



Town of Barnstable

Town Council

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Councilors:

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Harold E. Tobey
Vice President

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Janice L. Barton
Ann B. Canedy
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Tom Rugo
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Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA October 1, 2009 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 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: October 15th

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2010-013	Appropriation order for Community Preservation Fund – repair & preservation of new town hall (Public hearing closed) (Roll-call, 2/3)	3 – 4
2010-016	Appropriation & transfer \$137,500 from Community Preservation Fund set aside for open space (Public hearing) (Roll-call)	5 - 6
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B. NEW BUSINESS		
2010-033	Acceptance of a FY10 \$2,000 Barnstable Land Trust Program Grant (May be acted upon)	19 - 20
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2010-035	Extending the expiration of the temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District (Refer to joint public hearing with planning board 10/15/09) (Roll-call, 2/3)	23 - 24
2010-036	Acceptance of a \$7,300 grant from the US Department of Justice (May be acted upon)	25 – 26
2010-037	Acceptance of a \$98,919 grant from the US Department of Justice (May be acted upon)	27 – 28

Minutes –September 17, 2009

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, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-013

INTRO: 07/16/09, 08/06/09, 09/17/09, 10/01/09

2010-013 APPROPRIATION & LOAN ORDER-COMMUNITY PRESERVATION NEW TOWN HALL

ORDERED: That, pursuant to the provisions of G.L. c. 44B, the sum of Three Million Ninety Four Thousand Eight Hundred and Eleven and No/100 (\$3,094,811) Dollars be appropriated for the repairs to the exterior of the New Town Hall facility; and to meet this appropriation that the sum of Four Hundred Twenty Nine Thousand Seven Hundred and Seventy One dollars (\$429,771) be transferred from the reserve set aside for Historic Preservation in the Community Preservation Fund; and that One Million Three Hundred and Thirty Two Thousand Five Hundred and Twenty dollars (\$1,332,520) be transferred from the undesignated fund balance of the Community Preservation Fund; and that the Town Treasurer, with the approval of the Town Manager, is authorized to issue bonds and notes amounting to One Million Three Hundred and Thirty Two Thousand Five Hundred and Twenty dollars (\$1,332,520) under CH44B or any other enabling authority; and that the Growth Management Department is authorized to contract for and expend the total amount appropriated with the prior approval of the Town Manager, subject to oversight of the project expenses by the Community Preservation Committee for roof, brick, window, exterior door and other exterior repairs and replacements for the preservation and rehabilitation of the historic resource consisting of the New Town Hall of the Town of Barnstable with an address of 367 Main Street, Hyannis, MA., located on Map / Parcel 326 / 021.

SPONSOR: Town Manager, John C. Klimm upon the recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-013

INTRO: 07/16/09, 08/06/09, 09/17/09, 10/01/09

TO: Town Council
FROM: Community Preservation Committee
DATE: July 9, 2009
SUBJECT: Town Hall Exterior Envelope Preservation and Rehabilitation Project

BACKGROUND: At their meeting on June 22, 2009, the Community Preservation Committee (CPC) unanimously recommended support for the Town of Barnstable Department of Public Works funding request amount not to exceed, \$3,094,811.00, for the Town Hall Exterior Envelope Preservation and Rehabilitation Project.

RATIONALE: CBI Consulting, Inc., the Town's Historic Consultant for the project, has provided the Town with an Existing Conditions Report of the Town Hall Exterior Envelope. Recommendations for building preservation and rehabilitation that address safety and structural improvements to include roof reconstruction, exterior brick wall repair, brick window arch repairs, window replacement; exterior door replacement, brownstone repairs, new copper gutters and downspouts, fascia work, and hazardous components abatement have been prioritized by CBI and Town staff.

The estimated cost of this project is \$3,094,811. The Community Preservation Committee recommends the Town Council to approve the expenditure from Community Preservation Act funds as follows: \$429,771 from the Historic Preservation fund balance and; \$1,332,520 from the Undesignated Fund balance; and also authorize borrowing of an additional \$1,332,520 from the Undesignated Fund balance for a total project cost of \$3,094,811.

The estimated project cost of \$3,094,011 includes a \$156,400 reduction because an Energy Efficiency Community Development Block Grant of \$156,400 has been awarded to the Town for Town Hall window replacement.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-016

INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09

2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET ASIDE FOR OPEN SPACE

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of One hundred thirty seven thousand five hundred dollars and no/100 (\$137,500.00) be appropriated and transferred from the amount set aside for Open Space in the Community Preservation Fund on June 18, 2009 under agenda item 2009-129; and that the Growth Management Department is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager for the acquisition of a conservation restriction on 1.05 acres of land located at 671 Main Street, Cotuit, MA., Map / Parcel 036/015.

