



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA October 7, 2010 7:00 PM

Councilors:

Frederick Chirigotis
President

James H. Crocker
Vice President

Richard G. Barry
Janice L. Barton
Ann B. Canedy
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

- 1) ROLL CALL**
- 2) PLEDGE OF ALLEGIANCE**
- 3) MOMENT OF SILENCE**
*** Peace Week Proclamation- Councilor Barton**
- 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 21, 2010

A. OLD BUSINESS

- | | |
|----------|---|
| 2010-159 | Amend Chapter 240, Art II, Zoning Ordinance & Map - Dock & Pier Overlay District
(Joint public hearing with the Planning Board - continued) (Roll-call, 2/3)... <u>Page 3 - 5</u> |
| 2010-160 | Amend Chapter 240, Article II, Zoning Ordinance & Map - Shellfish Relay Area Overlay District (Joint public hearing with the Planning Board - continued) (Roll-call, 2/3)
..... <u>Page 6 - 8</u> |
| 2011-006 | Amend Chapter 240, Article V of the Zoning Ordinance – Ground Mounted Solar Photovoltaic Overlay District
(Public Hearing, Roll Call 2/3 vote)..... <u>Page 9 – 14</u> |
| 2011-010 | Amend Chapter 240, Article V of the Zoning Ordinance – Family Apartments
(Public Hearing, Roll Call, 2/3 vote)..... <u>Page 15 - 16</u> |
| 2011-021 | Acceptance of a gift from the Hyannis Yacht Club of a Vanguard Club 420 sailboat designed for the youth competitive sailing class from the Hyannis Yacht for the town’s JFK Sailing Program.
(May be acted upon) <u>Page 17 - 18</u> |

B. NEW BUSINESS

- | | |
|----------|--|
| 2011-024 | Acceptance of a FY2011 grant from the Barnstable County Land Management Grant Program in the amount of \$510.00...(May be acted upon)..... <u>Page 19-20</u> |
| 2011-025 | Community Preservation Fund for Community Housing – The sum of \$500,000 be appropriated and transferred from amount set aside for Community Housing in the Community Preservation Fund
(First Reading - Refer to Public Hearing – October 21 st) <u>Page 21 –22</u> |
| 2011-026 | Acceptance of a 2010 COPS Hiring Program Grant from the U.S. Department of Justice, Community Oriented Policing Services (COPS) Office
(May Be Acted Upon)..... <u>Page 23 - 25</u> |

Minutes – September 2, 2010 and September 16, 2010 minutes to be reviewed at October 7th meeting.

Please Note: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. 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 (Joint hearing with the Planning Board - continued) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-159

INTRO: 06/17/10, 07/15/10, 09/16/10, 10/07/10

2010-159 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

ORDERED:

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

Section 1

By amending the official zoning map of the Town of Barnstable as shown on a map on file with the Town Clerk entitled " **Proposed Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District Map** " dated June 17, 2010 and "Proposed Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010.

Section 2:

By deleting Section 240-37.1 and adding in its place new Section 240-37.1 **Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District** to the Zoning Ordinance of the Town of Barnstable, Chapter 240 of the General Ordinances of the Code of the Town of Barnstable, Article III, District Regulations to read as follows:

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers in mapped portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area

B. Establishment of district. The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled " Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

C. Prohibition. Within the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District, the construction and/or installation of docks and piers is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.

D. Re-establishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.

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

F. Definitions.

Dock and Pier. The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.

Seasonal. The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year.

(From Ch. 702 Private Docks and Piers, 703-2 Definitions)

G. Enforcement. Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall be subject to penalty and fines pursuant to §240-123 of the Town of Barnstable Code

Section 3

Period of time shall remain in effect and extend to October 30, 2010.

SPONSORS: Councilors Rick Barry and Ann Canedy

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-159

INTRO: 06/17/10, 07/15/10, 09/16/10, 10/07/2010

TO: Town Council
FROM: Councilor Rick Barry
DATE: June 11, 2010
SUBJECT: Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

SUMMARY: This amendment to the Zoning Ordinance prohibits construction of new docks and piers and prohibits expansion of existing of docks and piers in the recreational shellfish area and shellfish relay areas.

