



Town of Barnstable Town Council

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President

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Janice L. Barton
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James H. Crocker, Jr.
Debra S. Dagwan
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
John T. Norman
Tom Rugo
James M. Tinsley

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

TOWN COUNCIL MEETING AGENDA December 3, 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**
 - **Coastal Resources Management Plan Report**
 - **Nomination of officers**
- 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 17th

A. OLD BUSINESS

2010-016	Appropriation & transfer \$137,500 from Community Preservation Fund set aside for open space (Public hearing continued) (Roll-call)	3 - 4
2010-049	Appropriation of \$40,000 for development of Federal Aviation Authority airspace mapping (Public hearing) (Roll-call)	5 - 6
2010-052	Appropriation \$126,000 the administrative cost expense for the additional FY10 elections (Public hearing) (Roll-call)	7 - 8
2010-057	Resolve to adopt the budget policy for FY11 (Second reading)	9 - 11

B. NEW BUSINESS

2010-059	Acceptance of a \$3,000 grant from Cape Cod Commission Technical Assistance Program (May be acted upon)	12 - 13
2010-060	Acceptance of a \$3,360 grant from the Cape Cod Cooperative Extension (May be acted upon)	14 - 15
2010-061	Overdraft order for FY10 snow and ice removal (May be acted upon)	16 - 17
2010-062	District of Critical Planning Concern Craigville Beach District implementation regulations (Refer to the planning board for public hearing)	18 - 29
2010-063	Approve a conservation restriction in Barnstable Village (Welsh and Mitchell, Grantors and Barnstable Land Trust, Inc., Grantee) (First reading)	30 - 32
2010-064	Approve a conservation restriction in Barnstable Village (Kaess, Grantors and Barnstable Land Trust, Inc., Grantee) (First reading)	33 - 35
2010-065	Amend the Administrative Code, Chapter 241 by adding Section 241-45.2 establishing a Renewable Energy Commission (Refer to public hearing 01/21/10)	36 - 38

Minutes – October 15, 2009 and November 19, 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 continued) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-016

INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09, 10/15/09, 11/05/09, 11/19/09, 12/03/09

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

ITEM# 2010-016

INTRO: 08/06/09, 09/03/09, 09/17/09, 10/01/09, 10/15/09, 11/05/09, 11/19/09, 12/03/09

SUMMARY

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 (Public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-049
INTRO: 11/19/09, 12/03/09

2010-049 APPROPRIATION \$40,000 FOR GRAPHIC DEPICTION-FAA REGULATED AIRSPACE

ORDERED: That the sum of Forty Thousand Dollars and no cents (\$40,000.00) be appropriated for the purposes of funding the development of a computer GIS-based graphic depiction of Federal Aviation Administration (FAA)-regulated airspace; and that to meet this appropriation, \$40,000 be transferred from available funds within the Airport Reserve Fund, and that the Town Manager is authorized to contract for and expend the Appropriation made available for this purpose, and be authorized to accept any grants or gifts in relation thereto.

SPONSOR: Town Manager John 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# 2010-049

INTRO: 11/19/09, 12/03/09

DATE: November 4, 2009
TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager, (2) Barnstable Municipal Airport Commission
SUBJECT: Computer GIS-Based Graphic Depiction of FAA-Regulated Airspace

BACKGROUND: The Barnstable Municipal Airport, in conjunction with the Growth Management Department, the Energy Coordinator, the Department of Public Works, and the IT Division (GIS Program), have identified a need to develop a GIS-based graphic depiction of FAA-regulated airspace that affects the heights of structures within the Town of Barnstable airspace. The Town has been faced with various development and infrastructure projects, ranging from hotels to wind turbines, which have conflicted with FAA airspace surfaces. The Town has an opportunity to develop a GIS-based airspace protection zone mapping and elevation process that will coordinate FAA airspace standards with the Town's strategic land use planning program. This will also ensure consistency with FAA airspace surfaces which protect landing and departure procedures at Barnstable Municipal and Marstons Mills Airports, as required as part of the FAA's Grant Assurances from the Town.

ANALYSIS: The project will be closely coordinated with the Town's GIS staff, airport personnel and FAA airspace specialists. Existing GIS data from the Town of Barnstable will be included for roadways, topography, assessor's parcels, water features, aerial imagery, and USGS quad sheets, as well as airport-developed data for digital elevation modeling, Part 77 and Terminal Instrument Procedure (TERPs) surfaces, runway threshold elevations and applicable runway approach and departure procedures. The interactive data files will incorporate a series of layers depicting the numerous airspace surfaces and local features for the Town of Barnstable. The Town's GIS operators and land use planning specialists will be able to click on anywhere in the planning area and be able to identify the airspace surface, its height and geometry, as well as the ground elevation and degree of penetration or clearance of any object's height. Any underlying base map information, such as parcel data or building configurations, can be identified at the same time, providing an effective planning tool for the Town.

FISCAL IMPACT: This appropriation of funds will be sufficient to complete the project and there are adequate airport surplus funds. This appropriation will not be added to the base operating budget of the airport enterprise fund going forward. The frequency of the need to update the plan depends upon the frequency with which the FAA may alter the national and local airspace plans; and the cost to update and maintain the plan would be dependent upon the scope of the change.

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

BOARD AND COMMISSION ACTION: Project Approved by Barnstable Municipal Airport Commission as part of the FY2010-FY2014 FAA/MAC Capital Improvement Program, and as a Town of Barnstable FY2010 Supplemental CIP Request.

STAFF ASSISTANCE: R. W. Breault, Jr., Airport Manager; Mark Ells, DPW Director; Richard Elrick, Energy Coordinator; James Benoit, GIS Supervisor

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

BARNSTABLE TOWN COUNCIL

ITEM#: 2010-052
INTRO: 11/19/09, 12/03/09

2010-052 APPROPRIATION – \$126,000 FOR ADDITIONAL FY10 ELECTIONS EXPENSES

ORDERED: That the Barnstable Town Council hereby appropriates \$126,000 for the FY 2010 Administrative Services Department budget and that this amount be used to cover the costs associated with conducting five additional elections in FY 2010.

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# 2010-052
INTRO: 11/19/09, 12/03/09

TO: Town Council
FROM: John C. Klimm
THROUGH: Linda Hutchenrider, Town Clerk
DATE: November 10, 2009
SUBJECT: Appropriation Order – Elections

BACKGROUND: The Town budgets for one election per year on Town Election years to pay for the November election. This year, due to multiple candidates, there was a need for a second (preliminary) election. The council also set up a special election to be held in October; and the State will be having two special elections one in December and another in January to replace Senator Kennedy. Finally, a recall election has been scheduled for December.

ANALYSIS: The Town Clerk's office is one of mandates, and the elections are mandated functions and must be held and paid for. This appropriation pays for the five additional elections scheduled.

FISCAL IMPACT: Funding for this appropriation will come from the municipal savings account. This account has over a \$2.8 million balance, subject to the Massachusetts Department of Revenue certification. The town's current policy is to use the municipal savings account for one-time type of expenses and these expenses fall into this category. This appropriation will not be added to the FY 2011 Town Clerk operating base budget.