SPONSOR: Town Manager John C. Klimm upon recommendation of the Community Preservation Committee

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-016

INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09

TO: Town Council
FROM: Community Preservation Committee
DATE: July 27, 2009
SUBJECT: Rationale: Bay Point, LLC – Conservation Restriction

BACKGROUND: The Community Preservation Committee (CPC) met on July 20, 2009, and recommends that the town support this funding request for the Open Space Conservation Restriction on 1.05 acres of land located at 671 Main Street, Cotuit, Map / Parcel 036/015, in an amount not to exceed \$137,500 and shall be appropriated and transferred from the Community Preservation Funds.

RATIONALE: The project goal is to secure a conservation restriction (CR) for a combined sum of \$275,000, of which the Cotuit Water District will share the cost with the town – each will contribute \$137,500.

In the agreement with the developers in return for the purchase of the conservation restriction extensive portions of the property will be restricted from any development. The remaining project will be dramatically reduced in size and density. The developer will physically set off the conservation restriction property with fencing, landscaping and signage at Cotuit Water District's direction. The Town's Growth Management Department will have design and landscaping approval rights. An enhanced Bioclere septic system or its equivalent will be installed and will be subject to extensive regulation and examination requirements that will be reflected in a comprehensive set of documents via order of Housing Appeals Committee, Condominium documents and Board of Health Order.

Barnstable's character will be preserved by protection of nitrate loading and injection of pathogens into ground water near a public water supply wellhead; increased affordable housing opportunities and protection of land.

Cost sharing with the Cotuit Water District and co-management of the CR with Cotuit Water District will assure strict compliance with the terms of settlement and maximize protection of the wellhead. Monitoring costs will initially be paid by the developer and later assumed by the condominium association as an encumbrance on the fee monitoring well installation costs will be paid by the developer to Cotuit Water District, which will install the wells to its specifications. Either Cotuit Water District or the Town, acting through the Board of Health, will have authority to act upon any reported threat to the wellhead or to groundwater.

STAFF ASSISTANCE: Theresa M. Santos, Growth Management Department

A. OLD BUSINESS (May be acted upon) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-019
INTRO: 09/03/09, 10/01/09**

2010-019 REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE & 46 NORTH STREET, LLC

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and 46 North Street, LLC, Developer, for the property shown on Barnstable Assessor's Map 309, Parcel 195 and located within the Office and Multifamily (OM) zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the redevelopment of the existing building known as the "Verizon Building" and the development of a new 5600 SF building at the rear of the property at 46 North Street, Hyannis; and hereby granting a waiver from the provisions of the Barnstable Ordinances Section 240-24.1.6 as follows: adding the principal use medical and dental offices in addition to the allowed by-right and conditional uses in the OM with the exception of packaging and delivery services for both buildings and, in the newly constructed building to the rear of the property, residential uses.

**46 North Street, LLC
46 North Street, Hyannis**

This regulatory agreement ("Agreement") is entered by and between the applicant, 46 North Street, LLC, ("Applicant" and "Developer") and the Town of Barnstable ("Town"), a municipal corporation, on this ___ day of ___, 2009 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Applicant under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both;

WHEREAS, this Agreement shall establish permitted uses, densities, traffic, parking and stormwater management and building and site design within the Development, duration of the agreement, and any other terms or conditions mutually agreed upon between the Applicant and the Town.

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

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, the Applicant is the legal owner of the property ("Property") at 46 North Street, Hyannis, consisting of approximately 101,733 +/- SF, shown on Barnstable Assessor's Map 309 as Parcel 195, title to which is recorded in Barnstable County Registry of Deeds Certificate 50140, Book 1493, Page 614, Plan reference: LC 14306-B, Book 72/143 and desires to develop the Property pursuant to a Regulatory Agreement;

WHEREAS, the Applicant is willing to commit to development of the project in substantial accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

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

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

WHEREAS, the Applicant has made application to the Town pursuant to Section 168 of the Barnstable Code;

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

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

WHEREAS, the Applicant has undergone informal site plan review on June 9, 2008;

WHEREAS, the Development is serviced by municipal sewer and does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS, the Development is serviced by the Hyannis Water Department and does not adversely affect water delivery infrastructure;

WHEREAS, the Development has sufficient fire flows to service the intended use without adversely affecting the Hyannis Fire District ISO rating;

WHEREAS, the Development has access to sewage capacity to service the intended use without adversely affecting the Water Pollution Control Facility and associated infrastructure;

WHEREAS, Hyannis Fire Department records indicate that an underground oil tank was filled in near the Washington Street access to the east of the property. These records also indicate that an important 8 trunk fiber optic conduit is supported by this filled structure.