BACKGROUND: This proposed amendment to the zoning ordinance would change the Temporary Recreational Shellfish Area and Shellfish Relay Overlay District to a permanent zoning district - the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District. This Overlay District will include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June 17, 2010, filed with the Town Clerk, up to and including the area seaward of the mean high water line. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers for motorized vessels and limiting the expansion of existing docks and piers for motorized vessels in these areas identified as significant habitat for recreational shellfishing and shellfish propagation.

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

**A. OLD BUSINESS (Joint Public hearing with the Planning Board –continued)
(Roll-call, 2/3)**

BARNSTABLE TOWN COUNCIL

ITEM# 2010-160

INTRO: 06/17/10, 07/15/10, 09/16/10, 10/07/10

2010-160 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

Section 1

Recreational Shellfish Area and Shellfish Relay Area Overlay District Map

That the official zoning map of the Town of Barnstable is hereby amended by adding the Boundary of the Recreational Shellfish Area and Shellfish Relay Area Overlay District as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Proposed Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7" all dated June 17, 2010.

Section 2

Recreational Shellfish Area and Shellfish Relay Area Overlay District

That Chapter 240, Zoning Ordinance is hereby amended by deleting § 240-37.1 and adding in its place new § 240-37.1 Recreational Shellfish Area and Shellfish Relay Area Overlay District.

A. Purpose.

- (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Overlay District within said overlay zoning district.
- (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers for motorized vessels in portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area
 - (c) To implement recommended actions 4.3.3.1 regarding public shellfish propagation, and 7.2.3.2.1 regarding amending the regulatory framework for docks and piers, of the Town of Barnstable Coastal Resource Management Plan: Three Bays and Centerville River Systems (November 2009).

- B. Establishment of district.** The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled " Recreational Shellfish Area and Shellfish Relay Area Overlay District" dated June 17, 2010 and "Amendment to the Barnstable Zoning Map – Sheet 1 of 7, Cotuit Zoning Map Sheet X of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet X of 7" all dated June 17, 2010 up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.

2010-160 (Continued 10/7)

- C. Prohibition.** Within the Recreational Shellfish Area and Shellfish Relay Area Overlay District, the construction and/or installation of docks and piers for motorized vessels is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited. Seasonal piers for non-motorized vessels may be constructed or installed within the Recreational Shellfish Area and Shellfish Relay Area Overlay District subject to review and approval in accordance with Chapter 703 of the Town of Barnstable Code, Private Docks and Piers.
- D. Re-establishment of damaged or destroyed nonconforming docks or piers.** The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- E. Expansion of existing docks or pier.** For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.
- F. Definitions.**
Dock and Pier. The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56), land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.
Motorized boat. A vessel at any time entirely or partly propelled by power other than muscular or wind power.
Non-motorized boat. - a vessel at all times entirely propelled by muscular or wind power.
Seasonal. The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year.
(From Ch. 702 Private Docks and Piers, 703-2 Definitions)
- G. Enforcement.** Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Overlay District, such as use of a dock or pier by a motorized vessel if said dock is permitted for use by non-motorized vessels, shall be subject to penalty and fines pursuant to §240-123 of the Town of Barnstable Code

Section 3

Period of time shall remain in effect and extend to October 30, 2010.

SPONSOR: Councilor Janet Joakim

DATE	ACTION TAKEN
_____ Read Item	_____
_____ Motion to open public hearing	_____ Close public hearing
_____ Rationale	_____ Council discussion
_____ Public Hearing	_____ Move/vote

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-160

INTRO: 06/17/10, 07/15/10, 09/16/10, 10/07/10

TO: Town Council

FROM: Councilor Janet Joakim

DATE: June 11, 2010

SUBJECT: Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

SUMMARY: This proposed amendment to the zoning ordinance would change the Temporary Recreational Shellfish Area and Shellfish Relay Overlay District to a permanent zoning district - the Recreational Shellfish Area and Shellfish Relay Area Overlay District. This Overlay District will include those areas shown on the map entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June 17, 2010, filed with the Town Clerk, up to and including the area seaward of the mean high water line. The purpose of the proposed overlay district is to protect the general public's interest in and access to the public tidelands by prohibiting the construction of new docks and piers for motorized vessels and limiting the expansion of existing docks and piers for motorized vessels in these areas identified as significant habitat for recreational shellfishing and shellfish propagation.

