Fund is used as a financial tool to accumulate resources that are used for financing the Town's General Fund capital needs. After committing the \$12.6 million in FY 2008, it is projected that the Capital Trust Fund can finance annually an additional \$4.9 million in projects over the next 5 years. This includes \$3.25 million in cash financing for public roads and \$1.65 million in debt financing. At this funding rate, the fund will reach its saturation point in 5 years and no more projects can be added. The public roads program will continue but no new loans can be issued for other capital projects until enough of the Town's existing loans retire.

This transfer request will allow the Town to dedicate additional resources to the Town's capital program by transferring excess General Fund resources to the Capital Trust Fund. These resources will subsequently be used to finance recommended capital projects, which will be brought forward to the Town Council at a future date.

ANALYSIS

Positive operating results for the fiscal year ending June 30, 2007 resulted in the growth of the Town's "free cash" as certified by the MA Department of Revenue. The growth in free cash was the result of unexpended appropriations and actual revenues exceeding budget estimates.

The main components of the unexpended appropriations were from vacancy savings in municipal personnel budgets and debt service. The Town conducted a \$35 million bond sale in February 2007. A provision was made in the FY07 budget for the first loan payment on this bond issue as it was originally intended to be issued in December 2006. The timing of the issue resulted in the first loan payment being due in FY08. Additionally, the town refinanced \$38 million of debt in February 2007 resulting in lower interest payments than budgeted in FY07.

The main components in the excess revenue generated were from investment income and the release of excess overlay, or reserves for abatements and exemptions, from the Board of Assessors. Interest rates steadily improved throughout the year and the town had a better cash flow due to quarterly tax billing and the issue of the bond in February 2007.

FISCAL IMPACT

The Town's General Fund "free cash" or savings account has been certified by the Department of Revenue at \$17,316,378 as of July 1, 2007. In accordance with Town Council policy, from this balance, an amount equal to 4% of the General Fund's operating budget, net of transfers, must be set aside for extraordinary and/or unforeseen expenditures. The remaining balance is available for appropriation subject to Town Council approval. The allocation of the savings account balances as of July 1, 2007 in concurrence with the revenue sharing agreement between municipal and school operations is as follows:

	Municipal	School	Town Council Reserve	Capital Program	Total
Savings balance remaining after FY08 budget appropriation	\$ 3,115,665	\$ 561,681	\$ 4,391,589	\$ -	\$ 8,068,935
School technology improvements funded with savings	-	(300,000)	-	-	(300,000)
Net savings balance carried forward	3,115,665	261,681	4,391,589	-	7,768,935
FY07 returned appropriations	874,518	227,734	-	-	1,102,252
FY07 unexpended appropriations - other requirements	70,968	106,452	-	1,895,089	2,072,509
FY07 Excess General Fund revenue earned	1,880,501	2,820,752	381,750	-	5,083,003
Excess overlay released by Board of Assessors	515,872	773,807	-	-	1,289,679
Savings available for appropriation	6,457,524	4,190,426	4,773,339	1,895,089	17,316,378
Recommended transfer to Capital Trust Fund	(2,604,911)	-	-	(1,895,089)	(4,500,000)
Net balance in savings available for appropriation	\$ 3,852,613	\$ 4,190,426	\$ 4,773,339	\$ -	\$ 12,816,378

The \$1,895,089 listed in the capital program column represents the savings generated from unexpended debt service in FY07. Since debt service is funded by a transfer from the Capital Trust Fund it is recommended that this amount be placed back into the CTF. The \$381,750 added to the Town Council reserve from excess general fund revenue earned represents the amount needed to bring the Town Council reserve up to 4% of the General Fund operating budget (\$119,333,483). The Council's reserve increases as the General Fund budget increases. Finally, it is recommended that \$2,604,911 be transferred from the municipal savings account balance to the CTF. Combined with the \$1,895,089 of unexpended FY07 debt service results in the total recommended transfer of \$4,500,000.

TOWN MANAGER RECOMMENDATION

The Town Manager recommends approval of the transfer order.