WHEREAS, the existing building is only partially sprinkled;

WHEREAS, existing parking requirements, yard setbacks, lot area and lot coverage are lawfully established by/through this agreement and the Zoning Ordinance that existing number of parking spaces satisfy requirements for the proposed development;

WHEREAS, the Development currently has sufficient parking and access to accommodate proposed uses and structures;

WHEREAS, existing conditions -utilities, vegetation and a pole – may obstruct driveway access from North Street;

WHEREAS, streetscape conditions on North Street abutting this property are in need of landscaping and lighting improvements;

WHEREAS, the dumpster location as shown on the plan will serve the proposed development and will not impact abutting residential properties;

WHEREAS, a vegetative buffer and fence is shown on the plans lying northerly of the “Proposed Building” separating the property owned by 46 North Street, LLC and the properties shown on Louis Street;

WHEREAS, the Applicant will require zoning relief from the use regulation schedule in the OM zoning district, more specifically referred to in Paragraph 20, below;

WHEREAS, the Applicant has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board recommending that the application be forwarded to Town Council for their action on July 27, 2009;

WHEREAS, the Applicant has undergone a public meeting on the Agreement application before the Town Council and received a 2/3rds vote approving the application on _____, 2009;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, the Applicant and the Town do enter into this Agreement, and hereby agree and covenant as follows;

1. The Developer agrees to construct and maintain the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
2. Plans entitled
 - a) “Commercial Redevelopment, 46 North Street in Barnstable, MA, Site Plan Sheet 1 of 1 dated June 19, 2009 as revised through August 8, 2009”;
 - b) “Commercial Redevelopment, 46 North Street in Barnstable, MA, Landscape Plan Sheet 1 of 1 dated June 19, 2009”;
 - c) “Commercial Redevelopment, 46 North Street in Barnstable, MA, Lighting Plan” Elevation drawings entitled “46 North Street, North Street Elevation and Parking Lot Elevation” and “46 North Street New Building Front Elevation and Back Elevation” both dated June 18, 2009 by Jefferson Group Architects and Judd Brown Designs.

and attached to this agreement and such other plans and plan revisions as may be required by the terms and conditions of this Agreement.

3. The Developer agrees to renovate the existing +/- 26,000 SF building and add a second +/- 5600 SF structure and develop the Property as medical and dental offices or other use as allowed in the OM district with the exception of packaging and delivery services and, in the newly constructed building to the rear of the property, residential uses;
4. The Developer agrees to fully sprinkle the existing building.
5. The Developer agrees to renovate existing parking area in accordance with the Design and Infrastructure Plan as shown on the plan entitled “Commercial Redevelopment, 46 North Street in Barnstable, MA, Site Plan Sheet 1 of 1 dated June 19, 2009 as revised through August 8, 2009”

6. The Developer agrees to provide a status report to the Building Commissioner, prior to the commencement of any site work, of the aforementioned conduit and take any actions deemed appropriate or necessary by the Building Commissioner.
7. The Developer agrees to construct driveway access on Washington Street and install signage to prevent left turning movements into and out of the site as shown on the plan entitled "Commercial Redevelopment, 46 North Street in Barnstable, MA, Site Plan Sheet 1 of 1 dated June 19, 2009 as revised through August 8, 2009".
8. The Developer shall construct a Passive Stormwater Maintenance and Infiltration System to service the Development stormwater.
9. The Developer will provide a bicycle rack at the Property.
10. The Developer shall construct architectural improvements as shown on the elevation drawings entitled "46 North Street, North Street Elevation and Parking Lot Elevation" and "46 North Street New Building Front Elevation and Back Elevation" both dated June 18, 2009 by Jefferson Group Architects and Judd Brown Designs.
11. The Developer shall install lighting and landscaping improvements along the Property frontage and on North Street as shown on the plan entitled "Commercial Redevelopment, 46 North Street in Barnstable, MA, Landscape Plan Sheet 1 of 1 dated June 19, 2009". Any and all lighting for the development including site and structure lighting shall not cast glare off site, shall be down cast, shall use fully cut off fixtures and shall not contribute to light pollution of the area.
12. The Developer shall install street lighting on North Street. Spacing, photometric, location and construction details to be finally approved by the Growth Management Department during the shop drawing submittal phase but shall generally be as follows; a minimum of one (1) free standing 30 foot tall Pulse Start Metal Halide Renaissance Style Lighting Assemblies along the front of the property on North Street.
13. The Developer shall install and maintain the aforementioned vegetative buffer and fence separating the property owned by 46 North Street and the Louis Street properties as shown on the plan.
14. Developer and its successor(s) shall maintain all landscaping and drainage facilities for the period for which the development rights granted hereunder continue to be exercised.
15. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Barnstable Code Section 240-104(G)). This document shall be submitted before the issuance of the final certificate of occupancy.
16. Developer shall permit or cause its approved operator to permit the inspection of the premises by town staff, including but not limited to health, building and fire safety personnel.
17. All landscaping within the Development shall be low water use and shall minimize the use of fertilizers and pesticides in keeping with the Design and Infrastructure Plan.
18. All plumbing fixtures shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project.