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

BACKGROUND/ANALYSIS/RATIONALE: The Coastal Resources Management Committee (CRMC) was created by Town Council action to address the issues raised during the 2007 Recreational Shellfish and Shellfish Relay Overlay District zoning ordinance hearings. The CRMC began their work as soon as the committee was constituted. Their task from the Town Council was to update the 1990 Camp Dresser McKee Coastal Resources Management Plan which included the Three Bays, Easy Bay and the Centerville River coastal areas. This group led by the Chair, Bob Jones, met twice a month from May 2008 to November 2009 and completed the November 2009 "Coastal Resource Management Plan: Three Bays and Centerville River Systems (CRMP)." The CRMC submitted the final copy of the updated plan to the Council in December 2009. The CRMC participated in a workshop to discuss the details of the CRMP with Town Council at a workshop meeting in February of 2010. This plan includes strategies and recommendations to address coastal use issues examined by the committee during their extensive and deliberative public process. This legislation is a priority action for implementation of the CRMP in recognition of the current moratorium which expires on August 31, 2010.

STAFF ASSISTANCE: Carole Ridley, GMD Consultant

Jo Anne Miller Buntich, Director of Growth Management

A. OLD BUSINESS (Public Hearing – Roll Call Vote – 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-006
INTRO: 08/05/10,10/07/10

2011-006 Ordered: That Chapter 240, Article V of the Zoning Ordinance is hereby amended as follows:

Section 1

Ground Mounted Solar Photovoltaic Overlay District Map

The official zoning map of the Town of Barnstable is hereby amended by adding the Ground Mounted Solar Photovoltaic Overlay District as shown on a map on file with the Town Clerk entitled Ground Mounted Solar Photovoltaic Overlay District.

Section 2

Ground Mounted Solar Photovoltaic Overlay District

That Chapter 240, Zoning Ordinance is hereby amended by adding Section 240-44.2 Ground Mounted Solar Photovoltaic Overlay District.

A. Purpose. This ordinance promotes the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. This ordinance is adopted pursuant to the Commonwealth of Massachusetts Green Communities Act.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

B. Applicability This section applies to large-scale (250 kW) ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

C. District Established. A Ground Mounted Solar Photovoltaic Overlay District (GMSPOD) is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6 Zoning Map

D. Definitions. These definitions shall apply to Section 240-44.2 exclusively:

As-Of-Right Siting - As-of-Right Siting shall mean that the ground-mounted solar photovoltaic installation may proceed without the need for a special permit, variance, amendment, waiver, or other local discretionary approval. As-of-right development is subject to Article IX Site Plan Review. As-of-right solar photovoltaic installations that are consistent with the zoning ordinance and applicable state and federal law can be reasonably regulated by the Building Commissioner.

Ground Mounted Solar Photovoltaic Installation - A large scale solar photovoltaic (PV) system that is structurally mounted on the ground, not roof-mounted, and has a nameplate capacity of at least 250 kW DC.

Off Grid System – A solar photovoltaic installation where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.

Rated Nameplate Capacity - The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

E. Application and Review. Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo Site Plan Review pursuant to Article IX Site Plan Review, prior to construction, installation or modification as provided in this section. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

- (1) **Required Documents.** In addition to the requirements of § 240-102 Site Plan Review, the project proponent shall provide the following documents:
 - (a) A site plan showing:
 - [1] Property lines and physical features, including roads, for the project site;
 - [2] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - [3] Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
 - [4] One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - [5] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - [6] Name, address, and contact information for proposed system installer;
 - [7] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - [8] The name, contact information and signature of any agents representing the project proponent; and
 - (b) Documentation of actual or prospective access and control of the project site (see also Subsection G below);
 - (c) An operation and maintenance plan (see also Subsection H below);
 - (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
 - (e) Proof of liability insurance in a form acceptable to the Town Attorney; and
 - (f) Description of financial surety that satisfies Subsection Q below.