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

STAFF ASSISTANCE: Linda Hutchenrider, Town Clerk
Mark Milne, Director of Finance

A. OLD BUSINESS (Second reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-057
INTRO: 11/19/09, 12/03/09**

2010-057 ADOPT THE BUDGET POLICY FOR FY11

RESOLVED, That the Town Council hereby adopts the following budget policy for the fiscal year 2011.

FY 2011 TOWN COUNCIL BUDGET POLICY STATEMENT

The Barnstable Town Council established the following policy guidelines for the Town of Barnstable's operating budget:

1. REVENUE POLICY AND ORDER OF PRIORITY:

- a. To maintain a comprehensive and sound financial plan for meeting the prioritized operating and capital needs of the town within the confines of available resources.
- b. To limit the increases on the property tax revenues to 2½ percent plus new growth.
- c. To maintain adequate fund balances and reserves at 4 percent of the general fund budget appropriation, net of transfers, to be set apart from certified free cash to protect against emergencies and unforeseen calamities.
- d. To support a revenue sharing agreement between municipal and school operations that includes the following:
 - i. Increases in General Fund revenue will be shared 60/40 between school and municipal operations net of the amount set aside to cover fixed costs increases.
 - ii. General Fund savings reserves in excess of the 4 percent reserve mentioned in item c. above will be made available for funding non-recurring municipal and school operating expenses.
 - iii. The municipal and school operations savings account will continue to be credited with their respective appropriation savings from FY 2011; and excess General Fund revenue over budget estimates for FY 2011 will be shared 60/40 between school and municipal operations.
- e. To seek new sources of funding through grants, impact fees, and other innovative revenue raising practices.
- f. Explore and create new revenue sources (including grants) for the town and schools to alleviate strain on municipal and school budgets and perform operational audits and work toward greater energy efficiency.
- g. To ensure that enterprise programs shall be self-supporting, except where the provision of basic public services require general fund support.
- h. To utilize revolving funds to fund senior service programs, recreational programs, shellfish propagation, building inspections, GIS and consumer protection programs.
- i. To maximize interest income through sound investment practices.
- j. To maintain a capital trust fund by dedicating a minimum of \$6,725,000 in general funds annually and to enhance the fund where possible with revenues or expenditure reductions not otherwise necessary to sustain operations, or through grants and gifts.
- k. To aggressively pursue tax title payments for prior tax commitments.

- l. Increase the education efforts in disseminating to the general public the municipal/school financial position including a detailed, clear. And easy to understand explanation of operational and capital budgets.
- m. Continue to support lobbying efforts to change the Chapter 70 funding formula (changed in FY2006), Lottery aid and Municipal Aid.

2. EXPENDITURE POLICY AND ORDER OF PRIORITY:

- a. To not increase the net size of the municipal workforce and to reduce the municipal workforce, where possible, to levels necessary to provide efficient and effective services, first through retirements, second by attrition, and lastly through force reductions; however, where a legitimate need can be demonstrated, any requests for new or additional Town personnel can be brought forward for Town Council approval. In the event reductions to the labor force affect the ability to deliver a quality service, such service should be considered for its possible elimination.
- b. To maintain a consolidated administrative structure that will stabilize net operating costs, provide for cross training of employees, and improve service delivery by emphasizing:
 - i. Continued use of information systems technologies as a tool to increase performance efficiencies.
 - ii. Continued implementation of quality improvements in the operating departments of the Town.
 - iii. Continued implementation of a “user friendly” public service program for permitting, licensing and payment of taxes and fees.
 - iv. Continued implementation of innovative, cost-effective and meaningful programs and services and improve efficiency in the use of equipment and personnel.
- c. To ensure cost benefit analysis is performed on newly proposed programs to ensure cost efficiency and cost avoidance in implementation.
- a. Evaluate and assess on an on-going basis alternative methods to decrease the cost of services by exploring the financial benefits of regionalization, consolidation, privatization and collective bargaining.
- b. Continued implementation of a municipal public relations program that encourages community understanding of and participation in local government and that responds to constituents’ requests and needs.
- c. Provide for adequate maintenance and repair of Town-owned property, maintain or improve the current level of service to the public schools and other municipal facilities through more efficient use of equipment and personnel.
- d. Continue efforts to address infrastructure critical needs including but not limited to roads and wastewater needs.

SPONSOR: John C. Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-057
INTRO: 12/03/09

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: November 20, 2009
SUBJECT: Adoption of budget policy

RATIONALE: The available resources for funding the fiscal year 2011 capital and operating budgets are anticipated to decline due to the condition of the national, state and local economies. It is very likely that reductions to staff and services will have to be considered in order to balance the budget for fiscal year 2011. Having the Town Council adopt a timely budget policy will allow the town and school management to proceed with developing a budget that is deliberate and complete.

STAFF ASSISTANCE: Mark Milne, Finance Director and Robert O'Brien, Budget Director

B.

NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-059

INTRO: 12/03/09

2010-059 ACCEPTANCE OF A \$3,000 GRANT FROM THE CAPE COD COMMISSION

RESOLVED, that the Town Council hereby accepts a grant award in the amount of \$3,000.00 from the Cape Cod Commission to be used to engage the services of an housing development consultant for the 46 Pearl Street project.

SPONSOR: Town Manager John C. Klimm

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-059
INTRO: 12/03/09

SUMMARY

GRANT ACCEPTANCE
46 PEARL STREET HOUSING DEVELOPMENT

TO: Town Council
FROM: Town of Barnstable Board of Assessors
FROM: Jo Anne Buntich Miller, Director of Growth Management
DATE: November 20, 2009

BACKGROUND: The Growth Management Department applied for and has been awarded a grant from the Cape Cod Commission's Technical Assistance Program in the amount of \$3,000. The funds will be used to contract with a development consultant to provide development recommendations and a financial feasibility analysis for affordable rental units at 46 Pearl Street. This property is committed to creation of affordable units as a condition of its purchase using CDBG funds and is also integral to the Pearl Street arts district, an economic development initiative.

No matching funds are required.

STAFF ASSISTANCE: Special Projects Coordinator Arden R. Cadrin, Affordable Housing.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-060

INTRO: 12/03/09

2010-060 ACCEPTANCE OF A \$3,360 GRANT FROM CAPE COD COOPERATIVE EXTENSION

RESOLVED: That the Town Council hereby accepts a Cape Cod Cooperative Extension Wildfire Assessment and Preparedness Program Land Management and Wildfire grant in the amount of \$3,360 for phase I of selective invasive plant management at the “Field of Dreams”, West Barnstable Conservation Area

SPONSOR: Town Manager John C. Klimm

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-060
INTRO: 12/03/09

DATE: November 23, 2009
TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Thomas F. Geiler, Director, Regulatory Services Department
SUBJECT: Grant Acceptance and Transfer Order

BACKGROUND: Cape Cod Cooperative Extension grant funding in the amount \$3,360, has been secured for Phase I, selective invasive plant management in the “Field of Dreams”, located in the West Barnstable Conservation Area. This is one of the goals listed in the Wild Fire Preparedness Plan for West Barnstable Conservation Area and Adjacent Open Space Lands, adopted by our town. The Barnstable Conservation Commission received 6 grant awards, in the last 5 years to be used towards achieving goals listed in the plan.