STAFF ASSISTANCE

Mark Milne, Director of Finance

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-060
INTRO: 12/06/07

2008-060 ACCEPTANCE OF A GRANT FROM THE US DEPARTMENT OF JUSTICE

ORDERED, That the Barnstable Town Council does hereby accept fiscal year 2007 Edward Byrne Memorial Justice Assistance Grant from the United States Department of Justice in the amount of \$94,180.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

ITEM# 2008-060
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: November 9, 2007
SUBJECT: Acceptance of FY07 Edward Byrne Memorial Justice Assistance Grant

BACKGROUND

The Barnstable Police Department applied for and was awarded the Edward Byrne Memorial Justice Assistance Grant from the United States Department of Justice, in the amount of \$94,180.00. This grant is a regional grant applied for in concert with the Towns of Bourne, Falmouth, and Yarmouth with the Town of Barnstable acting as the lead agency and fiduciary agent for the joint application. The Town of Barnstable was awarded \$38,806.00, the Town of Bourne was awarded \$16,691.00, the Town of Falmouth was awarded \$18,699.00, and the Town of Yarmouth was awarded \$18,217.00.

The Barnstable Police Department proposes that this funding be used to continue to upgrade and enhance the Mobile Data Terminal System and to upgrade our information technology system.

ANALYSIS

The acceptance of this grant will allow the Department to replace and upgrade outdated Mobile Data Terminals and computer equipment.

FISCAL IMPACT

There is no matching funding required for this grant.

TOWN MANAGER RECOMMENDATION

Town Manager John C. Klimm recommends acceptance of this grant.

STAFF ASSISTANCE

Paul B. MacDonald, Chief of Police

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-061
INTRO: 12/06/07**

**2008-061 ACCEPTANCE OF FY08 COMMUNITY POLICING PROGRAM GRANT
AWARD**

RESOLVED: that the Town Council hereby accepts a fiscal year 2008 Community Police Program Grant award in the amount of \$95,000.00 from the Executive Office of Public Safety.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

COMMUNITY POLICING GRANT

ITEM# 2008-061
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: November 9, 2007
SUBJECT: Acceptance of FY08 Community Policing Program Grant

BACKGROUND: The town has been awarded a Community Policing Program Grant award for FY 2008 in the amount of \$95,000.00. The Department applied for, and was awarded, this amount to support the Mountain Bike Patrols, the Marine Patrols, the Patrol Division, Accreditation, the Citizens Police Academy, the Traffic Division, the Community Policing Substation and Kid's Day.

ANALYSIS: Acceptance of this grant will assist the Department in the continuance of our Community Policing efforts.

GRANT DETAIL

FY 2008 COMMUNITY POLICING GRANT BUDGET

	<u>OT</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
<u>MOUNTAIN BIKES</u>				
OT Programs				
Bike safety programs at the 11 elementary schools				
90hrs @ \$48/hr	\$4,320.00			\$ 4,320.00
Reconditioning				
Reconditioning of 24 Mountain Bikes		\$2,400.00		\$ 2,400.00
Maint/Supplies				
Misc. mountain bike unit supplies (uniforms, tires, lights etc)		\$2,000.00		\$ 2,000.00
OT Patrol				
Add'l. mtn. bike pats. 200 hours @ \$48/hr.	\$9,600.00			\$ 9,600.00
			Total	<u>\$18,320.00</u>
<u>MARINE DIVISION</u>				
Miscellaneous boat supplies, marine uniforms, etc.		\$ 2,000.00		\$2,000.00
OT Marine Patrol				
Add'l. marine patrols 82.9167 hours @ \$48/hr.	\$3,980.00			\$3,980.00
			Total	<u>\$5,980.00</u>

**GRANT DETAIL
FY 2008 COMMUNITY POLICING GRANT BUDGET**

	<u>OT</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
<u>PATROL DIVISION</u>				
OT – Patrol Division (assist in funding)				
Holiday strolls, Village Days, 4 th of July parades Fireworks, & Adopt-a-School)				
256.25 hours @ \$48/hr.	\$12,300.00		Total	<u>\$12,300.00</u>
<u>COMMISSION FOR ACCREDITATION OF LAW ENFORCEMENT AGENCIES</u>				
Dues & Expenses				
Membership dues & fees			\$3,000.00	\$3,000.00
<u>CITIZEN’S POLICE ACADEMY</u>				
OT Salaries				
2-12 week sessions of CPA 150 hours @ \$48/hr				
	\$7,200.00			\$7,200.00
Supplies				
Miscellaneous supplies for CPA		\$2,500.00		\$2,500.00
			Total	<u>\$9,700.00</u>
<u>TRAFFIC DIVISION</u>				
OT Salaries				
Selective traffic enforcement 100 hrs @ \$48/hr				
	\$4,800.00			\$4,800.00
Supplies				
Misc. supplies, radars & equipment maintenance		\$1,500.00		\$1,500.00
Equipment				
Lease of two motorcycles for 1 year				
			\$6,000.00	\$6,000.00
Purchase of a speed-monitoring trailer				
			\$10,000.00	\$10,000.00
			Total	<u>\$22,300.00</u>
<u>COMMUNITY POLICING</u>				
Substation Lease/Expenses				
Lease of community policing substation		\$18,900.00		\$18,900.00
Internet Access/Website Hosting				
Internet access & website hosting expenses		\$2,500.00		\$2,500.00
Barnstable Police Kid’s Day				
Expenses for annual kid’s day event		\$2,000.00		\$2,000.00
			Total	<u>\$19,700.00</u>
GRAND TOTAL	<u>\$25,920.00</u>	<u>\$50,080.00</u>	<u>\$19,000.00</u>	<u>\$95,000.00</u>