19. The utility pole at the North Street entrance shall be removed and those utilities shall be placed underground.
20. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible.
21. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces) sewer permits and water permits.
22. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays. No exterior construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration.
23. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained.
24. Town hereby grants a waiver from the following zoning restrictions: principal use medical and dental offices in addition to the allowed by-right and conditional uses in the OM with the exception of packaging and delivery services and residential uses in the newly constructed building to the rear of the property, Section 240-24.XXX of the Barnstable Code
25. The Developer shall submit revised plans which address the comments submitted by the June 9, 2009 staff Site Plan Review, to the extent applicable, which plans shall be reviewed and approved administratively by the Building Commissioner.
26. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of two (2) years from the effective date of the Agreement, provided, however, that prior to the expiration of said one year period the Applicant may request one six month extension to obtain development permits. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. The Applicant estimates that construction will commence on or about _____ and will be completed on or about _____.

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

Dated this _____ day of _____, 2009.

 Town of Barnstable
 By:

 Developer
 By:

SPONSOR: Town Manager John C. Klimm at the request of the Planning Board

BARNSTABLE TOWN COUNCIL

ITEM# 2010-019
INTRO: 09/03/09, 10/01/09

SUMMARY

TO: Town Council
FROM: David Lawler, Attorney for 46 North Street, LLC
DATE: August 26, 2009

The Applicant, 46 North Street, LLC is seeking a Regulatory Agreement allowing medical and/or dental use at 46 North Street, Hyannis, formerly occupied by Verizon Telephone and Communication Company.

The existing structure which consists of approximately 26,000 square feet was used by Verizon for multiple uses including a call center employing well over 200 telephone operators as well as an operational center for repair crews and telephone technicians. The premises actually contained a truck repair dock for the repair and maintenance of the Verizon vehicles which were parked in the rear parking area.

Over the years, the property has deteriorated as shown on photographs submitted to the Planning Board and the Town Counsel wherein the property contained sink holes in the parking lot, weeds overtaking the parking lot and entrance areas of the building, graffiti sprayed on the exterior of the building, paint peeling, equipment rusted and otherwise in complete and utter disrepair.

The applicant proposes to take this blighted building and completely renovate and renew the structure as shown in the architectural drawings referenced above and to revitalize the landscape as shown on the above referenced engineering documents. In addition, a smaller 5,600 square foot structure would be built at the rear of the property as detailed in the above referenced plans and elevations. The proposed renovations and building additions could be constructed as a matter of right since the proposal is fully compliant with all zoning requirements including parking, set backs and the like. The only relief being sought by the applicant is that of use.

In consideration of the requested relief, the Applicant has agreed to construct certain improvements that otherwise would not have been required to undertake. These include but are not necessarily limited to the construction of a clock tower facing the northwest corner of the building on North Street, added architectural detail as recommended by the Planning Department, architectural improvements to the rear of the 5600 square foot rear building to accommodate abutters; removal of existing telephone poll and the replacement of the utilities under ground for aesthetic purposes; lighting improvements to the back parking lot area as well as the front of North Street including the installation of at least one 30 foot decorative cast iron light fixture on North Street; the implementation of the green buffers to accommodate abutters; the exclusion of residential housing allowed by right in the rear building, to accommodate abutters; the installation of drainage rain gardens and the use of other green methods in the demolition process and the design of the property.

As indicated, the relief sought is for medical and dental use, however, the applicant intends to have the physicians and in particular the neurosurgeons their own portion of the building. The small business ownership is a fundamental basis in which the growth incentive zone was founded and the economic benefits of such ownership have been proven over the years and is vital to the resurgence to the Hyannis Main Street Area. This project will bring not only jobs but a long term commitment to the area. This should also result in a substantial increase in tax revenue.