The funding will cover herbicide treatment for two fields, totaling 8 acres. The goal, removal of asiatic bittersweet, shrub honeysuckle, autumn olive, multiflora rose and rough leaved goldenrod, part one of a 3 year management outline. These fields are enjoyed by hikers, mountain bikers, and hunters. The wild fire plan states this area should be maintained as a wildlife clearing by removing any nonnative vegetation.

ANALYSIS: The Cape Cod Cooperative Extension grant funding provides the Town with cost-effective means to address and combat wildfire hazards on town-owned or town administered open space tracts.

FISCAL IMPACT: The local match requirement for the grant is \$1,260.00. It will come from the Conservation land management budget and will be used also for herbicide treatment of vine honeysuckle.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends favorable action.

BOARD AND COMMISSION ACTION: Maintaining the fields as an open wildlife habitat is as a top priority in the original Conservation Commission Land Management Plan written specifically for the West Barnstable Conservation Area, adopted by the Town of Barnstable in 1992.

STAFF ASSISTANCE: Darcy Karle, Conservation Division

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-061
INTRO: 12/03/09**

2010-061 FY10 SNOW & ICE REMOVAL OVERDRAFT ORDER

ORDERED: That pursuant to Chapter 44, Section 31D MGL, which provides for the ability of the Town to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal; the Town Council approves expenditures in excess of available appropriation for snow and ice removal for fiscal year 2010, subject to further approval action by the Town Manager

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-061
INTRO: 12/03/09

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Mark S. Ells, Director
DATE: November 25, 2009
SUBJECT: Snow and Ice Overdraft

BACKGROUND: It is customary to approve an overdraft authorization to ensure that snow and ice operations are not interrupted or suspended when the amount contained in the regular appropriation for this purpose is expended. For FY 2009, the Town appropriated \$600,000 for this purpose.

ANALYSIS: Chapter 44, Section 31D, MGL provides in part that “any city or town may incur liability and make expenditures in excess of available appropriations for snow and ice removal provided that such expenditures are approved by the city manager and the city council in a city having a city manager....; provided, however, that the appropriation for such purposes in said fiscal year equaled or exceeded the appropriation for said purposes in the prior fiscal year. Expenditures made under authority of this section shall be certified to the Board of Assessors and included in the next annual tax rate.”

FISCAL IMPACT: The Town annually appropriates \$600,000 for said purpose. In FY09 the total expended was \$1,224,585. Expenditures for preceding years were as follows:

FY08 - \$750,528.53
FY07 - \$322,683.99
FY06 - \$668,803.13
FY05 - \$1,933,038.52
FY04 - \$684,228.35
FY03 - \$835,604.02
FY02 - \$196,711.06
FY01 - \$209,189.48
FY00 - \$344,584
FY99 - \$656,097.22
FY98 - \$108,226
FY97 - \$380,145
FY96 - \$1,130,160
FY95 - \$139,362
FY94 - \$801,485

STAFF ASSISTANCE: Mark S. Ells, Director, Department of Public Works

B. NEW BUSINESS (Refer to planning board for public hearing)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-062

INTRO: 12/03/09

2010-062 DCPC IMPLEMENTING REGULATIONS-CRAIGVILLE BEACH DISTRICT

ORDERED:

Preamble: This section is adopted as a zoning implementing regulation of the Craigville Beach portion of the Craigville Beach District of Critical Planning Concern (DCPC). Included in this order: **Section 1** amends the Zoning Map to create the Craigville Beach District; **Section 2** adopts the Craigville Beach District Implementing Regulations. **Section 3** incorporates the DCPC implementing regulations into the Town of Barnstable Zoning Ordinances upon approval by the Cape Cod Commission and **Section 4** adds the Centerville Beach District to the Town of Barnstable Ordinance Article II, § 240-5 Establishment of Districts, Residential Districts.

Section 1

Craigville Beach District Map

That the Zoning Map of the Town of Barnstable is hereby amended by rezoning portions of the RB, RC, RD and RD-1 zoning districts in Centerville and a small portion of western Hyannis to the Craigville Beach District as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Craigville Beach District" dated July 16, 2009 Index Sheets Hyannis Sheet 3 of 7 and Centerville Map 4 of 7 creating the Craigville Beach District".

Section 2

Craigville Beach District Implementing Regulations

That Chapter 240, The Zoning Ordinance is hereby amended by adding to Article XIV District of Critical Planning Concern Implementing Regulations a new § 240-131 adding Craigville Beach District Implementing Regulations as follows:

§240- 131 Authority

This section is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§240-131.1 Purposes and Intent

- A. The purpose and intent of this section is to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 08-06 to ensure that development and redevelopment:
- (1.) Contributes to and respects the character and historic development patterns of the area; lessens inconsistent development and redevelopment impacts to the historic and community character resources in this area;
 - (2.) Protects and preserves scenic views and vistas and ways to the water;
 - (3.) Protects and improves natural resources including but not limited to the barrier beach and groundwater and coastal water quality; lessen development and redevelopment impacts to the natural resources and ecosystems in this district;
 - (4.) Protects human life and property from the hazards of periodic flooding,
 - (5.) Preserves the natural flood control characteristics and the flood control function of the flood plain,
 - (6.) Preserves and maintains the ground water table and water recharge areas within the floodplain. As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately

landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection.

240-131.2 District Boundaries

A. The provisions of this ordinance shall apply within the Craigville Beach District (CBD), as shown on the Zoning Map of the Town of Barnstable as amended.

B. **Neighborhood Overlays.** For the purpose of this section the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Zoning Map and identified as: .

LBSB: Long Beach/Short Beach
CB: Craigville Beach
CRNB: Centerville River North Bank
CV: Craigville Village

§ 240-131.3 Definitions

Accessory Use or Building-- A use or structure which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal use or structure.

Base Flood Elevation (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Beach Club -- A membership establishment legally in existence at the time of the adoption of this ordinance, not open to the general public, located in close proximity to a beach and providing recreational and social activities, including food service, to members.

Building Coverage - The percentage of a lot covered by principal and accessory buildings or structures. For the purposes of this section, this definition does not include uncovered swimming pools and tennis courts, and decks not exceeding 100 square feet or 10 feet in length.

Building Height –The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys, flagpoles or other similar appurtenances as approved by the Building Commissioner.

Common Driveway – A form of access which is not a street but extends from a street and provides common vehicular access to more than one (1) lot. For the purposes of calculating Lot Coverage, the common driveway's Impervious Surfaces shall be equally allocated among the lots served and/or benefited by the common driveway in proportion to the sizes of the lots.

Conference Center – A non-profit religious and educational use legally in existence at the time of the adoption of this section comprised of guest houses and cottages, single family residences, recreational areas, lodging for guests, meeting spaces, and summer recreational opportunities.

Cottage Colony – A group of three or more detached dwellings, under one ownership, legally in existence at the time of the adoption of this section located on a single lot, which are customarily rented out to the transient public by day, week, month, or season and occupied on a seasonal basis only. Cottage colonies shall not be used year round. Cottage colony structures shall not exceed one and one-half stories and 800 s.f. GFA.

Elevated Structure - A structure elevated for the purpose of Barnstable Code, Section 240-34, Flood Area provisions whose lowest structural member is 1' above BFE in A zones and 2' above BFE in V zones.

FEMA – Federal Emergency Management Agency.