FISCAL IMPACT

This grant will supplement the currently allocated funds

RECOMMENDATION

The Town Manager recommends acceptance of this grant

STAFF ASSSISTANCE

Chief of Police Paul B. MacDonald

B. NEW BUSINESS (Public Hearing – may be acted upon) (Roll Call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-062
INTRO: 12/06/07**

2008-062 ALLOCATION OF TAX LEVY FY08 – TAX FACTOR

RESOLVED, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of _____ for the fiscal year 2008.

Board of Assessors recommends a tax factor of 1.

SPONSOR: Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ALLOCATION OF TAX LEVY FY08 TAX FACTOR

**ITEM# 2008-062
INTRO: 12/06/07**

SUMMARY

TO: Town Council
FROM: Town of Barnstable Board of Assessors
DATE: December 6, 2007
SUBJECT: Allocation of Tax Levy FY08 – Tax Factor

BACKGROUND: According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The residential factor commonly referred to as the “Split Tax Rate” allows the Town Council to create separate tax rates; one for residential property owners and a separate one for commercial, industrial and personal property owners, (CIP owners). Under a residential “Factor of 1”, all property owners would pay taxes at the same rate per \$1,000 of valuation. The maximum permissible shift would increase the CIP tax rate by 150%, a CIP factor of 1.5. If the maximum 1.5 shift is adopted by the Council, the corresponding rate for the residential class would be .943. This means if the maximum shift is adopted that the average residential property owner would pay 5.7 percent less in taxes and all CIP property owners would pay 150 percent more in taxes. Through 2005, the Town Council’s policy has been to select a Residential Factor of “1”. In FY2006, the Town Council elected to adopt a split tax rate using a tax factor of 1.15. In FY2007, the Town Council decided not to adopt a split tax rate. Please see tax factor information handouts provided on 10/25/07.

B. NEW BUSINESS (Public Hearing – may be acted upon) (Roll Call)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-063
INTRO: 12/06/07

2008-063 ALLOCATION OF TAX LEVY FY08 – RESIDENTIAL EXEMPTION

RESOLVED, that the Town Council hereby votes to adopt a Residential Exemption for fiscal year 2008.

---YES --- NO

If YES, the Town Council votes to adopt an exemption percentage of _____%.

Board of Assessors recommends that the residential exemption not be adopted.

SPONSOR: Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ALLOCATION OF TAX LEVY FY08 RESIDENTIAL EXEMPTION

ITEM# 2008-063
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: Town of Barnstable Board of Assessors
DATE: December 6, 2007
SUBJECT: Allocation of Tax Levy FY08 – Residential Exemption

BACKGROUND: According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes.

The Town Council can choose to adopt a “residential exemption”. The maximum exemption allowed is 20% of the average assessed value of all Class One (or Residential) parcels. This exemption would be applied to residential parcels, which are the principal residence of the taxpayer. Principal residence is a taxpayer’s domicile, that is, their fixed place of habitation, permanent home, and legal residence, as used for federal and state income tax purposes. ***This option shifts property taxes between residential taxpayers only and does not affect the CIP class of taxpayers.*** Residential taxpayers whose principal residence is in the Town of Barnstable will receive a tax reduction as long as their property assessment is approximately less than \$929,000. The tax savings these property owners realize will be shifted to all non-resident property owners and residential property owners whose assessments are greater than approximately \$929,000. Under this option, property tax savings are greater as the assessed value of the property declines. See the tax factor informational handouts provided on 10/25/2007 for analysis.

B. NEW BUSINESS (Public Hearing – may be acted upon) (Roll Call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-064
INTRO: 12/06/07**

2008-064 ALLOCATION OF TAX LEVY FYo8 – SMALL COMMERCIAL EXEMPTION

RESOLVED, that the Town Council hereby votes to adopt a Small Commercial Exemption for fiscal year 2008.