F. Site Control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

G. Operation & Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the ground mounted solar photovoltaic installation, which shall include specific measures for maintaining safe access to the installation, a storm water management plan, and general procedures for and frequency of operational maintenance of the installation.

H. Utility Notification. No ground mounted solar photovoltaic installation shall receive a building permit until an executed interconnect agreement with Nstar, the utility company operating the electrical grid, has been submitted to the Building Commissioner. Off-grid systems are exempt from this requirement.

I. Dimensional Requirements. Ground mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s).

J. Design Standards.

- (1) **Lighting.** Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
- (2) **Signage.** Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Article VII Sign Regulations. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising.
- (3) **Accessory Structures.** All structures accessory to ground mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. To avoid adverse visual impacts all such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, multiple accessory structures shall be clustered to the greatest extent feasible and views of such structures to residential properties and roadways shall be screened with landscaping.

K. Utility Connections. Reasonable efforts, as determined by Site Plan Review, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

L. Safety and Environmental Standards.

- (1) **Emergency Services.** The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (2) **Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

M. Monitoring and Maintenance

- (1) **Solar Photovoltaic Installation Conditions.** The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to Site Plan Review. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation.
- (2) **Modifications.** All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require Site Plan Review approval.

N. Abandonment or Decommissioning

- (1) **Removal Requirements.** Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal.
Decommissioning shall consist of:
 - (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Commissioner may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (2) **Abandonment.** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

(3) **Financial Surety.** Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal and disposal in the event the Town must remove the installation and remediate the landscape, in an amount and in a form acceptable to the Town Attorney but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for pro rating removal costs as they may be affected by inflation or changes to disposal regulations.

Section 3

A building permit shall be issued by the Building Commissioner within one year from the date an application submitted is deemed complete by the Building Commissioner. Failure to issue a building permit within one year shall not result in a constructive grant.

SPONSOR: John Klimm, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-006
INTRO: 08/05/10,10/07/10

SUMMARY

TO: Town Council
FROM: Richard Elrick
THROUGH: Town Manager
DATE: July 29, 2010

BACKGROUND: Historically, the Town of Barnstable has been a leader in promoting energy efficiency while encouraging the appropriate development of renewable energy. Beginning in 2002 when the Town did its first energy use baseline inventory and committed to reduce its energy consumption, many “green” efforts have been undertaken. A municipal “Green Team” was created, numerous energy audits have been conducted and energy efficiency measures implemented, a 1,000 kilowatt renewable energy project is being installed now at the Water Pollution Control Facility, and recently, the Town Council created a Renewable Energy Commission.

Green Communities Program: The 2008 passage of the state’s Green Community’s Act provided for cities and towns to become “Green Communities” and thus qualify for grants and technical assistance.

Qualifying as a Green Community: In order to satisfy the Green Communities Act qualifying Criteria I, the Town must adopt as-of-right siting, in designated locations, for renewable energy generation, research and development, or manufacturing. We have chosen to meet the renewable energy generation option with this zoning amendment which will allow solar photovoltaic installations that utilize ground –mounted systems which individually have a rated name plate capacity of 250 kW (DC) or more.

Purpose of Zoning Amendment: This zoning ordinance amendment will promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations. In addition, the standards will address public safety, minimize impacts on scenic, natural and historic resources, and provide adequate financial assurance for the eventual decommissioning of such installations.

Benefits: All of the Green Communities qualification criteria involve measures that will lead to a reduction in the town’s greenhouse gas emissions through using less energy. As-of-right siting for Renewable/Alternative energy generation facilities will also serve as a lure to draw new businesses to the Town of Barnstable; businesses that are up and coming and that can make our community more sustainable.