FEMA Flood Zones - Geographic areas susceptible to inundation by water that FEMA has mapped according to varying levels of flood risk, as defined and delineated on a community's Flood Insurance Rate Map as may be amended from time to time.

FIRM – Flood Insurance Rate Map.

Grade – The referenced plane of the average of all finished ground levels adjoining the building or structure for a distance of 6 feet from all exterior walls. Retaining walls for mounded septic systems mandated by the Board of Health are not included in the calculation of grade.

Gross Floor Area – The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of

walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

Half Story – That space above the plate line but below the ridgeline in an area commonly called the “attic space”, provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.

Impervious Surface A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, sidewalks, etc. Any area designed for vehicle use or vehicle parking covered with porous pavers, which may become impervious over time may, at the discretion of the Building Commissioner be considered impervious surface.

Lot Area – For the purpose of determining Maximum Building Coverage and Maximum Lot Coverage Allowances the lot area for legally created lots that are vacant or developed and/or improved as of November 6, 2009 shall be the horizontal area of the lot defined by metes and bounds. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year.

Lot Coverage - The percentage of a lot covered by Impervious Surfaces. For the purposes of this section, paved driveways and parking areas, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious shall be included in the definition of lot coverage.

Non-Profit Educational Use – An educational use conducted by a not for profit corporation whose articles of incorporation permit it to engage educational activities and “educational purposes” as its principal permitted use within the meaning of Massachusetts General Laws, Chapter 40A, sec. 3, including but not limited to libraries and museums.

Open Foundation: A pile or column foundation designed for structures in flood zones that minimizes the foundation area subject to lateral flood loads. Open foundations are intended to prevent flotation, collapse, and lateral movement of a building during a flood-event.

Religious Institution – An institution engaged in “religious purposes” within the meaning of Massachusetts General Laws, Chapter 40A, Section 3.

Seasonal Use – A use carried on for only a part of the year. Typical seasonal uses are outdoor recreational activities such as swimming and boating both motorized and non-motorized; impermanent use of cottages, motels, hotels, letting of rooms in a residential structure and letting an entire residential structure.

Seasonal Use Structure – Any structure designed or used as temporary seasonal living quarters that is not used as a primary, permanent residence. Seasonal use structures may have heat and other amenities but do not deposit wastewater into wastewater treatment systems on a regular year round basis and do not withdraw water for consumption or other activities on a regular year round basis.

Single Family Residence - A detached residential building designed for and occupied by a single family.

Small-Scale Food Service – An establishment legally in existence at the time of the adoption of this section where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

Special Permit Granting Authority (SPGA) - The Zoning Board of Appeals shall be the special permit granting authority within the Craigville Beach District.

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.

Structure- Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, sheds, swimming pools and towers, but shall exclude fences of 6 feet or less in height and flag poles.

Upland – All lands not defined herein as wetlands.

V (Velocity) Zone—The area extending from mean low water to the inland limit 100 year floodplain supporting waves greater than three (3) feet in height. V-zones are mapped on the FEMA FIRM.

Wetland – The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune, or other shifting sand formation.

Section 240-131.4 Craigville Beach District Use Regulations

Municipal uses are exempt from these regulations.

Principal Permitted Uses. See 240-131.7 (Neighborhood Overlay Regulations) herein.

A. Use Limitations

- (1.) Any use not expressly allowed herein is prohibited.
- (2.) The conversion of any building or structure from seasonal use to year round use is prohibited, except that Single Family Residences are not subject to this use limitation. The conversion of a building, or buildings, constituting a cottage colony, hotel, inn or rooming house, or of a facility required to be licensed as a recreational camp, overnight camp or cabin, or motel under S. 32A to I of Chapter 140 of the General Laws, to condominium-type ownership, shall be deemed to be a change in use from seasonal to year-round use, and is prohibited.
- (3.) Permitted business and retail uses shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than fourteen (14) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

B. Exempt Uses

- (1.) Religious institutions, accessory day care centers, and Non-Profit Educational uses are permitted as exempt uses within the Craigville Beach District. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the Craigville Beach District as set forth in Sections 240-131.1 Purposes and Intent, § 240-131.5 Dimensional, Bulk and Other Regulations, § 240-131.7 Neighborhood Overlay Regulations including General Performance Standards and applicable Neighborhood Performance Standards
- (2.) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use, provided however that the relief granted will not create a public safety hazard along adjacent roadways and will not adversely impact natural resources or create a nuisance or adverse impacts to other surrounding properties. A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

C. Continuation. Any lawfully established lot, structure or use existing at the time of the adoption of this section that does not conform to the provisions of the CBD shall be allowed to continue.

D. Change, Expansion or Alteration of Uses and Structures

Existing conforming or non-conforming uses and structures lawfully existing at the time of the adoption of this ordinance may continue subject to the following:

- (1) As of right
 - a) The normal and customary repair and maintenance of a building or structure and the conversion of existing floor area to habitable space is permitted as of right.
 - b) The alteration and expansion of a building or structure is permitted as of right provided that the alteration or expansion shall conform to following criteria:
 1. Conforms to applicable height requirements of § 240-131.5.
 2. Does not exceed the Coverage Limitations set forth in § 240-131.6
 3. Complies with applicable General and Neighborhood Performance Standards.
- (2) By Special Permit
 - (a) The alteration or expansion of an existing conforming or non-conforming lawfully established building or structure that does not qualify under the “as of right” provisions above shall be permitted only by a special permit from the SPGA. In granting such special permit, the SPGA shall find that the proposed alterations and/or expansions:
 - [1.] Are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure;

- [2.] Comply with Section 240-131.1 Purposes and Intent and with the Performance Standards for the Neighborhood Overlay area in which the development is located, in accordance with Section 240-131.7 Neighborhood District Overlay Regulations with the exception of the dimensional requirements of Section 240-131.7 D (1);
- [3.] Do not exceed 25% of the Gross Floor Area of structures in existence as of July 1, 1989 or 10% of the Gross Floor Area of structures in existence as of November 6, 2009.
- [4.] Do not increase Lot Coverage over what is allowed under § 240-131.6 Coverage Limitations or by more than 10% over what was existing on November 6, 2009, whichever is greater.
- [5.] Do not increase flood hazards in the neighborhood.
- [6.] Maintain or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with Section 240-131.5, note 4;
- [7.] In V-zones does not increase south facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of flood waters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way.

E. Special Permit for Dimensional Relief

The SPGA may provide relief from minimum yard setbacks when such relief ensures that the proposed development:

- (1) Is consistent with § 240-131.I Purposes and Intent;
- (2) Is consistent with the Performance Standards for the neighborhood district where the development is located in accordance with Section 240-131.7 Neighborhood Overlay Regulations; and
- (3) The applicant demonstrates undue hardship without desired relief.

F. Re-establishment of damaged or destroyed use, building or structure.

- (1.) The re-establishment of a lawfully established conforming or non-conforming use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:
 - a. The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade other than grades required for installation or upgrade of onsite septic systems; except that buildings in the flood plain that existed prior to November 6, 2009 may be elevated 2 feet above BFE or as required by the applicable law regardless of the resulting building height provided the building complied with building height regulations at the time of its construction.
 - b. If the building's location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations and with performance standards regarding building orientation.
 - c. The reconstruction or repair will not constitute an expansion or intensification of any use.
 - d. In the case of any use in which it would otherwise be required, the site plan review process has been followed.
 - e. Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction the design guidelines in this chapter do not apply.
- (2.) Any previously established use or structure which no longer complies with the provisions of the CBD shall be discontinued unless a building permit has been applied for within two

years from the date of damage or destruction, and construction is continuously pursued to completion.

