



# Town of Barnstable

## Town Council

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Councilors:

Frederick Chirigotis  
President

Harold E. Tobey  
Vice President

Richard G. Barry  
Janice L. Barton  
Ann A. Canedy  
James H. Crocker, Jr.  
Leah C. Curtis  
Henry C. Farnham  
Janet S. Joakim  
J. Gregory Milne  
James F. Munafo, Jr.  
Tom Rugo  
James M. Tinsley, Jr.

Administrator:  
Donald M. Grissom

Administrative  
Assistant:  
Barbara A. Ford

### **TOWN COUNCIL MEETING**

### **AGENDA**

**February 26, 2009**

**7:00 PM**

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
  - **Local Planning Committee Discussion**
- 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: March 5<sup>th</sup>**

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**A. OLD BUSINESS**

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<b>2009-067</b>	Authorization for a tax incentive financing agreement ( <b>Second reading</b> ) ( <b>May be acted upon</b> ).....	5 – 6

**B. NEW BUSINESS**

<b>2009-065</b>	Acceptance of a \$1,000 grant from the Cape Cod Chamber of Commerce ( <b>May be acted upon</b> ) .....	7 – 8
<b>2009-066</b>	Appropriation order for cemetery equipment ( <b>Refer to public hearing 03/05/09</b> ) ( <b>Roll-call</b> ) .....	9 – 10
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Minutes – February 5, 2009

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**Please Note:**

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

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

**A. OLD BUSINESS (Public Hearing closed) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-058**

**INTRO: 01/08/09, 01/22/09, 02/05/09, 02/26/09**

**2009-058 APPROPRIATION AND TRANSFER ORDER FOR FY09 PARKING ENFORCEMENT OPERATING EXPENSES**

**ORDERED,** That the Town Council hereby appropriates the sum of \$54,400 for fiscal year 2009 parking enforcement expenses, and to meet this appropriation that \$54,400 be transferred from available funds within the Bismore Parking Special Revenue 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**  
**APPROPRIATION & TRANSFER ORDER FY09**  
**PARKING ENFORCEMENT EXPENSES**

**ITEM# 2009-058**

**INTRO: 01/08/09, 01/22/09, 02/05/09, 02/26/09**

**SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** December 22, 2008  
**SUBJECT:** FY09 Appropriation Order for the Parking Enforcement Expenses

**BACKGROUND:** In the summer of 2008, the Town Manager requested the parking area in the southerly portion of Bismore Park be refurbished and returned to use as a municipal parking lot. The town is installing new parking Kiosks in this area that will become operational in fiscal year 2009 eliminating the need for on-site parking attendants. In their place, parking enforcement will be increased to 16 hours, days seven days a week. The enforcement function will be handled by the Regulatory Service Department, which will need to hire additional part-time staff and vehicles.

**ANALYSIS:** Expenses for operating this parking lot are estimated to be \$20,400 through the end of fiscal year 2009. Additionally, \$34,000 is requested to buy two "Smart Cars." These are 2-passenger small "city vehicles" with MPG ratings of approximately 35 MPG. These vehicles will be used for parking enforcement at Bismore as well as other areas in town. It is estimated that the new parking Kiosks will generate an additional \$220,000 in revenue annually.

**FISCAL IMPACT:** This appropriation request is funded from the Bismore parking special revenue fund, which has a balance of \$118,127. Approval of this appropriation will allow the town to implement the new parking enforcement program, which is anticipated to increase annual revenues by \$220,000. The use of "Smart Cars" for parking patrol functions will save approximately \$1800.00 per year at today's fuel costs.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of the appropriation order after the required public hearing.