---YES ---NO

If YES, the Town Council adopts a small commercial exemption percentage for fiscal 2008 of _____%

Board of Assessors recommends that the small commercial exemption not be adopted.

SPONSOR: Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ALLOCATION OF TAX LEVY SMALL COMMERCIAL EXEMPTION

ITEM# 2008-064
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: Town of Barnstable Board of Assessors
DATE: December 6, 2007
SUBJECT: Allocation of Tax Levy FY08 – Small Commercial Exemption

BACKGROUND: According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes.

The Town Council has the option of granting **up to a 10%** exemption to the owner of commercial property which is occupied by qualified small businesses. ***This option shifts property taxes between commercial and industrial property owners only.*** It does not impact residential or personal property taxpayers. Qualifying property must be commercial, assessed under \$1,000,000 and be totally occupied by businesses with less than 10 employees.

B. NEW BUSINESS (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-065
INTRO: 12/06/07**

**2008-065 ACCEPTANCE OF A FY08 GRANT FROM BARNSTABLE COUNTY LAND
MANAGEMENT GRANT PROGRAM**

ORDERED, that the Town Council does hereby accept the Barnstable County Land Management Grant Program Award in the amount of \$7,500.00.

SPONSOR: Town Manager John Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF LORUSSO FOUNDATION GRANT

ITEM# 2008-065
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: Growth Management Department
DATE: November 29, 2007
SUBJECT: Rationale for the acceptance of Barnstable County Land Management Grant

BACKGROUND: In October 2007, the Growth Management Department applied for funding from the Barnstable County Land Management Grant Program in the amount of \$7,500.00 for proposed parking and public access trail to Mystic Lake in Marstons Mills. The Town of Barnstable's grant application was selected for funding in November and was the only application to receive the maximum funds available.

RATIONALE: Increasing public access to the waterways within the Town of Barnstable is essential in meeting the goals of the Open Space and Recreation Plan. Mystic Lake, located in Marstons Mills, represents one of the largest undeveloped lake front properties in the area with 1000+ feet of frontage. Abutting Mystic Lake, the William and Hilma Danforth Recreation Area consists of approximately 217 acres. This portion of the parcel is 23.5 acres and was acquired with Land Bank Funds in 2003 for Open Space. Upon acquisition, a permanent restriction for "recreational use" was set forth to be consistent with the Open Space Plan values including hiking, nature study, and observation, fishing, picnicking, and swimming. The remaining area of this parcel will be kept as public Open Space in its natural, scenic state.

A proposed parking area consisting of approximately eight (8) to twelve (12) parking spaces to be constructed on the Northeast section of the Danforth Recreation Area along with establishing a five (5) foot passive public recreational trail extending from the parking area to Mystic Lake.

There are approximately 2,000 acres of Conservation Land abutting the Danforth airfield to the North. Multiple recreational trails exist within the area for public use. A future goal is to provide a link through the Danforth airfield to the Conservation Land furthering the connectivity between Town owned properties to allow public passive recreational use. The proposed parking area would support this use as well.

Land Bank Funds in the amount of \$7,900.00 have been secured for maintenance and improvements to Open Space land acquired with Land Bank funds. The project will receive 75% of the award up front to begin the work and 25% of the award will be distributed upon completion of the project. The project deadline is June 1, 2008.

B. NEW BUSINESS (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

**ITEM# 2008-066
INTRO: 12/06/07**

2008-066 TERM OF CONTRACT CHANGE - GOLF CART

ORDERED, that the Town Council hereby supports the acceptance of a term of contract change under the MGLA 30B, Uniform Procurement Act, Section 12, paragraph(b), which would allow the Olde Barnstable Fairgrounds Golf Cart contract to be extended from three (3) years to five (5) years.

SPONSOR: Town Manager John Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

TERM OF CONTRACT CHANGE GOLF CART

ITEM# 2008-066
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: John Klimm, Town Manager
THROUGH: David Curley, Director of Recreation Division
DATE: November 27, 2007
SUBJECT: Order to approve a change in the term of the golf cart contract

The length of term would be extended from three (3) to five (5) years. This change may be approved by a majority vote by the Town Council under MGLA 30B, Uniform Procurement Act, Section 12, Paragraph (b).