Voluntary Demolition and Reconstruction of Single Family Residences: Lawfully established Single Family Residences may be demolished and reconstructed in accordance with §240-131.4 G. This provision shall not be construed to supersede local, state or federal regulations pertaining to the demolition of historic structures.

240-131.5 Dimensional, Bulk, and Other Requirements: The following requirements apply to all development and redevelopment in the Craigville Beach Zoning District.

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Requirements	For all legally created vacant lots the frontage and area in existence as of November 6, 2009 and/or legally developed lots that were in existence as of November 6, 2009 and conformed to the existing zoning when legally created, the existing lot area, lot frontage, front, side and rear setbacks and building height dimensions may be used in lieu of the following dimensional requirements.			
Minimum Lot Area (s.f.)	87, 120	87, 120	87,120	87,120
Minimum Lot Frontage (feet)	75	100	125	125
Min. Front Yard Setback (feet)	15	20	20	20
Min. Side Yard Setback (feet) ⁴	10	15	15 ⁴	15
Min. Rear Yard Setback (feet)	10	15	15	15
Maximum Building Height ^{1,2,3}	30	26	30	30
Maximum number of stories ³	2	2	2	2
Maximum Building Coverage	See Section 240-131-6			
Maximum Lot Coverage	See Section 240-131-6			

Dimensional table notes:

- (1.) Maximum Building Height allowances vary depending upon the roof pitch of the structure, with gable roofs having a slope of 7/12 or greater allowed the maximum building height, hip and other sloped roofs with a slope of 4/12 or greater are allowed 5 feet less than the maximum building height, and flat roofs prohibited except on one-story additions totaling less than 300 square feet per parcel.
- (2.) Buildings in the flood plain that existed prior to November 6, 2009 may be elevated 2 feet above BFE or as required by the applicable law provided the building complied with building height regulations at the time of its construction.
- (3.) The second story must be set back at least 2 feet from the façade line of the floor below on two of the building's facades and the second story floor area shall not exceed 80% area of floor area immediately below it.
- (4.) In the Long Beach/Short Beach Neighborhood, to preserve and enhance views of Craigville Beach and the Centerville River, a view corridor shall be preserved using 20 feet of either side setback or, where

side yard setbacks are less than 20 feet, the greater of either side yard setback existing on November 6, 2009. The view corridor shall remain free of view obstructing buildings, structures, site improvements or landscaping other than low growing plant material or existing natural vegetation for the entire depth of the property from the street to the river or beach.

240-131.6 Coverage Limitations: The following limitations apply to all development and redevelopment in the Craigville Beach Zoning District.

Lot Size	Maximum Building Coverage (footprint) Allowance	Maximum Lot Coverage Allowance
1,300-4,999 s.f.	1,100 s.f. plus 10.8% of lot area over 1,300 s.f.	50%
5,000-7,499	1,500 s.f. plus 6% of lot area over 5,000	50%, but no more than 3,200 s.f.
7,500-9,999	1,650 s.f. plus 6% of lot area over 7,500	3,200 s.f.
10,000-14,999	1,800 s.f. plus 4% of lot area over 10,000	3,300 s.f.
15,000-19,999	2,000 s.f. plus 6% of lot area over 15,000	3,400 s.f.
20,000-34,999	2,300 s.f. plus 4% of lot area over 20,000	3,600 s.f.
35,000-44,999	2,900 s.f. plus 4% of lot area over 35,000	3,600 s.f. or 10%, whichever is greater.
45,000 and above	3,300 s.f. plus 3% of lot area over 45,000	10%

Section 240-131.7 Neighborhood Overlay Regulations

A. Purpose: The Neighborhood Overlay regulations establish uses, dimensional requirements and design guidelines to **preserve** the distinctive character; allow continued use and enjoyment of properties and structures; make provisions for changes, expansions; protect and **preserve** scenic views and vistas; protect and improve natural resources; and to limit damage from periodic flood events for each neighborhood within the Craigville Beach District.

B. Historic and Community Character. These regulations will ensure that development and redevelopment in the CBD contributes to and does not detract from the historic character of the Craigville Beach area; that any proposed additions to historic structures shall be consistent with the historic structure and shall be consistent with the character of the surrounding neighborhood, including elements such as building height, mass and orientation; and preserves views and ways to the water from public spaces, streets and ways.

C. Applicability: Development and redevelopment shall be subject to the following additional requirements and regulations based upon the applicable Neighborhood Overlay.

D. General Performance Standards

- 1) The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it unless relief has been granted by the SPGA in accordance with Sections 240-131.4(E) and (F).
- 2) The development complies with the height limitations set forth herein.
- 3) Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials.
- 4) Stormwater management and erosion control for non-residential uses comply with best management practices through Low Impact Development or other adaptive management practice.
- 5) Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within.

E. Long Beach/Short Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

(3) Neighborhood Performance Standards All development and redevelopment shall meet the following standards:

(a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.

(b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. Any proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

(c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(d.) **Transitional Provision** Any development that has obtained a hardship approval from the Cape Cod Commission for a building permit prior to the effective date of this section shall not be subject to these regulations for the development authorized by said hardship exemption.

F. Craigville Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Craigville Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(b.) Small-scale food service

(c.) Beach club

(d.) Cottage colony

(e.) Hotel or motel in existence as of July 16, 2008 that is lawfully established

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Craigville Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

(3) Neighborhood Performance Standards: All development and redevelopment shall meet the following standards:

(a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited.

(b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of

flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

- (c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) Beach Club Design Guidelines

Purpose: To maintain public views to the water and to maintain the neighborhood's existing character with small scale building masses and natural or traditional building materials.

- (a.) **Building Height and Massing:** New construction on Beach Club properties shall have modest massings to relate to the small scale of most structures in the beachfront neighborhood. Any structure with a footprint of 3000 square feet or more shall incorporate significant changes in massing to break up the facade, and should integrate one-story massings into the design to relate the building to the surrounding smaller structures.
- (b.) **Building Orientation:** Buildings shall be oriented with the narrow end facing the street and the water to maximize public views of the water across the site. New buildings or complexes should not extend over more than 150 feet of the lot frontage, and efforts should be made to limit the expansion of existing buildings.
- (c.) **Maintaining Views to Water:** Multiple buildings on one lot should be clustered close together to limit obstructed views of the water, or shall be separated from each other by 100 feet or more of road frontage to allow broad unobstructed views across the lot to the water.
- (d.) **Fences:** Fences shall be of open construction and low profile (such as split rail and low picket fencing) to maintain public views to the water. Fences over 3 feet in height should be limited to screening loading and delivery areas adjacent to buildings, or modest trash collection areas. Screening fences should not extend farther than necessary beyond the building footprint to maintain public views.
- (e.) **Building Materials:** Exterior building materials shall be those traditionally used in the region or other naturally weathering materials, such as wood shingle, wood clapboard, or board and batten siding.

G. Centerville River North Bank Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Centerville River North Bank Neighborhood Overlay area subject to the performance standards listed below.