**STAFF ASSISTANCE:** Growth Management Department, Finance Department, D.P.W. Department, and the Regulatory Services Department

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-067**  
**INTRO: 02/05/09, 02/26/09**

**2009-067 AUTHORIZATION OF A TAX INCREMENT FINANCING AGREEMENT**

**RESOLVED,** That the Town Council of the Town of Barnstable approves the Tax Increment Financing Agreement between the Town, F. W. Webb Company and RAM Construction, LLC, substantially in the form as presented to the Town Council (the “TIF Agreement”), and the Tax Increment Financing Plan pursuant to GL c. 40, §59, and designate the location of the project at 108 Breed’s Hill Road in Hyannis and shown as the land described in Barnstable Assessors’ records Map 312, Parcel 31 as an Economic Opportunity Area designated as “F. W. Webb Company Economic Opportunity Area” (the EOA”), which EOA shall be deleted from the previously approved EOA for the Route 132 area, and to authorize the Town Manager to submit an Economic Opportunity Area Application, Tax Increment Financing Plan and TIF Zone, TIF Agreement, and Certified Project Application to the Massachusetts Economic Assistance Coordinating Council all relating to the project as described in the TIF Agreement to be located in the F. W. Webb Company Economic Opportunity Area and to authorize the Town Manager to take such other actions as may be necessary to obtain approval of the Certified Project Application, the Economic Opportunity Area, the Tax Increment Financing Plan, TIF Agreement and TIF Zone and to implement the TIF Agreement.

**SPONSORS:** Councilors James H. Crocker, Jr. and Henry C. Farnham

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **AUTHORIZATION OF A TAX INCREMENT FINANCING AGREEMENT**

**ITEM# 2009-067  
INTRO: 02/05/09, 02/26/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Jo Anne Miller Buntich, Interim Director of Growth Management  
**DATE:** February 4, 2009  
**SUBJECT:** Tax Increment Financing Agreement

**BACKGROUND:** Presented to you is a Tax Increment Financing (TIF) Agreement between the Town of Barnstable and F.W. Webb Company (the Lessee) and RAM Construction, LLC (the proposed owner of the facility located on Breeds Hill Road and an affiliate of the Company). TIF agreements are authorized by GL c. 40, §59. This ordinance allows the Town to enter into this Agreement with the property owner and the operating business to support new development that produces new jobs through investment in structures or equipment. The TIF Agreement does not abate existing property taxes. It exempts a small percentage of the increase in valuation resulting from the new investment for the period described in the Agreement

**ANALYSIS:** The TIF Agreement is a contract between the municipality, the property owner, and the job-creating business, whereby each party agrees to undertake certain actions for the benefit of the other to achieve the common goal of the business locating in or expand within the Town, receiving the local and State tax benefits available to it as a Certified Project. The TIF Agreement sets forth the amount of the tax exemption and the duration of the benefits, and describes the responsibilities of the business towards the municipality that makes the benefits available.

The applicant, F. W. Webb Company, has worked closely with the Town to develop this Agreement. The Barnstable Economic Development Committee (BEDC) and the Growth Management Department began the process with the Company. An agreement was reached on the structure of the TIF was reached between the applicant and the TIF Committee. The TIF committee members are the Finance Director, the Assessor, the Interim Director of Growth Management, 2 members of the BEDC, and 2 members of the Town Council.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-065**

**INTRO: 02/26/09**

**2009-065 ACCEPTANCE OF \$1,000 GRANT FROM THE CAPE COD CHAMBER OF COMMERCE**

**RESOLVED:** That the Town Council hereby accepts the grant award in the amount of \$1,000 from the Cape Cod Chamber of Commerce for the marketing and promotion of Harbor your Arts.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **ACCEPTANCE OF A FY09 MINI TOURISM GRANT FROM THE CAPE COD CHAMBER OF COMMERCE**

**ITEM# 2009-065  
INTRO: 02/26/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** February 3, 2009  
**SUBJECT:** Acceptance of FY09 Mini Tourism Grant from the Cape Cod Chamber

**BACKGROUND:** The Growth Management Department applied for and has been awarded a grant from the Cape Cod Chamber of Commerce in the amount of \$1,000.00. The funds will be used to increase awareness of the Harbor your Arts programs among visitors, particularly through increased signage, print ads and brochures, radio advertising and website updates.

**ANALYSIS:** Acceptance of this grant will allow for increased marketing and promotion of the Town's arts and culture initiatives.

**FISCAL IMPACT:** This grant will supplement additional grant funds allocated to the Harbor Your Arts (HyA) Program. Matching funds were required for this grant. Matching funds are provided through the Arts Foundation of Cape Cod grant monies (\$2,000.00) awarded for 2009.