A) OLD BUSINESS (Public Hearing -Roll Call, 2/3 vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-010
INTRO: 8/5/2010, 10/07/10

2011-010 **Ordered:** That Chapter 240, Article V of the Zoning Ordinance is hereby amended by inserting the following language to the first paragraph of § 240-47.1. Family apartments as follows:

The intent of this section is to allow within all residential zoning districts one temporary family apartment unit occupied only by the property owner or a member(s) of the property owner's family as accessory to an owner-occupied single-family residence. A family apartment may be permitted, provided there is compliance with all conditions and procedural requirements herein.

SPONSOR: Councilor Hank Farnham

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-010

INTRO: 08/05/10, 10/07/2010

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Director
DATE: July 20, 2010
SUBJECT: Amendment to the Family Apartment Ordinance

BACKGROUND/ANALYSIS/RATIONALE: This amendment to the Zoning Ordinance would allow the owner of a property permitted to have a family apartment to reside in either the principal dwelling or the family apartment.

This amendment was proposed to the Planning Board and the Growth Management Department by West Barnstable residents George and Sandra Zoto. The Housing Committee has voted to support this amendment to the zoning ordinance.

Excerpted from a letter to the Planning Board from Mr. and Mrs. Zoto

Barnstable has the opportunity, through this proposed amendment, to take the lead in family supported housing. It not only promotes a public purpose for senior living but also recognizes the benefit to the community in support of cost effective, intergenerational living arrangements.

STAFF ASSISTANCE: Jo Anne Miller Buntich, Director
Growth Management Department

A. OLD BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-021
INTRO: 09/16/10, 10/07/10

2011-021 ACCEPTANCE OF GIFT FROM THE HYANNIS YACHT CLUB A VANGUARD CLUB 420 SAILBOAT FOR THE JFK SAILING PROGRAM

RESOLVED: That the Town Council does hereby accept a gift of a Vanguard Club 420 sailboat designed for the youth competitive sailing class from the Hyannis Yacht Club for the Town's JFK Sailing Program.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2011-021
INTRO: 09/16/10, 10/07/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: September 7, 2010

BACKGROUND: Through the generosity of the Hyannis Yacht Club, a Club 420 sailboat is being donated to the JFK Sailing Program. The JFK Sailing Program, run through the Recreation Division, has provided our youth with a competitive sailing program that does not allow for actual racing because of lack of equipment. During the John F. Kennedy Memorial Trust Fund Committee's Annual Meeting, discussion took place that the while competitive sailing participants are now taught about racing, they are not able to race as the "Hunters" that are currently used are not considered in any racing class.

RATIONALE: Twenty years ago Vanguard developed the Club 420 in response to the growing need for a more durable, high performance, double-handed racing dinghy that could stand up to the rigors of club and collegiate programs. Ideal for crews ranging in size from 220-310 lbs., the Club 420 is manageable for sailors coming out of beginner's classes and enables young sailors to learn teamwork, trapeze and spinnaker techniques. The Club 420 is simple and safe for beginning sailors and yet quick enough to keep collegiate All-Americans interested. The Club 420 is a two- person boat that is commonly used by yacht clubs, sailing clubs, high schools and colleges. They are 13'9" in length with a 5'5" beam. The sailing program needs these boats for our young sailors to build the skills to sail competitively in races with the Hyannis Yacht Club, Town of Yarmouth Sailing Program and other area clubs. The targeted youth are between the ages of 12 to 18 years. This program would allow the youth of the Town of Barnstable an opportunity that many otherwise would not have.

Why we need these boats:

- It will give participants in JFK Memorial a level playing field when they enter Barnstable High School's sailing program as all sailing programs use Vanguard 420's to race.
- Our participant's will have the opportunity to learn what it takes to compete in a boat designed for racing.
- The 420's will enable the Advance Class to be eligible to compete in sailing races within the Barnstable Community.
- The JFK Memorial Sailing program will become competitive and credible within the sailing world.