- (a.) Single Family Residence

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Centerville River North Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

(3) Neighborhood Performance Standards: All development and redevelopment shall meet the following standards:

- (a.) Tree removal or vista pruning shall not interrupt the treeline as viewed from the south looking northward to the treeline.
- (b.) No land area designated as V-zone of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zone which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.
- (c.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall

not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

- (d.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

H. Craigville Village Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Craigville Village Neighborhood Overlay area subject to the performance standards listed below.

- (a) Single Family Residence
- (b) Conference Center

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Craigville Village Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

(3) Neighborhood Performance Standards: All development and redevelopment shall meet the following Design Guidelines:

Purpose: Most buildings in the Craigville Village Neighborhood date from the late 1800s and early 1900s when the neighborhood developed as a Christian Camp Meeting Association. The neighborhood is still defined by its historic structures and their configuration around a central green, small street grid, and communal paths.

(a.) Objectives:

- (1.) To preserve the character-defining features of the original camp meeting neighborhood including its small lots, modest scale structures, and orientation of buildings to public areas.
- (2.) To ensure that additions and alterations to structures are compatible with the existing scale and character of the building and preserve the original massing and unique architectural features of its historic buildings.

(b.) Application:

The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of this section, but shall apply to all new development, to any additions to existing structures, and to all reconstruction projects except as provided for in Section 240-131 (G)(1)(e).

(c.) Building Design. The guidelines shall apply to construction of new structures and expansions and alterations of existing structures.

- (1.) Preserve the original massing of historic structures (pre-1945):
- (2.) Additions should be attached to secondary or less prominent facades of the building (the side or rear facades), and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.
- (3.) Work with modest massings: Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline than the original structure to maintain the prominence of the original building, though some additions may be slightly taller than the original structure if attached to the original structure with a smaller connecting mass.
- (4.) Roof forms: The roof pitch on new construction and additions should complement the roof pitch of the original historic structure and should maintain a pitch of at least 6 over 12.
- (5.) Retain Original Architectural Details and Unique Forms: Additions should be placed so as to limit the removal of distinctive architectural trim and features that are unique to the building. Additions and alterations should not interfere with character-defining features such

as open porches, steeply pitched roof forms, unique windows, and carpenter gothic trim along eaves and entries. Siding materials used on the original structure should be retained, though other regional siding materials may be appropriate on additions.

Section 240-131.8 Additional Provisions

A. Other regulations

The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7 Application of District Regulations; § 240-9.C & D; § 240-10 Prohibited Uses; § 240-34 Flood Area Provisions; § 240-43 Accessory Uses; § 240-46.A & B Home Occupations; Article VI Off Street Parking Sections 240-52, 240-53.B through .E ; and Sign Regulations § 240-59 through 63; Article XI Growth Management Sections 240-110 through 122; Article IX Site Plan Review; Article XII Administration and Enforcement § 240-123 – 240-124; and § 240-125 C Special Permit Provisions as these provisions of the Barnstable Code cited in this section may be amended from time to time

B. Conflicts

Unless otherwise stated, the requirements of the Craigville Beach District shall apply to uses and structures within the Craigville Beach District. In the event of a conflict, these regulations shall apply.

C. Severability

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

Section 3

For the purposes of the Cape Cod Commission Act, the implementing regulations shall be deemed incorporated into the Zoning Ordinances of the Town of Barnstable upon the approval by the Cape Cod Commission.

Section 4

Amend the Town of Barnstable Zoning Ordinance § 240-5 Establishment of Districts by adding the CBD - Centerville Beach District to the list of Residential Districts

SPONSORS: Council President Frederick Chirigotis, Councilor Janet S. Joakim, and Councilor Tom Rugo

BARNSTABLE TOWN COUNCIL

IMPLEMENTATION OF DCPC CRAIGVILLE BEACH DISTRICT

**ITEM# 2010-062
INTRO: 12/03/09**

SUMMARY

TO: Town Council
FROM: Jo Anne Buntich Miller, Director of Growth Management
DATE: November 20, 2002

BACKGROUND: This is an amendment to the Zoning Ordinance that creates Section XIII District of Critical Planning Concern Regulations, Section 240-131 Craigville Beach District.

The Craigville Beach District of Critical Planning Concern was initially nominated in February of 2008 as an Ecological, Cultural, Historic, Architectural, Hazard, Waterfront Management and Wastewater Management District. This DCPC process was initiated at the request of Centerville residents. On September 3, 2009 final Town Council vote on the adoption of these regulations was deferred. To avoid lapse of the DCPC Town Council voted to re-nominate the DCPC. The regulations presented in this order are the same regulation considered on September 3rd. Dates have been changes to reflect the re-nomination and a definition of ‘structure’, omitted from the previous order has been added. Adoption of these implementing regulations will allow the regulation desired by local residents to ensure that this coastal area will retain its character for residents, visitors and second home owners and will also implement a more predictable permitting environment.

The Town through the Town Attorney’s Office and the Growth Management Department organized and partnered with an Advisory Group representing stakeholders in the Beach DCPC. Attorneys Eliza Cox, Michael Scott, Barry Weiner, Sarah Alger, William Ryckman – and at the outset Patrick M. Butler - represented property owners; Roy Richardson and Meg Loughran, represented the Centerville Village Association; Lindsey Counsell, Three Bays; Steve Brown, Red Lily Pond Association; Dr. Wayne Miller, Board of Health; Town Attorney Ruth Weil and Interim Director of Growth Management Jo Anne Miller Buntich along with former Interim Director Patty Daley worked with this group. Over the last several months Planning Board members Ray Lang and Paul Curley sat with the group as the ordinance was drafted. This group has met several times a month since October 2008.

ANALYSIS: Adoption of this regulation will create the Craigville Beach District by rezoning portions of the existing RC, RD and RD-1 districts.

RATIONALE: These regulations respond to and support the purposes of the District of Critical Planning Concern which included protecting community, historic and architectural character which is accomplished through use regulations, dimensional regulations and design guidelines. Natural resources and flood protection are supported through performance standards tailored to each neighborhood.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-063
INTRO: 12/03/09**

**2010-063 APPROVAL OF A CONSERVATION RESTRICTION IN BARNSTABLE VILLAGE
(WELSH & MITCHELL, GRANTORS AND BARNSTABLE LAND TRUST, GRANTEE)**

RESOLVED, that the Town Council approve the Conservation Restriction between Douglas S. Mitchell and Christine Welsh (grantors), and Barnstable Land Trust, Inc. (grantee), over approximately 12.77 acres of land on Main Street, Barnstable Village, Map 258 Parcel 002-001 and 258-002-002, for the purposes of preserving open space, water quality, and scenic views, and providing for the potential of limited public access to future walking trails.

SPONSOR: Councilor Ann Canedy, upon approval from the Legal Department.

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM NO.: 2010-063
INTRO.: 12/03/09

TO: Town Council
FROM: Ann Canedy
DATE: November 10, 2009
SUBJECT: Conservation Restriction to be held by Barnstable Land Trust, Inc.

SUMMARY: This item has been placed on the agenda for the Council's approval of a conservation restriction (CR) to be granted by Douglas S. Mitchell and Christine Welsh and held by the Barnstable Land Trust, Inc. (BLT), covering 12.77 acres, more or less, on Main Street in Barnstable Village.