In short, the Applicant intends to convert the worst dilapidated building on North Street to an A+ property.

A. OLD BUSINESS (TO BE WITHDRAWN) (Public hearing) (Roll

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-022
INTRO: 09/03/09, 10/01/09**

**2010-022 CONTINGENT APPROPRIATION ORDER - REPLACEMENT OF THE
BARNSTABLE MARINA BULKHEAD**

ORDERED: that the Town Council raise and appropriate \$4,836,000 for the reconstruction of the entire deteriorated steel and timber sections of bulkhead at the Town of Barnstable marina in Barnstable Inner Harbor; contingent upon the passage of a Proposition 2 ½ capital exclusion override; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes, and be authorized to accept any grants or gifts in relation thereto, subject to further Town Council approval.

SPONSOR: Town Manager John C. Klimm
Councilor Ann B. Canedy

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-022

INTRO: 09/03/09, 10/01/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: August 31, 2009
SUBJECT: FY10 Appropriation for the Replacement of the Town Owned Bulkhead Located at the Barnstable Marina in the Barnstable Inner Harbor

BACKGROUND: A portion of the wooden bulkhead failed in spring 2008 leading to costly temporary emergency repairs. To reduce the cost of the emergency repairs the temporary repairs were only intended to stabilize the structure until full replacement could be completed. The existing steel bulkhead is showing signs of deterioration including: movement of the steel sheeting, failed/failing wales, and loss of soil material from behind the bulkhead as evidenced by subsidence in the parking lot. The loss of material from behind the bulkhead is causing shoaling under and around the adjacent floats and slips.

The existing bulkhead will be reconstructed either in its existing footprint or directly behind the existing bulkhead. The new bulkhead will be constructed of steel sheet piles, steel wales, and tiebacks to deadmen. In addition to the reconstruction of the bulkhead, paved areas and drainage systems surrounding the bulkhead will be replaced to improve the function and use of said areas. All permits have been received for the proposed project. Design and bid documents are complete are ready for public bid.

Failure of the bulkhead would significantly impact marina operations, including possible marina closure. This would lead to loss of revenue to the marina enterprise fund and loss of revenue to commercial enterprises that lease slips at the marina. In addition, there is a possible loss of infrastructure (sewer, water, electrical, roadway) with high risk to public health and safety. The loss of sewer infrastructure could impact the entire neighborhood due to the location of the Freezer Road pump station. Shellfish resources in Barnstable Harbor, and nearby swimming beaches, could be negatively impacted if loss of the sewer infrastructure results in a wastewater spill into Barnstable Harbor.

FISCAL IMPACT: The cost of the bulkhead replacement will be financed with additional property taxes if approved by a majority of voters. If approved by the voters, a capital exclusion override allows the Town to raise additional real estate and personal property taxes for one year to finance the capital expenditure. A capital exclusion for \$4,836,000 would raise the Town's tax rate by approximately 32 cents based on the Town's current assessed valuation. This would translate into an additional \$32 per \$100,000 of taxable assessed property value.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the appropriation order contingent upon a favorable Proposition 2 ½ capital exclusion override vote.

STAFF SUPPORT: Mark S. Ells, Director of Public Works and Mark Milne, Finance Director

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-023
INTRO: 09/03/09, 10/01/09**

**2010-023 APPROPRIATION AND TRANSFER ORDER \$25,000.00 CAPITAL TRUST
FUND 296 NORTH STREET HYANNIS (ZION MUSEUM)**

ORDERED: That the sum of Twenty-five thousand and NO/100 (\$25,000.00) Dollars be appropriated for roof repairs and replacements on the buildings having a street address of 296 North Street, Hyannis shown on Assessors Map 308 as Parcel 029 and leased by the Town to the Zion Heritage Museum, Inc. for the Zion Museum; that to meet this appropriation the sum of Twenty-five thousand and NO/100 (\$25,000.00) Dollars be transferred from available funds within the Town’s Capital Trust Fund; that the lessee Zion Union Heritage Museum, Inc. be authorized to contract for and expend the total amount appropriated and that Town Manager, after compliance with all applicable laws; is authorized to accept any gifts or grants in relation thereto, subject to the approval of the Town Council.

SPONSOR: Councilor James H. Crocker, Jr., 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

ITEM# 2010-023
INTRO: 09/03/09, 10/01/09

SUMMARY

TO: Town Council
FROM: Mark Ells, DPW director
DATE: September 25, 2009
SUBJECT: Facility roof repairs

BACKGROUND: The original Zion Union Museum roof was installed in 1977 when the facility was expanded to accommodate an increase in membership. The existing roof is a three tab asphalt system that has reached the end of its useful life and is actively leaking. This project will focus on removal and replacement of the entire roof system including any deteriorated sub straight and or flashing. A ridge cap vent system will be installed to improve ventilation and numerous sections of fascia and soffit trim will be replaced as necessary. A new gutter system and downspouts will be installed with proper dry wells. The new roof will consist of a heavy weight, self sealing, and fifty-year architectural style shingle with full manufacturer's warranty.