Sailing and racing builds communication, cooperation and team work skills. It is confidence building. Our youth, many of whom are underprivileged, do not have the means to belong to a yacht club sailing program and yet they are surrounded by water. The young people who have demonstrated a passion and desire to be a competitive sailor would actually be able to compete outside the program and be given an opportunity not typically available to the less fortunate.

As these young adults enter high school join the Sailing Team, they will have the social exposure, knowledge and experience to be part of a team with confidence. The potential to positively impact children's lives with this program is great.

FISCAL IMPACT: The on-going maintenance of the vessel will be covered through the John F. Kennedy Memorial Trust Fund.

BOARD/COMMITTEE ACTION: The John F. Kennedy Memorial Trust Fund Committee unanimously supports the gift acceptance.

STAFF ASSISTANCE: Debra Blanchette, Treasurer
David Curley, Recreation Director
Patti Machado, Assistant Director of Recreation
Patricia Otto, Recreation Financial Coordinator

B) NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2011-024

INTRO: 10/07/10

2011-024 ACCEPTANCE OF A FY2011 GRANT FROM THE BARNSTABLE COUNTY
LAND MANAGEMENT GRANT PROGRAM IN THE AMOUNT OF \$510.00.

RESOLVED: That the Town Council does hereby accept the Barnstable County
Land Management Grant Program Award in the amount of \$510.00.

Sponsor: Town Manager, John C. Klimm

DATE

ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2011-024
INTRO: 10/07/10

To: Town Council

From: Growth Management Department

Date: September 21, 2010

Subject: Rationale for the Barnstable County Land Management Grant Program Acceptance

Background: In August 2010, the Growth Management Department applied for funding from the Barnstable County Land Management Grant Program in the amount of \$510.00 to replenish native plant materials and hardscape materials in order to continue the success of the Coastal Mitigation Nursery located on Craigville Beach Road, Centerville.

Rationale: The Community Preservation Act funded the acquisition of this property for Open Space purposes in 2008 to undevelop and establish a Coastal Mitigation Nursery to cultivate native plants for Town benefit. 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. These grant funds will allow for the acquisition of native plant materials and hardscape materials for the Coastal Mitigation Nursery site to replenish beds once distribution to areas in need throughout the Town of Barnstable begins.

The Growth Management Department recently received notification that \$510,000 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%.

Match funds in the amount of \$1,200.00 has been set aside from remaining CPA acquisition funds for the purchase of additional materials.

B) NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM NO.: 2011-025

INTRO.: 10/07/10

2011-025: COMMUNITY PRESERVATION FUND FOR COMMUNITY HOUSING

Ordered:

That, pursuant to the provisions of G.L. c. 44B, the sum of Five Hundred Thousand and NO/100 (\$500,000) Dollars be appropriated and transferred from the amount set aside for Community Housing in the Community Preservation Fund on June 17, 2010 under agenda item number 2010-149; and that the Town of Barnstable, Growth Management Department, with the approval of the Town Manager is authorized to expend the amount of \$500,000 for the purpose of preserving affordable housing in the extension of 124 units on the property located at 168 Barnstable Road, Hyannis located on map / parcel 328 / 013; and that the Town Manager is authorized to execute, deliver and record instruments to secure the units' continued affordability

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

DATE

ACTION TAKEN

BARNSTABLE TOWN COUNCIL

ITEM NO.: 2011-025
INTRO.: 10/07/10

To: Town Council
From: Community Preservation Committee
Date: August 16, 2010
Subject: Rationale: Request from Preservation of Affordable Housing funding for Cromwell Court, Hyannis, Redevelopment

Background: The Community Preservation Committee (CPC) met on August 16, 2010 and the members present unanimously recommended that the town support the funding request of \$500,000.00 from the Preservation of Affordable Housing (POAH) for the redevelopment of 124 affordable rental units on the property located at 168 Barnstable Road, Hyannis. Map 328 and Parcel 013

Rationale: The project goal is to acquire and rehabilitate 124 affordable rental units at Cromwell Court, 168 Barnstable Road, Hyannis. The estimated total cost of this development is \$13,255,032. The project has secured funding commitments from MassHousing, the Massachusetts Department of Housing and Community Development, PNC Real Estate, and the Barnstable County HOME Consortium, totaling \$2,950,000 in public funds, \$2,685,947 in private funds, and \$6,142,560 in tax exempt bond financing. The POAH has requested CPA funds in the amount of \$500,000 to assist in the acquisition and rehabilitation of this 100% affordable rental development.