BACKGROUND: Seabury Farm is important historically, archaeologically and environmentally. Two parcels totaling just over 20 acres are what remain of family land that once incorporated an additional 36 acres to the south, which the Town purchased with Land Bank funds in 2000. The CR parcels run from historic Route 6A at the intersection of the railroad underpass, north to salt marshes owned by the Massachusetts Audubon Society. Each parcel contains a home on the southern end of the property that is accessed from a short road that dead-ends at the railroad.

The intent of the gift of this conservation restriction is to preserve the upland and wetland habitats on the Premises, to preserve a scenic view of the Premises from Barnstable Harbor, to provide limited public access, and to prevent any use that would significantly impair the conservation values.

The Property is part of the Old Kings Highway Regional Historic District. It is just west of Hinckley Pond, which has historic and cultural importance as Pond Village - the earliest colonial settlement on Cape Cod. The area to be preserved is also located within a Town of Barnstable primary area of archaeological sensitivity, which is defined as an area within 1000' of a marine or marine related ecosystem and which has a high probability of containing prehistoric archaeological sites.

The 12+ acres being protected are comprised of upland and wetland that border and lie partially within the Sandy Neck/Barnstable Harbor Area of Critical Environmental Concern (ACEC). Environmentally, the Seabury Farm conservation restriction is a logical extension to the adjoining 70-acre Mass Audubon property, which connects to the Barnstable Great Marsh, the second largest salt marsh system in Massachusetts. The Barnstable Great Marsh is contiguous to and an integral part of a 14,000 acre coastal resources system that extends from Spring Hill in Sandwich to Chase Garden Beach in Dennis. The area proposed for conservation restriction is in the middle of this important ecosystem.

The property is included in Barnstable's Local Comprehensive Plan Greenbelt and Fingerlinks Corridor Map, which identifies potential parcels of vacant and under-developed land for the creation of such a corridor in Barnstable.

From a wildlife habitat perspective, the connectivity of this property expands a critical wildlife corridor and enhances its significance. The juxtaposition of varied habitats on this property results in an "edge effect" combination of upland, meadow, freshwater wetlands and salt marsh. This edge effect is created wherever distinct habitats converge and contributes to and enhances biodiversity by providing a variety of birds and mammals with multiple opportunities for food shelter and breeding success. The Mass

Natural Heritage and Endangered Species Program identified the salt marsh and abutting upland as priority habitat for a number of rare species including the least terns, common terns, black ducks, northern harriers and the diamondback terrapin.

ANALYSIS: A specific goal of the Town's 2005 *Open Space Plan* is "to acquire, retain, preserve and protect a maximum amount of open space for the community...(and) encourage the use of creative regulatory and non-regulatory land protection tools such as conservation restrictions."

This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which "encouraged...grants of conservation restrictions" which yielded "benefits to the Town." Specifically, it offers the following public benefits and will:

- prevent disturbance of wetlands,
- preserve open space,
- protect a primary area of archaeological sensitivity,
- preserve important natural habitats of fish, wildlife or plants,
- protect marine water quality,
- preserve and protect a shoreline,
- limit or prevent construction on land of natural resource value; and,
- provide for the potential of limited public access* to future walking trails.

* The land to be restricted has no frontage on a waterway or roadway; however, a public access provision is included in the CR, allowing for the creation of a trail from land owned by Mass Audubon, should access over one intervening privately owned parcel be granted. That way traffic at the dangerous access point at 6A and the railroad underpass would not be increased; rather, access to a future trail would be more safely accessed from the Mass Audubon property, which is further west off Route 6A.

FISCAL IMPACT: Town of Barnstable Tax Consequences: Jeff Rudziak, Town Assessor is reviewing the record and will prepare numbers for the Town Council.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-064
INTRO: 12/03/09**

2010-064 APPROVAL OF A CONSERVATION RESTRICTION IN BARNSTABLE VILLAGE (KAESS, GRANTORS AND BARNSTABLE LAND TRUST, GRANTEE)

RESOLVED, that the Town Council approve the Conservation Restriction between Judith Exman Kaess and H. Walter Kaess (grantors), and Barnstable Land Trust, Inc. (grantee), over approximately 7.72 acres of land on Main Street, Barnstable Village, Map 279 Parcel 015 & a portion of Map 279 Parcel 061-002, for the purposes of preserving open space, water quality, and scenic views, and providing limited public access from the waters of Barnstable Harbor.

SPONSOR: Councilor Ann Canedy, upon approval from the Legal Department.

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-064
INTRO: 12/03/09

TO: Town Council
FROM: Ann Canedy
DATE: November 10, 2009
SUBJECT: Conservation Restriction to be held by Barnstable Land Trust, Inc.

SUMMARY: This item has been placed on the agenda for the Council's approval of a conservation restriction (CR) to be granted by Judith Exman Kaess and H. Walter Kaess and held by the Barnstable Land Trust, Inc. (BLT), covering 7.72 acres, more or less, on Main Street in Barnstable Village.

BACKGROUND: The Kaess Property is important historically, archeologically, and ecologically and expands protection of an active recreational resource area.

Most of the Kaess land has been in Judith Kaess' family for almost fifty years. The Property falls within the Old Kings Highway Regional Historic District. It is a long and narrow parcel that gently slopes down from Route 6A to Barnstable Harbor. A recently purchased parcel provides additional access from the west off of Beale Way.

The intent of the gift of this Conservation Restriction (CR) is to preserve the upland and wetland habitats on the Premises, to preserve a scenic view of the Premises from Barnstable Harbor, to provide limited public access, and to prevent any use that would significantly impair the conservation values.

The existing historic home is up close to Route 6A and will remain on an unrestricted parcel of 4.9 acres. The proposed CR will cover 7.72 acres of upland and wetland. Within the CR is a building envelope of 1.69 acres that will allow a new home and accessory structures to be built.

The Kaess conservation restriction encompasses upland, salt marsh tidal wetlands and over 150 linear feet of tidal shoreline on Barnstable Harbor. At the shoreline, the proposed restriction abuts land owned by Barnstable Land Trust to the east and shares that eastern boundary line for 1286' heading south. Separated to the west by just 61' is the Barnstable Yacht Club (BYC). The Kaess CR cooperates with the BYC to allow the use of the area just off Beale way to park cars on July 4th and Labor Day and, in the event of a hurricane, it gives the BYC the right to store boats on a temporary basis and get them out of harms' way. The CR also allows for increased rights of public access along the shoreline between mean high and mean low water during the hours between sunrise and sunset.

The land lies partially within the Sandy Neck/Barnstable Harbor Area of Critical Environmental Concern. It also partially lies within a state-designated Priority Habitat for Rare Species, and is ranked "high" for wildlife habitat value by the Cape Wildlife Project. Major habitats include wooded upland, salt marsh, tidal flats, maritime thicket and a potential vernal pool. The 2009 Regional Policy Plan designates it as a Significant Natural Resources Area for rare wetland wildlife habitat and as a priority site for rare species.

The area to be preserved is also located within a Town of Barnstable primary area of archaeological sensitivity, which is defined as an area within 1000' of a marine or marine related ecosystem and which has a high probability of containing prehistoric archaeological sites. The landscape encompasses a scenic view visible from the waters and tidal flats of Barnstable Harbor, which was designated by

DEM in its 1981 scenic inventory as a Noteworthy Landscape. It is also included within the Statewide Land Conservation Plan.