BACKGROUND: The Town of Barnstable's contract with Club Car/Country Club Enterprises will be in force until March 31, 2008. The Town Council approved the current existing cart contract from a three (3) to five (5) year term. The Town of Barnstable currently pays \$52,074 annually to the cart company. In FY 2007, the Town of Barnstable received \$224,355 in cart revenue at Olde Barnstable. Club Car supplied the Town Golf Course with sixty-six 2003 model, gasoline powered, golf carts. Under the existing contract, all maintenance, repairs, and parts including labor will be at the expense of Club Car/Country Club Enterprises. Club Car must furnish a mechanic on request to handle any major maintenance, which may be required on the cars.

ANALYSIS: During the past few years, there have been several Cape Cod municipal golf course cart leases bid out. The following golf courses have seen a reduced percentage in their share of the cart revenue: Cranberry Valley (Harwich), Bass River and Bayberry Hills (Yarmouth), and both Dennis courses. The cart companies believe that they need the five (5) years to recoup their investment and generate a profit. The following Cape Cod municipalities currently have 5-year cart leases: Yarmouth, Dennis, Sandwich, Brewster, and Harwich. Sandwich Hollows (Town of Sandwich) awarded their cart contract this past spring. Dennis entered into their 5-year lease at the start of 2007, Yarmouth in 2005, and Harwich in 2004. The managers at these facilities told us that by going to a 5-year lease they would have the best chance to maximize cart revenues. In speaking with some of the golf cart vendor representatives, they also suggest a term of five (5) years should show a much more favorable percentage return for the Town.

As cart revenue is a significant contribution to our overall revenue mix, we are looking to maximize our revenues by entering into a 5-year contract with our next golf cart lease.

FISCAL IMPACT: The Olde Barnstable Fairgrounds operation is an Enterprise Account. A 5% drop in revenue share would represent a \$13,000 loss in revenue. The three (3) year term would have a negative impact to our revenue stream.

RECOMMENDATION: The Town Manager recommends approval of the change to MGLA 30B, Section 12, Paragraph (b), that would allow the term of the golf cart contract to be extended from three (3) to five (5) years.

BOARD AND COMMISSION ACTION: The Golf Advisory Committee supports the recommendation for a five (5) year cart contract term.

STAFF ASSISTANCE: Prepared by David Curley, Director of Recreation Division.

B. NEW BUSINESS (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-067
INTRO: 12/06/07

2008-067 ACCEPTANCE OF LORUSSO FOUNDATION GRANT FOR BARNSTABLE YOUTH SERVICES DIVISION

ORDERED, that the Town Council does hereby accept a grant from the Lorusso Foundation in the amount of \$3,500 to support a special performance by the Valory Music Company's recording artist Jimmy Wayne for students from Barnstable Middle and High Schools.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ACCEPTANCE OF LORUSSO FOUNDATION GRANT

ITEM# 2008-067
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: November 27, 2007
SUBJECT: Grant from the Lorusso Foundation for Barnstable Youth Services Division

BACKGROUND: The Barnstable Youth Services Division, in partnership with the Lorusso Foundation, and Barnstable Public Schools through the Barnstable Middle and High School proposes to bring The Valory Music Company's recording artist Jimmy Wayne to Barnstable High School for a special performance in the Performing Arts Center on Wednesday, December 12th. The performance will serve as the culmination to the Challenge Days that will take place at both the Middle School (December 3rd & 4th) and the High School (December 5th & 6th). Due to the nature of the Challenge Day program, not all students are able to participate. This special performance seeks to broaden the reach of the program offering inspiration and hope. During his childhood, Mr. Wayne was both a witness to and a victim of domestic violence, lived in and out of foster care and, for a time, was homeless. He has risen above and has been a positive role model for many youth. He has been performing at some high schools in North Carolina with tremendous positive feedback. This performance will take place during school hours and will not be open to the public.

The Lorusso Foundation has previously sponsored an appearance by Mr. Wayne on Cape Cod and offered to bring him back in an appropriate setting. They deemed this an appropriate setting. The grant covers all expenses associated with the performance including the performance fee, production requirements, accommodations, etc. Acceptance of this gift, the first grant for the Youth Services Division, will work to continue the efforts of supporting youth in our community.

FISCAL IMPACT: None

RECOMMENDTION: Town Manager John Klimm recommends the acceptance of this grant.

B. NEW BUSINESS (Refer to Joint Public Hearing with Planning Board - first Town Council meeting in January 2008)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-068

INTRO: 12/06/07

2008-068 CREATING A RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT

ORDERED:

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

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

A. Purpose.

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

(2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Overlay District include:

(a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law; and,

(b) Prohibiting docks and Piers in coastal waters designated as significant shellfish habitats by the Division of Marine Fisheries or local shellfish officials.