The requested funds will allow us to fix the roof immediately to forestall damage to the interior of the building include artifacts, etc.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-030

INTRO: 09/17/09, 10/01/09

2010-030 APPROPRIATION & TRANSFER ORDER OF PROCEEDS FROM SALE OF SURPLUS EQUIPMENT TOWARD CONSTRUCTION OF HYANNIS YOUTH & COMMUNITY CENTER

ORDERED: That the Barnstable Town Council hereby appropriate \$31,831 for the purpose of the construction of the Hyannis Youth and Community Center and to meet this appropriation that the sum of \$31,831 be transferred from the General Fund municipal savings account.

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

SUMMARY

ITEM# 2010-030

INTRO: 09/17/09, 10/01/09

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: August 25, 2009
SUBJECT: Appropriation of \$31,831 to the Hyannis Youth and Community Center from the sale of items declared surplus at Kennedy Rink

BACKGROUND: Recreation Division is committed to providing leisure opportunities to improve the quality of life in the Town of Barnstable through exceptional programs and services. The Recreation Division responds to the needs of our community, most specifically the challenges associated with high rates of poverty; the inability of working families to provide safe, secure quality supervision and constructive activities for school-aged children. After school programs, sports and recreational activities have always played an important role in the development of the children and young adults of Barnstable. In this difficult economy, the Barnstable Recreation Division is called upon to play a more significant role in maturing our young people physically, emotionally, and socially.

ANALYSIS: Upon the declaration of the Lt. Joseph P. Kennedy, Jr. Memorial Skating Rink materials being declared surplus, a bidding process was conducted through the Town's Purchasing Agent Johanna Boucher for the sale of two Zambonis. The 1984 Zamboni had a minimum bid of \$3,000. Upon bid opening, the high bidder was the Zamboni Company with a bid of \$4,276. The 1997 Zamboni had a minimum bid of \$9,000 and the high bidder was Rocky Mountain Rink Supply with a bid of \$27,555. The total is \$31,831. The high bidders were responsible to arrange for pick up of their purchases.

FISCAL IMPACT: The \$31,831 received for sale of the Zambonis declared surplus prior to the demolition of the Kennedy Rink will be credited to the General Fund municipal savings account; reimbursing the account for this requested appropriation.

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

STAFF ASSISTANCE: Johanna Boucher, Purchasing Agent
David Curley, Recreation Director

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-033
INTRO: 10/01/09**

2010-033 ACCEPTANCE OF A BARNSTABLE COUNTY LAND MANAGEMENT GRANT

RESOLVED, that the Town Council does hereby accept the Barnstable County Land Management Grant Program Award in the amount of \$2,000.00.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-033
INTRO: 10/01/09

SUMMARY

TO: Town Council
FROM: Growth Management
DATE: September 16, 2009
SUBJECT: Grant acceptance from the Barnstable County Land Management Program

BACKGROUND: Background: In August 2009, the Growth Management Department applied for funding from the Barnstable County Land Management Grant Program in the amount of \$2,000.00 to establish a Coastal Mitigation Nursery at the former Suni Sands Motel located on Craigville Beach Road in Centerville.

RATIONALE: Community Preservation Act funds were used to acquire this property for Open Space purposes. Approximately 2 acres will be used to establish a Coastal Mitigation Nursery to cultivate native plants for Town use. The Nursery will also include recreational walking paths and educational signage at each bed offering brief narratives of the plant material and its most effective use and optimal location. The project goal is to produce low maintenance native species to reduce Town costs for projects requiring these plant materials, and practice sustainable land management.

The Growth Management Department recently received notification that \$2,000,000 from the Land Management Grant FY10 Program has been awarded for this project. Work will commence upon grant acceptance. 75% of the grant will be awarded up front to begin the work and 25%.

A match in the amount of \$14,300.00 has been set aside from remaining acquisition funds for the purchase of starter materials. AmeriCorps Group Members will also contribute to this project during the fall planting stages.