The development will serve a currently under-served population – 66% of the units will serve families and individuals with incomes below 50% of the Area Medium Income, with the remaining units serving households up to 80% of AMI. The property will be restricted as affordable with a Regulatory Agreement and Declaration of Restrictive Covenants.

The project meets the Community Housing Criteria of the Community Preservation Committee as follows:

1. Preserves affordable housing
2. Contributes to the goal of 10% affordability by preventing the loss of affordability and conversion to market rate housing.
3. Promotes a socioeconomic environment that encourages a diversity of income and age.
4. Provides housing that is harmonious in design and scale with the surrounding community. Cromwell Court, at 2 ½ stories, serves as a transition between a single-family neighborhood to the north and a commercial area to the south.
5. Intermingles affordable and market rate housing at levels that exceed State requirements for the percentage of affordable units.
6. Ensures long-term affordability by committing to a use agreement.
7. Uses existing buildings

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-026
INTRO: 10/07/10**

2011-026: Acceptance of a 2010 Cops Hiring Program Grant from the U.S. Department of Justice, Community Oriented Policing Services (COPS) Office

RESOLVED: That the Town Council hereby accepts a **COPS Hiring Program** Grant in the amount of \$1,121,905 from the U. S. Department of Justice, Community Oriented Policing Services (COPS) Grant.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL
2010 COPS Hiring Program Grant from the U. S. Department of Justice,
Community Oriented Policing Services Grant

ITEM# 2011-026
INTRO: 10/07/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Paul B. MacDonald, Chief of Police
DATE: September 30, 2010
SUBJECT: Acceptance of a 2010 COPS Hiring Program Grant from the U. S. Department of Justice, Community Oriented Policing Services

BACKGROUND

The Barnstable Police Department applied for and was awarded a 2010 COPS Hiring Program Grant from the U. S. Department of Justice, Community Oriented Policing Services, in the amount of \$1,121,905. The grant provides 100 percent funding for entry-level salaries and benefits for five sworn officer positions for three years. The department is required to retain the officers for at least 12 months after the grant expires. With these additional 5 police positions, the sworn strength of the department will be 115 officers. With the additional officers the department will be able to expand and improve our community policing by incorporating intelligence-led policing, which is a model of gathering and analyzing data and then utilizing that intelligence as a guide to operations and resource deployment. The department will continue to move away from a geographic-based random preventative patrol to an analysis-based directed activity patrol program that will be referred to as Directed Activity Through Analysis (DATA). Community policing and problem-oriented policing philosophies will guide the interventions utilized as a result of the DATA process. The department will continue to partner with community groups, organizations, and businesses to address public safety and other issues of mutual concern. We will place more officers in specific areas by increasing bicycle and foot patrols to areas identified by the DATA process. Additionally, with the additional officers we will be better able to focus on specific neighborhoods in which narcotics and drugs are a detriment to the quality of life and are a direct cause for serious crime.

ANALYSIS

The acceptance of this grant will allow the police department to take action on the program as described previously.

FISCAL IMPACT

There is no matching funding required for this grant. Salary and benefit expenses relative to the five officers funded through the grant and will be set up as a dedicated account. At the end of the three-year period of the grant the five officers must be retained for a minimum of 12 months and must be added to our regular police budget, over and above the number of locally funded positions that would have existed in the absence of the grant. All additional costs above the approved entry-level salaries and fringe benefits are the responsibility of the town. The Town of Barnstable Police Department will serve as the fiscal agent 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

Anne E. Spillane, Finance and Support Services Director (BPD)