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

**STAFF ASSISTANCE:** Melissa Hersh

**B. NEW BUSINESS (Refer to Public Hearing 03/05/09) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-066**

**INTRO: 02/26/09**

**2009-066 APPROPRIATION ORDER FOR CEMETERY EQUIPMENT**

**ORDERED,** That the sum of \$21,714.56 be appropriated for the Structures & Grounds Cemetery Program for the purpose of purchasing burial equipment used by Town staff to maintain cemeteries and perform interments in town cemeteries, and to meet such appropriation, that \$21,714.56 be transferred from the Town's Sale of Cemetery Lots Special Revenue 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**

## **APPROPRIATION ORDER FOR CEMETERY EQUIPMENT**

**ITEM# 2009-066**  
**INTRO: 02/26/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Mark Ells, Director of Public Works  
**DATE:** February 4, 2009  
**SUBJECT:** Appropriation Order for Cemetery Equipment

**BACKGROUND:** Since February 22, 1999, the Structures & Grounds Cemetery section has assumed responsibility for performing burial operations throughout the Town's cemeteries. This operation requires a multitude of heavy equipment and specialized tools to expedite the interment process. We are requesting the replacement of (1) 1995 utility trailer that is in poor condition and has exceeded its useful life. Additionally we are requesting funds to purchase (1) new ATV utility dump vehicle to expedite transport of graveside equipment and improve efficiencies for grave closure. We will also be replacing miscellaneous graveside equipment that is showing excessive wear due to age. The purchase of this equipment will improve efficiencies for grave openings and keep our interment equipment in serviceable condition.

**ANALYSIS:** As part of the Town's long-range plan for the periodic replacement of equipment used for the maintenance of cemeteries and interment services, receipts from the sale of cemetery lots are credited to a Special Revenue Fund in accordance with Massachusetts General Finance Laws. The cost of this equipment can be solely covered by this dedicated cemetery revenue fund.

**FISCAL IMPACT:** In accordance with Massachusetts General Finance Laws, the Town maintains a Special Revenue Fund to which the receipts from the sale of cemetery lots are credited. Subsequently, these receipts may be appropriated for the cost of maintaining and improving the Town's cemeteries. This account currently has a balance of \$95,084.00. There is no fiscal impact on General Fund operating budget.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends that the Town Council approve this appropriation order after the required public hearing.

**STAFF ASSISTANCE:** Stephen Sundelin, Supervisor – Structures & Grounds Division, Daniel St Pierre, Foreman – Cemetery Operations

**B. NEW BUSINESS (Refer to Public Hearing 03/05/09) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-068**

**INTRO: 02/26/09**

**2009-068 APPROPRIATION ORDER FOR THE VETERANS' BENEFITS BUDGET**

**ORDERED:** That the sum of \$110,000 be appropriated from available funds for the purpose of funding the Town's FY 2009 Veterans' benefits budget.

**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**

## **APPROPRIATION ORDER FOR THE VETERANS' BENEFIT BUDGET**

**ITEM# 2009-068**  
**INTRO: 02/26/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Sidney L. Chase, Veterans Agent  
**DATE:** February 9, 2009  
**SUBJECT:** FY 2009 Other Requirements Budget

**BACKGROUND:** The Town of Barnstable is part of a regional veterans' district. Every year it is assessed a portion of district's budget, which includes the director, staff and operating expenses of running the district. In addition, the Town is responsible for a portion of the direct bills for eligible veterans living in Barnstable for items such as doctor and hospital bills, medications and medical equipment, heating fuel assistance and other costs.

**ANALYSIS:** The Town is the payer of last resort for eligible veterans' benefits. A vendor must bill the insurance companies, Medicare, Mass Health or the VA before the Town has to pay. This often causes a delay in vendor billing while they wait for payment or the denial of the coverage. Any unpaid balance is then billed to the Veterans' District for processing. Due to the increased numbers of Veterans who are out of work, or have lost their health care and the rising cost of health care, additional funds are needed to pay for the FY09 benefits.