STAFF SUPPORT: Alisha Stanley, Growth Management Department

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-034
INTRO: 10/01/09**

2010-034 CHANGE PRECINCT POLLING LOCATIONS

RESOLVED, that the Town Council confirm the polling location changes for the October 13, November 3 and December 8, 2009 elections to be as follows:

- Precinct 1 Barnstable-West Barnstable Elementary School, Route 6A, Barnstable
- Precinct 2: Community Center at St. George’s Greek Orthodox Church, Route 28, Centerville
- Precinct 3: Senior Center, 825 Falmouth Rd., Hyannis
- **Precinct 4: TEMPORARILY at the Community Center at St. George’s Greek Orthodox Church, Route 28, Centerville
- Precinct 5: Cape Cod Academy, 50 Osterville-West Barnstable Rd., Osterville
- Precinct 6: Gym of Christ Chapel, 2C Oak St., Centerville
- Precinct 7: Freedom Hall, Main Street, Cotuit
- Precinct 8: Hyannis Youth & Community Center/Rink, Bassett Lane, Hyannis
- Precinct 9: Town Hall, 367 Main St., 2nd Fl. hearing room, Hyannis
- Precinct 10: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 11: West Barnstable Community Building, Meetinghouse Way, West Barnstable
- Precinct 12: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 13: Town Hall, 367 Main St., 2nd Fl. hearing room, Hyannis

AND, the Town Council confirms the polling location changes for the January 19, 2010 elections and thereafter to be:

- Precinct 1 Barnstable-West Barnstable Elementary School, Route 6A, Barnstable
- Precinct 2: Community Center at St. George’s Greek Orthodox Church, Route 28, Centerville
- Precinct 3: Senior Center, 825 Falmouth Rd., Hyannis
- Precinct 4: Our Lady of Victory Church Hall, South Main St., Centerville
- Precinct 5: Cape Cod Academy, 50 Osterville-West Barnstable Rd., Osterville
- Precinct 6: Gym of Christ Chapel, 2C Oak St., Centerville
- Precinct 7: Freedom Hall, Main Street, Cotuit
- Precinct 8: Hyannis Youth and Community Center/Rink, Bassett Lane, Hyannis
- Precinct 9: Hyannis Youth and Community Center/Rink, Bassett Lane, Hyannis
- Precinct 10: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 11: West Barnstable Community Building, Meetinghouse Way, West Barnstable
- Precinct 12: Horace Mann Charter School, 730 Osterville-West Barnstable Road, Marstons Mills
- Precinct 13: Hyannis Youth and Community Center/Rink, Bassett Lane, Hyannis

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-034

INTRO: 10/01/09

SUMMARY

TO: Town Council
FROM: Town Manager John C. Klimm & Town Clerk Linda Hutchenrider
DATE: September 16, 2009
SUBJECT: Changes in Precinct Polling Locations

BACKGROUND: This item is brought forward to confirm the precinct changes that will be taking place during the next 5 months. Due to the Town Special Election and the State Preliminary Election being set for dates that are not normally on the election calendar, and due to other extenuating circumstances, some of the existing polling locations have to be changed in order for elections to take place.

Precinct 4 will be voting with Precinct 2 through the end of 2009 and will then return to Our Lady of Victory Church. Beginning in January of 2009, three of the Hyannis precincts will be voting together in the gym at the new Hyannis Youth and Community Center/Skating Rink. This consolidation will put the precincts in a location that is more accessible and will have better parking facilities.

FISCAL IMPACT: Very little. There will be a savings on programming one handicap accessible machine for Precincts 2 and 4; and then the same savings will be continued with grouping Precincts 8, 9, and 13 together in the rink. There will be a savings of one less police officer for Precincts 2 and 4; and there will be discussion on whether one or two police officers should be on duty at the rink. There will be no additional costs; and a possibility of a savings of less than \$2,000 per election.

B. NEW BUSINESS (Refer to joint public hearing with planning board 10/15/09) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-035
INTRO: 10/01/09**

2010-035 EXTENDING THE TIME THAT THE TEMPORARY RECREATIONAL SHELLFISH AREA AND SHELLFISH RELAY OVERLAY DISTRICT SHALL REMAIN IN EFFECT UNTIL MAY 3, 2010

ORDERED that:

The period of time that the Temporary Recreational Shellfish Area and Shellfish Relay Area Overlay District established under Section 240-37.1 of the Code of the Town of Barnstable shall remain in effect is hereby extended until May 3, 2010.