B. Establishment of district.

In order to implement the purposes of this section, the Recreational Shellfish Area and Shellfish Relay Area Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Overlay District shall include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated October 9, 2007, filed with the Town Clerk, up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

C. Overlay District Map.

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

D. Prohibition.

Within the Recreational Shellfish Area and Shellfish Relay Area Overlay District, the construction and/or installation of docks and piers is prohibited, unless such dock or pier has the benefit of a valid Order of Conditions issued prior to August 17, 2007, and receives all other necessary local,

state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.

E. Reestablishment of damaged or destroyed nonconforming docks or piers.

The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95 A (1) and B, provided that such reestablishment shall not include the use of toxic materials, and, for the purposes of this section, the pursuit of construction continuously to completion shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.

F. Expansion of existing docks or piers.

For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.

G. Definitions.

The terms “dock” and “pier” shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, bulkhead, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a bank (inland) (310 CMR 10.54), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations.

Section 2. The official zoning map of the Town of Barnstable is hereby amended by adding a Recreational Shellfish Area and Shellfish Relay Area Overlay District as shown on the map entitled “Recreational Shellfish Area and Shellfish Relay Area Overlay District”, dated October 10, 2007.

SPONSORS: Town Councilors Richard Barry and Ann Canedy

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

**RECREATIONAL SHELLFISH AREA
SHELLFISH RELAY OVERLAY DISTRICT**

ITEM# 2008-068

INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: Town Councilors Richard Barry & Ann Canedy
DATE: November 27, 2007
SUBJECT: Amendment of Zoning Ordinance with a Recreational Shellfish Area and Shellfish Relay Overlay District

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

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

FISCAL IMPACT: The fiscal impact is neutral.

STAFF ASSISTANCE: Director of Comprehensive Planning Patricia Daley

SPONSORS: Town Councilor Richard Barry and Town Councilor Ann Canedy

B. NEW BUSINESS (First Reading)

BARNSTABLE TOWN COUNCIL

ITEM # 2008-069

INTRO: 12/06/07

2008-069 APPOINTMENT TO BOARD/COMMITTEE/COMMISSION

RESOLVED, that the Barnstable Town Council appoints the following individual to a multiple member board/committee/commission.

PERSONNEL ADVISORY BOARD:

Stephen F. Whitmore, 1391 Hyannis Road, Barnstable, MA to a term expiring on 06/30/2010

SPONSORS: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote

B. NEW BUSINESS (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

ITEM# 2008-070
INTRO: 12/06/07

2008-070 TRANSFER ORDER FOR UNEXPENDED BOND PROCEEDS

RESOLVED, that the Town Council hereby transfers \$249,000 from council order 2005-085 for the purpose of funding engineering and installation costs of replacement windows at the Osterville Elementary School and \$150,000 from council order 2006-096 for the purpose of funding a boiler replacement and associated asbestos abatement program at the Osterville Bay Elementary School.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

TRANSFER ORDER FOR UNEXPENDED BOND PROCEEDS

ITEM# 2008-070
INTRO: 12/06/07

SUMMARY

TO: Town Council
FROM: Town Manager John C. Klimm
DATE: November 30, 2007
SUBJECT: Transfer of Unexpended Bond Proceeds For School Facility Improvements

BACKGROUND: Each year at the time of writing Capital Improvement Project requests the facilities coordinator and the superintendent of schools propose their best judgment prioritization of capital projects for the eleven school buildings. In addition, each project has a best estimate of cost. The two CIPs 2005-085 and 2006-096 were submitted by former superintendents and facilities coordinators. As the current Director of Facilities reviewed these projects for completion, it became evident that either the estimated cost or prioritization of the project is to some degree in question. Variables such as escalating costs, more pressing unanticipated needs, or reprioritizing of projects have contributed to this request.

Specifically, the current Superintendent of Schools, through a recommendation of the current Director of Facilities wishes to gain the Council's approval for the expansion of the four corners of two CIP proposals submitted prior to their tenure. Factors contributing to this request include 1) an unanticipated and emergency replacement of the boiler at Osterville Bay and 2) the reprioritizing of need for window replacement from BWB to Osterville Elementary based on critical need.

FISCAL IMPACT: Funds for the requested transfers have already been appropriated and borrowed by the town. This request is to reprogram the remaining unexpended funds to address issues that have risen to a higher priority than those for which they were originally appropriated.