**FISCAL IMPACT:** The Town of Barnstable budgeted \$195,804 for FY09 veterans' benefits. To date, only \$12,618 remains unexpended in this account with over 4 months remaining in the fiscal year. A request for an additional \$110,000 is being made to cover the rest of FY09. Funding for this will be provided from the municipal savings account, which has a balance of approximately \$1.6 million. Any remaining funds left over at the end of FY09 will be credited back to the municipal savings account.

**B. NEW BUSINESS (Refer to Public Hearing 03/05/09) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-069**

**INTRO: 02/26/09**

**2009-069 FY09 APPROPRIATION ORDER FOR CLEANUP COSTS**

**ORDERED,** That the Town Council hereby appropriates \$231,904 for the cleanup costs associated with the Hyannis West Elementary School and to meet this appropriation that \$231,904 be transferred from the Town Councils' reserve 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**

## **APPROPRIATION & TRANSFER ORDER FOR THE CLEAN UP COSTS OF HYANNIS WEST ELEMENTARY SCHOOL**

**ITEM# 2009-069**

**INTRO: 02/26/09**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** February 12, 2009  
**SUBJECT:** FY09 Appropriation Order for Hyannis West Elementary School Cleanup Costs

**BACKGROUND:** On November 19, 2007, at Hyannis West Elementary School, approximately 10 gallons of #4, fuel oil leaked out of a failed valve on the boiler and through a sump pump, into a catch basin outside the school. Heavy precipitation over the next few days caused the catch basin to fail and overflowed onto the asphalt surface of the rear parking lot. After contacting the Hyannis Fire Department to report an oil spill, the schools contacted Clean Harbors Environmental Services, Inc. of Braintree, MA who performed emergency response operations in order to contain and mitigate the release.

Clean Harbors removed the impacted puddle water and standing water from the impacted catch basin, and capped the subject catch basin subsequent to the completion of emergency response actions. Subsequently, the parking lot was power washed, the sump and associated discharge line were cleaned and grossly contaminated liquids and solids were removed from the impacted catch basin and a connecting leach pit. Approximately 2,750 gallons of oily liquids and some 13 yards of oily solids were removed and transported under properly executed Uniform Hazardous Waste Manifests.

Laboratory analysis of a groundwater sample collected from an existing monitoring well located adjacent to the subject catch basin reported a total petroleum hydrocarbon (TPH) concentration as below reportable limits (BRL). In conducting broad spectrum well testing, it was determined that a spike on one test identified the presence of Chlordane, a currently banned and fairly toxic pesticide above the levels that require reporting to the DEP. The presence of this chemical in the catch basin, though unrelated to the oil spill incident, now triggered a new and more intensive plan for remediation of the catch basin.

Chlordane was allowed to be used in the 1970's to treat termites and ants. Research into school records showed that this chemical was used in the 1970's to treat termites at the school. Testing of the property determined that in all areas other than the catch basin, the concentrations are below state mandated limits for required remediation.

The chlordane remediation action plan required considerably more effort as the hazardous waste removal plan involved a higher level of paperwork for documenting the cleanup, and a more intense transport and disposal solution of the contaminated materials. Under an emergency procurement determination from the Commonwealth of Massachusetts Division of Capital Asset Management, the work was undertaken as quickly as possible and on a day when school was not in session, to avoid any possible interaction with students and staff.

The removal and disposal of the catch basin material and approximately 30 yards of contaminated soil has resolved the issue involving the chlordane and the oil contamination. The project paperwork is in its final closeout stage.

**ANALYSIS:** The costs incurred to date to meet the mandated response to both the oil spill and the chlordane cleanup is \$231,904.

**FISCAL IMPACT:** It is proposed that funding for this item be funded from the Town Council's reserve as it qualifies as an extraordinary and/or unforeseen event. This would essentially be a borrowing from the council's reserve fund. The Town Council's reserve fund will be replenished at the end of fiscal year 2009 when the financial records are closed. It will be replenished first with excess revenue earned over budget estimates. If the town fails to generate excess revenue it will then have to be replenished with returned appropriations and/or transfers from the savings account balances.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of the appropriation order after the required public hearing.

**STAFF ASSISTANCE:** Ann Marie Ellis, Assistant Director of Finance and David Anthony, Chief Procurement Officer