SPONSOR: Town Councilor Richard G. Barry

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-035
INTRO: 10/01/09

SUMMARY

TO: Barnstable Town Council
FROM: Councilor Richard Barry
DATE: September 21, 2009
RE: Recreational Shellfish Area and Shellfish Relay Area-extend temporary moratorium

BACKGROUND: The Coastal Resources Management Committee (CRMC) was created by Town Council action to address the issues raised during the 2007 discussion on the Recreational Shellfish and Shellfish Relay Overlay District zoning ordinance hearings. They began their work after the 30 day appeal period for the temporary moratorium action as soon as the committee was constituted. This group led by the Chair, Bob Jones has met twice a month since May 28, 2008 and are nearly completed with their task to update the 1990 Camp Dresser McKee Coastal Resources Management Plan which includes the Three Bays, Easy Bay and the Centerville River coastal areas. This plan will include strategies for addressing coastal use issues including any recommended local legislation. This is the process set in place when the dock and pier moratorium was imposed.

The CRMC will have the final copy of the updated plan to the Council in November. The CRMC has requested a Town Council workshop acknowledging scheduling constraints during November and December which may put a workshop off until January.

The current moratorium expires on November 3, 2009. The additional time is necessary to complete Management Plan review and allow for any time sensitive recommendations to be implemented.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-036
INTRO: 10/01/09**

2010-036 ACCEPTANCE OF \$7,300 FY09 BULLETPROOF VEST PARTNERSHIP GRANT

RESOLVED, that the Barnstable Town Council does hereby accept fiscal year 2009 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs in the amount of \$7,300.00.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

BULLETPROOF VEST PARTNERSHIP GRANT

ITEM# 2010-036
INTRO: 10/01/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: September 21, 2009
SUBJECT: Acceptance of FY09 Bulletproof Vest Partnership Grant

BACKGROUND: The Barnstable Police Department applied for and was awarded the Fiscal Year 2009 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs in the amount of \$7,300.00.

The Barnstable Police Department proposes that this funding be used to fund up to 50% of the cost of bulletproof vests purchased or replaced by the police department. Replacement of vests is recommended every 5 years, as the reliability of the vest deteriorates over time and use. The remaining 50% of the cost of the vest is available through the Massachusetts Executive Office of Public Safety, but only upon receipt of payment from the Federal program.

ANALYSIS: The acceptance of this grant will allow the Department to replace bulletproof vests and maintain safety standards for replacement of these vests on behalf of each police officer.

FISCAL IMPACT: This is a reimbursement grant and funds are required from the vendors at the time of purchase of the vests.

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# 2010-037
INTRO: 10/01/09**

2010-037 ACCEPTANCE OF A FY09 \$98,919 GRANT FROM THE US DEPT OF JUSTICE

RESOLVED: That the Barnstable Town Council does hereby accept fiscal year 2009 Edward Byrne Memorial Justice Assistance Grant: Local Solicitation from the United States Department of Justice in the amount of \$98,919.00.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-037
INTRO: 10/01/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: September 21, 2009
SUBJECT: FY09 Byrne Memorial Justice Assistance Grant: Local Solicitation

BACKGROUND: The Barnstable Police Department applied for and was awarded the FY09 Byrne Memorial Justice Assistance Grant: Local Solicitation from the United States Department of Justice, in the amount of \$98,919.00. This grant has been deemed to be a disparate certification allocation to be distributed among four towns as outlined below based on a prescribed grant formula amount for each town, the Town of Barnstable will act as the grant administrator and fiscal agent for all towns:

Town of Barnstable: \$6,480 to be expended for the purchase of Municipal Police Institute On-Line Training software for In-Service; Roll Call; Legal Updates; and Special Promotional Training.

\$14,280 to be expended for the purchase of Crime Mapping Software to be used in the Crime Analysis process.

\$22,037 to be expended for the purchase of air card service to enable mobile connectivity between police cruiser and the internal police software and Internet, so that the police officers can continue their patrols without having to return to the station.

Town of Bourne: \$13,212 to be expended on overtime for investigative purposes for investigation of property crimes in the Town of Bourne.

Town of Falmouth: \$21,253 to be expended on overtime to continue an ongoing Community Liaison program in which officers are assigned to a neighborhood group, association and/or business group.

Town of Yarmouth: \$21,557 to be expended on overtime to initiate a pro-active response to community problems associated with drug abuse and the distribution of prescription drugs within the Town of Yarmouth.

ANALYSIS: The acceptance of this grant will allow the aforementioned police departments to take action on the programs as described previously.

FISCAL IMPACT: There is no matching funding required for this grant. This is a reimbursement grant as expenses are incurred up to the total dollar amount of the grant. The Town of Barnstable Police Department will serve as the fiscal agent for all of the towns and will be responsible for all grant reporting, reimbursement of funds and drawdowns.

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

STAFF ASSISTANCE: Paul B. MacDonald, Chief of Police