ANALYSIS: This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which “encouraged...grants of conservation restrictions” which yielded “benefits to the Town,” and furthers the Town of Barnstable’s 2005 Update to its Open Space Plan. Specifically, the Kaess’ Beale Way Conservation Restriction offers the following public benefits and will:

- preserve a scenic view,
- prevent disturbance of wetlands,
- preserve open space,
- link to other conservation land,
- preserve important natural habitats of fish, wildlife or plants,
- protect marine water quality,
- preserve and protect a shoreline,
- limit or prevent construction on land of natural resource value;
- enhance maritime activities of the Barnstable Yacht Club; and,
- provide limited public access from the water.

Town of Barnstable Tax Consequences: Jeff Rudziak, Town Assessor is reviewing the record and will prepare numbers for the Town Council.

B. NEW BUSINESS (Refer to public hearing 01/21/10) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-065
INTRO: 12/03/09**

**2010-065 AMEND THE ADMINISTRATIVE CODE BY ADDING SECTION 241-45.2
ESTABLISHING A RENEWABLE ENERGY COMMISSION**

ORDERED: That Chapter 241 of the Town's Code be amended by adding the following new section creating a standing Renewable Energy Commission.

241-45.2 Renewable Energy Commission

Mission: The mission of the Barnstable Renewable Energy Commission is to promote energy conservation, energy efficiency, the development of renewable energy, and explore other ways to reduce carbon emissions among the town's residents, businesses, and in municipal affairs. These goals will be accomplished through educational activities and programs designed to encourage stakeholders to evaluate to their energy use and to consider renewable energy alternatives.

A. Establishment and term of office. There shall be a Barnstable Renewable Energy Commission consisting of nine members who shall be appointed by the Town Council. The Commission members may be selected from the following categories: local utility, state and federal officials, construction managers, architects and engineers, electricians and any other residents with an interest or background in renewable energy or energy conservation.

Members of the Renewable Energy Commission shall serve for terms of three years, so arranged that an equal number as possible shall expire each year. All members are required to be registered to vote and reside in the town.

(1) **Officers:** The Commission shall elect the following officers annually at the first meeting of the group after the scheduled appointments:

(a.) Chairperson shall preside at all meetings of the Commission and when he or she is present and shall direct the work of the committee. The chair may appoint annually chairs of any sub committees from the membership as approved by the Commission. The chair shall submit a brief annual report to the town council and the town manager for publication in the annual report of the town. The chair shall ensure continuing liaison between the Commission and the Town Council and all other appropriate town departments, committees and commissions.

(b.) Vice chairperson shall assume all duties and powers in the absence of the chairperson.

(c.) Clerk shall keep minutes of all meetings and proceedings of the Commission and record any action taken. Clerk shall post notices of Commission meetings and give notice to members when necessary.

(2) **Meetings:** The Commission's meetings shall be open to the public, and be held at a regular time and place when possible. The time and place of each meeting shall be posted at Town Hall. All records and minutes of any Commission meeting or action shall be filed with the Town Clerk and be available to the public. Five members shall constitute a quorum. Members shall make every effort to attend all meetings and perform such duties as are assigned. Any member unable to attend a meeting shall notify an officer of the Commission.

B. **Authorities and responsibilities.** The Renewable Energy Commission will be a standing committee serving as an advisory board to the Town Council and the Town Manager. The Commission's charge is to:

Study and recommend viable methods for achieving energy conservation and for utilizing renewable sources of energy within the town.

- Provide assistance/education and outreach to residents on how individuals, families and businesses can implement renewable energy and conservation efficiency measures in their homes, businesses and daily lives.
- Promote energy efficiency programs available through the Cape Light Compact in residential and commercial sectors.
- Undertake, and update yearly, a town-wide Energy Audit and inventory of energy and Greenhouse Gas emissions for the town and the setting of goals for energy and emissions reductions.
- Review Town ordinances to promote energy conservation and renewable energy use.
- Make recommendations to and cooperate and communicate with Town officials, boards and commissions as well as public and private groups with similar concerns, and with the appropriate agencies of the state, regional, and federal governments.
- Draft an Energy and Climate Action Plan.
- Facilitate the implementation of the goals of the Barnstable Energy and Climate Action Plan to ensure that the savings potential possible through energy efficiency and renewable energy technologies are achieved.

C. **Interrelationships.** The Renewable Energy Commission will work in cooperation with other Town Boards and Committees, as well as with Town employees, in carrying out its mission and responsibilities. The Commission will also seek the cooperation and assistance of relevant governmental agencies, non-profit organizations, businesses and the general public.

(1) **Town Council:** The Commission shall meet at least annually with the Town Council to apprise the Town Council of issues pertaining to energy conservation and renewable energy.

(2) **Town Manager:** The Commission meets as necessary with the Town Manager and all municipal departments and/or other administrative staff in order to effectuate accomplishment of its mission.

(3) **Other boards:** The Commission meets as necessary with any multiple-member body of the Town to effectuate accomplishment of its mission.

D. All members shall serve without compensation.

SPONSORS: Town Manager John C. Klimm, Councilor J. Gregory Milne, Councilor Janet S. Joakim, Council President Chirigotis

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-065
INTRO: 12/03/09

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: November 24, 2009
SUBJECT: Creation of a Renewable Energy Commission

BACKGROUND: Starting in 2002, when the town council voted unanimously to undertake a town-wide Energy Audit and in 2003, when it established a goal of reducing Green-House gas emissions by 20% by 2013, Barnstable has been committed to reducing its energy use, both to save on energy-related expenditures and to improve the environment.

Pursuant to the 2003 Resolve, a municipal Green Team Committee consisting of town employees was formed “to create an Action Plan to implement town policies relative to the reduction of community and municipal greenhouse gas emissions, recycling, and energy efficiency.” While the Green Team has been effective in helping to reduce municipal energy use, it has become apparent that in order to substantially reduce energy consumption and increase conservation town-wide, a new community-based Commission should be created.

ANALYSIS: As the “Authorities and responsibilities section” makes clear, “The mission of the Barnstable Renewable Energy Commission is to promote energy conservation, energy efficiency, the development of renewable energy, and explore other ways to reduce carbon emissions among the town’s residents, businesses, and in municipal affairs.”

A citizen-based team increases collaboration, helps build consensus, and allows the involvement of those affected by particular decisions. Building a team of essential players, with a unified vision of the actions Barnstable can achieve, will help meet the challenge of creating and implementing the most effective energy-reduction plan possible. Escalating costs of fossil fuels and our dependence on foreign oil require initiatives to reduce energy consumption.

With a Renewable Energy Commission in place, the important effort of reducing the entire town’s energy consumption and creating a Climate Action Plan to guide the town towards meeting its stated commitment to reduce energy consumption 20% by 2013 can begin in earnest. Lastly, the establishment of this commission meets the criteria for Barnstable’s designation as a “Green Community” under the *Green Communities Act*, and eligible for additional energy related grant funding.

FISCAL IMPACT: The creation of the Commission should have minimal to no adverse fiscal impact, and very likely will mean substantial energy cost reductions for both the town and the community as a whole.

STAFF SUPPORT: Richard Elrick, Energy Coordinator